

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

CONFIDENTIAL

Complainant,

Case No. 62,762

v.

FILED

SID J. WHITE

MARTIN N. STRELSER,

JUL 31 1985

Respondent.

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the article XI of the Integration Rule of The Florida Bar, hearings were held on November 20, 1984 and May 28, 1985. The enclosed pleadings, orders, transcripts and exhibits are forwarded to the Supreme Court of Florida with this report, constitute the record in this case. The above cases were consolidated to be heard before this referee by Order of the Supreme Court on June 27, 1984.

The following attorneys appeared as counsel for the parties:

For The Florida Bar
For The Respondent

Diane Victor Kuenzel
Respondent appeared in 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, I find that the facts are as set forth in the Complaints filed by The Florida Bar attached hereto as listed below:

S. Ct. No. 62,762 as Consolidated

- A. TFB No. 13B78H28 (Counts I through IV)
and
- B. TFB No. 06C82H34 (Count I)
TFB No. 06C82H36 (Count II)
TFB No. 06C82H37 (Count III)
TFB No. 06C82H38 (Count IV)

III. Recommendation as to Whether or not the Respondent Should Be Found Guilty: As to each Count of the above Complaints, I make the following recommendations as to guilt or innocence.

- A. (The Florida Bar No. 13B78H28)

As to Count I

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 1-102(A)(3), DR 1-102(A)(4), DR 1-102(A)(6), DR 9-102.

As to Count II

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 1-102(A)(3), DR 1-102(A)(4), DR 1-102(A)(6), DR 9-102.

As to Count III

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 1-102(A)(3), DR 1-102(A)(4), DR 1-102(A)(6), DR 9-102.

As to Count IV

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 1-102(A)(3), DR 1-102(A)(4), DR 1-102(A)(6), DR 9-102.

B. (The Florida Bar Nos. 06C82H34, 06C82H36
06C83H37, 06C83H38)

As to Count I
(06C82H34)

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 1-102(A) (1), DR 1-102(A) (3), DR 1-102(A) (4), DR 1-102(A) (5), DR 7-101(3), DR 7-102(8), DR 9-102(B) (1), DR 9-102(B) (4)

As to Count II
(06C82H36)

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 1-102(A) (1), DR 1-102(A) (3), DR 1-102(A) (4), DR 1-102(A) (5), DR 7-102(8), DR 9-102(B) (4).

As to Count III
(06C82H37)

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 1-102(A) (1), DR 1-102(A) (3), DR 1-102(A) (4), DR 1-102(A) (5), DR 7-102(8), DR 9-102(B) (4).

As to Count IV
(06C82H38)

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 1-102(A) (1), DR 1-102(A) (3), DR 1-102(A) (4), DR 1-102(A) (5), DR 7-102(8), DR 9-102(B) (4).

IV. Recommendation as to Disciplinary Measures to be Applied: I recommend that respondent be disbarred from the practice of law for a period of no less than ten (10) years, commencing from the date of the Court's Order or commencing from an earlier date, selected by the Court, in consideration of respondent's seven year absence from the practice of law. I also recommend that respondent shall not be reinstated as a member of The Bar until respondent shows proof of restitution to all victims identified in The Bar's Complaints, as well as payment of the costs in these proceedings.

V. Personal History and Past Disciplinary Record:

- (1) Age: 49
- (2) Date Admitted to Bar: June, 1960
- (3) Respondent was suspended from the practice of law on September 19, 1978 upon The Bar's Petition showing that respondent abandoned his responsibilities to the public and caused great public harm by misappropriating funds of others to his own use, as detailed in The Bar's Complaint. On January 4, 1982, respondent's suspension was extended pursuant to Integration Rule, article XI, Rule 11.07, following respondent's adjudication of guilt on two counts of grand theft and conspiracy in a matter not part of The Bar's Complaint. Respondent has not petitioned for reinstatement to date.

VI. Statement of Costs and Manner in which Costs Should Be Taxed: I find the following costs were reasonably incurred by TFB:

S. Ct. No. 62,762 as Consolidated

A. TFB No. 13B78H28 - Counts I through IV:

Grievance Committee Level Costs	\$600.00
Administrative Costs	
(4 cases at \$150.00 each)	

Referee Level Costs	\$600.00
Administrative Costs (4 cases at \$150.00 each)	
	<u>\$1,200.00</u>
B. TFB Nos. 06C82H34, 06C82H36, 06C82H37, 06C82H38:	
Grievance Committee Level Costs	\$600.00
Administrative Costs (4 cases at \$150.00 each)	
Referee Level Costs	\$600.00
Administrative Costs (4 cases at \$150.00 each)	
	<u>\$1,200.00</u>
C. Miscellaneous Costs:	
Court Reporter	\$ 487.00
Copies (Certified)	\$ 19.00
Investigator Expenses	
Ernest J. Kirstein, Jr.	\$1,357.50
Martin S. Egan	\$ 132.00
Witness Fees	\$ 21.30
Bar Attorney Expenses	\$ 24.30
Typist	\$ 6.00
	<u>\$2,047.10</u>
TOTAL COSTS TO DATE	\$4,447.10

It is apparent that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the respondent, and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final unless a waiver is granted by The Board of Governors of The Florida Bar.

DATED this 16th day of July, 1985.


HONORABLE L. E. HUFFSTETLER

Copies furnished to:
Martin N. Strelser
Diane Victor Kuenzel, Bar Counsel
John T. Berry, Staff Counsel