

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

TERRENCE E. ROSENBERG,
Respondent.

CONFIDENTIAL

CASE NO. 62,710

REPORT OF REFEREE

FILED

SID J. WHITE

JUL 16 1984

I. SUMMARY OF PROCEEDINGS:

Pursuant to the undersigned being ^{CLERK, SUPREME COURT} duly appointed as
By Chief Deputy Clerk
referee to conduct disciplinary proceedings herein according to
Article XI of the Integration Rule of The Florida Bar, a hearing
was held on April 26, 1984 at the Broward County Courthouse, Ft.
Lauderdale, Florida.

The following attorneys appeared as Counsel for the parties:

For The Florida Bar: Paul A. Gross
For the Respondent: Terrence E. Rosenberg, Pro Se

II. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH
THE RESPONDENT IS CHARGED:

After considering all the pleadings and evidence before
me, pertinent portions of which are commented upon below, I find:

AS TO COUNT I

That The Florida Bar proved by clear and convincing evidence
each and every allegation.

In concise form, the facts are as follows: The Respondent
agreed to represent a client in a lawsuit concerning the purchase
of defective merchandise. The client made repeated inquiries
concerning the status of the case, and it took the Respondent
approximately ten months before he responded to the client's
inquiries (Exhibits 12, 14, 15, 17, 18, 20 21). The Respondent
sent the client a set of Defendant's Interrogatories and Request
for Admissions. However, they were lost. The client made numerous
requests of the Respondent to send copies of Defendant's Interro-
gatories, Request for Admissions and other pleadings (Exhibits

20, 26, 27, 29, 34), but the delays by the Respondent were so long, that the suit was dismissed due to lack of prosecution (Exhibits C and D). However, the Complaint was refiled. Nevertheless, due to Respondent's failure to communicate with his client and his overall neglect of a legal matter that was entrusted to him, the case was again dismissed due to lack of prosecution. (Exhibits C and D).

Although the Respondent claims he was discharged by the client, the evidence shows there was a relationship after the alleged discharge. Also, the Respondent never filed a Motion to Withdraw as Counsel (R. 45, lines 17-23).

AS TO COUNT II

The Florida Bar proved each and every allegation by clear and convincing evidence. Briefly stated, on February 2, 1981, the Respondent was convicted by the Dade County Court, of five misdemeanors, concerning violations of Chapter 17B, Section 22 of the City of Miami Beach Code. These violations pertain to failure to comply with minimum housing standards, or failure or refusal to comply with requirements of a Final Order. (R. 37-40; Exhibits E, F, G, H and I) The conviction was appealed to the Circuit Court, Eleventh Judicial Circuit, Appellate Division. However, the conviction was affirmed. (R. 39 and 40; Exhibit J).

III. RECOMMENDATION AS TO WHETHER OR NOT THE RESPONDENT SHOULD BE FOUND GUILTY:

As to each Count of the Complaint, I make the following recommendations as to guilt or innocence.

AS TO COUNT I

I recommend that the Respondent be found guilty and specifically that he be found guilty of the following violations of the Code of Professional Responsibility, to wit: Disciplinary Rule 6-101(A)(3), neglect of a legal matter.

AS TO COUNT II

I recommend that the Respondent be found guilty and specifically that he be found guilty of violation of the Code of Professional Responsibility, to wit: Disciplinary Rule 1-102(A)(6),

engaging in conduct that adversely reflects on the fitness to practice law.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

I recommend that the Respondent be suspended from practicing law for a period of 90 days, and that the costs shown in Paragraph VI below, be taxed against the Respondent.

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD:

Age 39; Date admitted to The Florida Bar, 1971; Prior Disciplinary Record: Private Reprimand, September 28, 1978, failure to maintain proper trust account records. Public Reprimand August 28, 1980, The Florida Bar v. Rosenberg, 387 So.2d 935 (Fla. 1980) - Taking action on behalf of client which would serve to harass another, filing pleadings with no Certificate of Service on opposing side.

VI. STATEMENT OF COSTS AND MANNER IN WHICH COST SHOULD BE TAXED:

I find the following costs were reasonably incurred by The Florida Bar.

Costs Incurred at Grievance Committee Level as reported by Bar Counsel:

Hearing March 10, 1982	\$ 776.00 (EX. "A")
Hearing April 14, 1982	717.50 (EX. "B")
Administrative Cost at Grievance Committee level and Referee level. (Fla. Bar Integr. Rule 11.06(9)(a)(5))	300.00
Court Reporter Costs - April 26, 1984.	277.62 (EX. "C")
Travel for Bar Counsel.	<u>13.00</u>
TOTAL COSTS	\$ 2,084.12

It is recommended that the foregoing costs be charged to the Respondent. It is recommended that the foregoing costs be paid within sixty days of the Supreme Court Order. Furthermore, if the Respondent should be suspended by the Supreme Court, it is recommended that the Court Order state, "the suspension will not

be lifted until costs have been paid or arrangements satisfactory to The Florida Bar have been made to pay said costs.

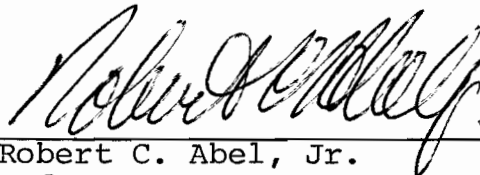
DATED this 9th day of July, 1984.



ROBERT C. ABEL, JR., REFEREE
Room 920, Broward County Courthouse
Ft. Lauderdale, Florida 33301
(305)765-5788

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Report of Referee were mailed this 9th day of July, 1984, to the following persons: Paul A. Gross, Bar Counsel, 211 Rivergate Plaza, 444 Brickell Avenue, Miami, Florida 33131; Terrence E. Rosenberg, 79 North Hibiscus Drive, Miami Beach, Florida 33139; and John T. Berry, Staff Counsel, The Florida Bar, Tallahassee, Florida 32301-8226.



Robert C. Abel, Jr.
Referee