

IN THE SUPREME COURT OF FLORIDA  
(Before A Referee)

THE FLORIDA BAR, )  
Complainant, )  
vs. )  
MICHAEL A. PELLE, )  
Respondent. )

CONFIDENTIAL

Supreme Court Case Nos.  
62,656, 63,498 and 63,760

**FILED**

NOV 23 1983

SID J. WHITE

CLERK SUPREME COURT

Chief Deputy Clerk

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS: The undersigned was duly appointed as Referee by the Chief Justice of the Supreme Court of Florida to conduct disciplinary proceedings as provided for by Article XI of the Integration Rule of The Florida Bar. All pleadings, notices, motions and orders are forwarded with this report and the foregoing constitutes the record of these proceedings. The following attorneys appeared as counsel for the parties:

On Behalf of The Florida Bar: Richard B. Liss, Esq. and Louis Thaler, Esq.  
On Behalf of the Respondent: Mallory H. Horton, Esq.

On October 5, 1983 the Respondent submitted an Offer To Plead Guilty And For A Penalty Of Disbarment. The Florida Bar filed a responsive pleading on October 18, 1983 wherein its counsel did not oppose acceptance of the aforementioned Offer To Plead Guilty but stated that said disciplinary recommendation was not binding upon this Referee, the Board of Governors of The Florida Bar, and the Supreme Court of Florida.

Having reviewed the record of these proceedings, I find that the Respondent's Offer To Plead Guilty And For A Penalty Of Disbarment is both fair to the Respondent and in the best interests of the public. Accordingly, Respondent's Offer To Plead Guilty And For A Penalty Of Disbarment is accepted and hereby adopted as the recommendation of this Referee.

II. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH THE RESPONDENT IS CHARGED: As a result of the submission and recommended acceptance, by this Referee, of Respondent's Offer To Plead Guilty And For A Penalty Of Disbarment, Respondent is deemed to have admitted all matters alleged in The Florida Bar's Complaints, pertaining to Supreme Court Case Numbers 62,656, 63,498 and 63,760, which are incorporated herein by reference as if fully set forth. Further, this Referee specifically makes the following findings of fact:

Findings as to Supreme Court Case No. 62,656:

1. The Respondent was retained by a widow to probate her deceased husband's will and subsequently failed to advise her that he had obtained possession of securities owned solely by her; obtained an authorization through misrepresentation which enabled him to buy, sell, or trade said securities; directed the sale of said securities without the knowledge or consent of the owner thereof; obtained the proceeds of the sale of said securities by forging an endorsement to certain checks; and misrepresented that said securities would be returned while knowing they had already been sold.

Findings as to Supreme Court Case No. 63,498:

2. The Respondent represented a corporation in its purchase of real estate during which he became designated escrow agent for a certain sum of money provided by his client. He disbursed funds from escrow without the authorization of the seller, thereby failing to protect funds entrusted to him in his capacity as escrow agent.

Findings as to Supreme Court Case No. 63,760:

3. The Respondent misrepresented his client's willingness to accept payments in settlement of a business dispute and then converted said payments to his own use.
4. The Respondent failed to comply with a Witness Subpoena Duces Tecum issued by the Chairman of Grievance Committee "C" of the Seventeenth Judicial Circuit.

5. The Respondent violated the order entered by the Supreme Court of Florida on March 17, 1982, whereby Respondent was suspended from the practice of law until further order of the Court, relative to trust funds and provided false information to The Florida Bar concerning the receipt of trust funds.

III. RECOMMENDATION AS TO WHETHER OR NOT THE RESPONDENT SHOULD

BE FOUND GUILTY: As a result of the submission and recommended acceptance, by this Referee, of Respondent's Offer To Plead Guilty And For Penalty of Disbarment, I recommend that the Respondent be found guilty as to all violations charged in the Bar's Complaints, and specifically that he be found guilty of the following violations of the Disciplinary Rules of the Code of Professional Responsibility and The Integration Rules of The Florida Bar, to wit:

1. As to Supreme Court Case No. 62,656, Respondent should be found guilty of violating Disciplinary Rules 1-102(A)(1), 1-102(A)(3), 1-102(A)(4), 1-102(A)(6) and 9-102(B)(4) of the Code of Professional Responsibility and Article XI, Rule 11.02(3)(a) of the Integration Rule of The Florida Bar.
2. As to Supreme Court Case No. 63,498, Respondent should be found guilty of violating Disciplinary Rule 1-102(A)(6) of the Code of Professional Responsibility and Article XI, Rule 11.02(4) of the Integration Rule of The Florida Bar.
3. As to Supreme Court Case No. 63,760, Respondent should be found guilty of violating Disciplinary Rules 1-102(A)(3), 1-102(A)(4), 1-102(A)(5), 1-102(A)(6), 9-102(A) and 9-102(B) of the Code of Professional Responsibility and Article XI, Rules 11.02(3)(a), 11.02(4) and 11.02(4)(b) of the Integration Rule of The Florida Bar.

IV. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER

IN WHICH COSTS SHOULD BE TAXED: I find that The Florida Bar reasonably incurred the following costs and said costs should be assessed against the Respondent:

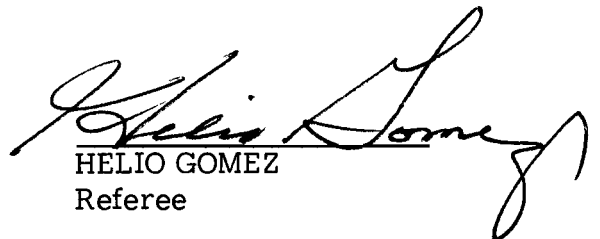
Supreme Court Case No. 62,656	\$893.03
Supreme Court Case No. 63,498	\$534.35
Supreme Court Case No. 63,760	<u>\$828.98</u>
TOTAL	\$2,256.36

V. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED:

I recommend acceptance of Respondent's Offer To Plead Guilty And For Penalty Of Disbarment. Accordingly, I recommend that the following disciplinary sanctions be imposed upon Respondent:

- (1) Disbarment with readmission to The Florida Bar conditioned upon full compliance with the rules and regulations governing admission to the Bar;
- (2) Taxation of costs of these proceedings in the amount of Two Thousand Two Hundred Fifty Six Dollars and Thirty Six Cents (\$2,256.36) against Respondent, with execution to issue and with interest at a rate of twelve percent (12%) to accrue on all costs not paid within thirty (30) days of entry of the Supreme Court's Final Order in this cause, unless the time for payment is extended by the Board of Governors of The Florida Bar .

Dated this 22nd day of November, 1983.

  
HELIO GOMEZ  
Referee

Copies furnished:

Richard B. Liss, Esq.  
Louis Thaler, Esq.  
Mallory H. Horton, Esq.