



The parties agreed to the date of November 16, 1984.

In addition to the foregoing, notices were sent out. The first notice was sent to Ms. Hotaling by Ms. Needelman by certified mail on September 26, 1984, and a corrected notice of hearing was sent also by certified mail on October 1, 1984. Return cards evidencing receipt by Ms. Hotaling's office were received by The Florida Bar.

On October 25, 1984, The Florida Bar filed a Motion for Judgment on the Pleadings. The matter was noticed for hearing, and on November 9, 1984, this referee entered an Order ruling the Requests for Admissions propounded to the Respondent were admitted due to the failure of Respondent to file any response or request any extension of time in which to file a response. This referee further ruled although The Florida Bar had proven its case through the Requests for Admissions, Respondent could present a defense as to the allegations at the final hearing.

Both Ms. Needelman and Ms. Hotaling were present at the hearing held on Friday, November 9, 1984. At said hearing, this referee advised the parties as follows:

So that at this point we are going to meet at 1:30 o'clock P. M. in Room 902, which is the Grand Jury Room at the Court-house in Fort Lauderdale, next Friday, for a hearing insofar as Ms. Hotaling is concerned and for any defenses she wishes to place on the record at that time, and insofar as the discipline. (See lines 10-16, November 9, 1984 transcript, Case No. 65,818).

The November 16, 1984 final hearing was scheduled to begin at 1:30 o'clock P. M. At that time, Ms. Hotaling was not present. Ms. Needelman, counsel for The Florida Bar, advised this referee that at approximately 12:30 o'clock P. M., Ms. Needelman's office received a telephone call from Ms. Hotaling

in which Ms. Hotaling advised she would be a few minutes late since she was coming from a hearing in West Palm Beach. This referee waited until 2:00 o'clock P. M. to begin the proceedings and Ms. Hotaling still had not arrived. The hearing concluded at 2:23 o'clock P. M., and as of that time Ms. Hotaling had not appeared. I find Respondent had abundant personal notice of the November 16, 1984 final hearing.

Based on Respondent's failure to answer The Florida Bar's Request for Admissions and her failure to be present at the November 16, 1984 hearing to present a defense this referee found the substantive matters contained in The Florida Bar's Complaint in Case No. 65,818 were deemed proven.

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 Case No. 63,050 (17C83F33)

Florida Bar Case No. 17C83F33 concerns a complaint filed against Respondent by one Elizabeth Dodson. A hearing was conducted on September 14, 1984, at which hearing the following facts were ascertained:

1. Sometime in April, 1982, Respondent was retained by Ms. Dodson to represent her in an action against Fort Lauderdale Lincoln Mercury Company. Pursuant thereto, Respondent prepared and filed a Complaint in the Circuit Court of the Seventeenth Judicial Circuit In and For Broward County, Florida, on May 12, 1982.

(See Florida Bar Composite Exhibit 1 attached to September 14,

1984 transcript). A Motion to Dismiss the Complaint was filed and granted. The Order allowed Plaintiff thirty (30) days in which to file an Amended Complaint. No such pleading was filed.

2. Ms. Dodson testified she never heard from Respondent after Dodson signed the Court Complaint. Her telephone calls to Respondent were neither answered nor returned. (See testimony of Ms. Dodson, pages 9-20, September 14, 1984, transcript.)

3. Respondent testified she dealt with one Mary Murphy on behalf of Ms. Dodson. Dodson stated she never authorized Murphy to act on her behalf nor did she advise Respondent to deal with Murphy. Respondent showed Dodson copies of letters allegedly sent her by Respondent. Dodson denied receipt of these letters. (Respondent declined the opportunity to introduce these letters into evidence at the hearing. (See page 17 of September 14, 1984 transcript.) Respondent testified she never advised Dodson personally of the dismissal of the Complaint. Further, she does not recall receiving telephone calls from Ms. Dodson.

4. The instant Complaint was filed by Ms. Dodson against Respondent on November 29, 1982. (See Florida Bar Composite Exhibit 2 attached to September 14, 1984 transcript.)

As to Case No. 65,818 (17C83F39 Count I)

Florida Bar Case No. 17C83F39 concerns a complaint filed against Respondent by one David Alpren. The facts of the Complaint were deemed admitted due to Respondent's failure to answer The Florida Bar's Requests for Admissions.

5. David Alpren was convicted of drug charges in the State of Ohio on or about February 9, 1972.

6. Mr. Alpren sought to obtain a pardon of this conviction by utilizing Respondent's services.

7. After a telephone conversation with Mr. Alpren in which he explained that he wished to discuss this matter with an attorney, Respondent made an appointment with Mr. Alpren at her office in/or about November or December, 1982.

8. Mr. Alpren took one-half day off from work so that he could meet with Respondent at the scheduled time.

9. At the scheduled time, Respondent advised Mr. Alpren that she was busy with another client and could not meet with him. Respondent requested that Mr. Alpren leave his copy of his conviction with Respondent's secretary, John.

10. Mr. Alpren left the document with John, who advised that he would copy the papers and immediately return the originals to Mr. Alpren. After approximately two (2) weeks had passed, Mr. Alpren had not yet received his documents from Respondent's office. 11. Mr. Alpren called Respondent's office and was told that his file was missing. On or about the next day, Mr. Alpren was told that his file had been found and that no work had been done on his file.

12. Mr. Alpren then requested that Respondent's office return his documents to him and he advised that he no longer desired Respondent's services.

13. Mr. Alpren was assured by Respondent's office that the documents would be mailed to him on that day, on or about December 7, 1982. The documents were not mailed to Mr. Alpren until February 2, 1983.

14. There are deadlines in which one must meet to be able to have a pardon application acted upon.

As to Case No. 65,818, (17C83F32) Count II

Florida Bar Case No. 17C83F32 concerns a complaint filed against Respondent by one Mary Murphy. The facts of the complaint were deemed admitted, due to Respondent's failure to answer The Florida Bar's Requests for Admissions.

15. On or about November 17, 1981, Respondent signed a stipulation for substitution of counsel in which she would replace Arthur M. Wolff as the attorney for Mary Murphy concerning Mrs. Murphy's case against Thomas R. and Patty J. Schneider. On or about November 30, 1981, an order was entered granting the aforementioned stipulation.

16. The case was pending at the appellate level and the former counsel had already filed the brief in the cause. Respondent was to appear in Court for Mrs. Murphy, the appellee, for an oral argument on the case. Mrs. Murphy had won the case at the trial level.

17. Respondent appeared at the oral argument regarding the Schneider matter and was unprepared for her presentation. On the way to the oral argument, Respondent informed Mrs. Murphy that she did not have any notes with her and did not have her work complete.

18. Mrs. Murphy suggested to Respondent that she try to continue the oral argument. Respondent advised Mrs. Murphy that she wanted to go ahead with the oral argument because she thought she remembered the case.

19. Respondent told Mrs. Murphy that she was very nervous. When Mrs. Murphy suggested to Respondent that she should not go ahead with oral argument because she was too nervous, Respondent disagreed.

20. Previous to the date of the oral argument, Respondent told Mrs. Murphy that she could handle the appellate matter. At the oral argument, Respondent informed Mrs. Murphy that this was the first time she was presenting an oral argument. Respondent failed to adequately represent Mrs. Murphy at the oral argument.

21. Mrs. Murphy lost her case on appeal and the case was reversed in a per curiam opinion filed on June 9, 1982.

22. Arthur M. Wolff, Esquire, who preceded Respondent as Mrs. Murphy's attorney, urged Respondent to file a Motion for Rehearing in the Schneider matter. Respondent failed to file a Motion for Rehearing.

23. On or about November 17, 1981, Respondent signed a Stipulation for Substitution of Counsel in which she would replace Arthur M. Wolff as the attorney for Mrs. Murphy in her appeal regarding one Joseph D. Gaulin. On or about December 3, 1981, an order was entered granting the aforementioned stipulation.

24. Mr. Wolff had requested an oral argument on behalf of Mrs. Murphy, Appellant, in her appeal against Joseph Gaulin.

25. On or about November 20, 1981, Mr. Wolff sent a letter to Respondent advising her that oral argument in the Gaulin matter was set for January 13, 1982, at 10:00 A. M.

26. Immediately prior to the January 13, 1982 date set for oral argument, Respondent called Larry Klein, the opposing counsel in the case, requesting a continuance of the oral argument. Larry Klein advised Respondent that he would not agree to a waiver or continuance.

27. Respondent did not appear on January 13, 1982, for the oral argument and did not file a written waiver of oral argument with the Court.

28. Respondent failed to advise Mrs. Murphy that she intended to waive oral argument or not appear at the oral argument. Mrs. Murphy did not give Respondent permission to waive oral argument or fail to appear at the oral argument.

29. The case was affirmed by the Fourth District Court of Appeal on or about January 26, 1982, in a per curiam opinion, in favor of Joseph Gaulin.

30. Respondent failed to file a Motion for Rehearing in the Gaulin matter.

31. On or about February 23, 1982, Alan J. Pollock, Co-Counsel with Larry Klein, sent a letter to Respondent requesting written notification that she had no objections to Judge Polen entering an Order for Release of Supersedeas Bonds to Plaintiff, Joseph Gaulin.

32. Respondent failed to reply to Alan Pollock's letter and telephone calls to her. Due to Respondent's failure to agree to the order, a hearing on the matter was set for March 3, 1982, at 8:45 A. M.

33. On or about February 23, 1982, Respondent was sent a notice of hearing on the release of supersedeas bond issue for the aforementioned date and time. Respondent failed to appear at the hearing.

34. Upon a call to Respondent's office by Judge Mark E. Polen's secretary, Respondent's office advised that she was aware of the hearing. Respondent failed to appear at this March 3, 1982 hearing, although Judge Polen held the case until the end of his motion calendar waiting for her to appear. Judge Polen then signed the Order releasing the supersedeas bond monies to Mr. Gaulin.

35. Respondent never advised Mrs. Murphy as to the status of her case concerning Mr. Gaulin.

36. Respondent failed to inform Mrs. Murphy that the Gaulin case was over and that the bond monies had been released to Mr. Gaulin.

37. After the case had been concluded, Respondent misrepresented the status of the case to Mrs. Murphy. Mrs. Murphy learned of the disposition of her case through her ex-husband, an attorney practicing in another State, after he had spoken with Alan Pollock, Esquire.

38. After learning what had occurred concerning her case, Mrs. Murphy made numerous attempts to contact Respondent through telephone calls, letters and a personal appearance at



Respondent's office. Respondent failed to respond to Mrs. Murphy's telephone calls, letters and message.

III. Recommendation as to Whether or Not the Respondent Should Be Found Guilty:

As to each Court of the Complaint, I make the following recommendations as to Respondent's guilt:

As to Case No. 63,050 (17C83F33)

I recommend Respondent be found guilty of the following violations, to wit:

Code of Professional Responsibility Disciplinary Rule 6-101(A)(3) in that she neglected a legal matter entrusted to her, and Rule 7-101(A)(2), in that she failed to carry out her contract of employment with Ms. Dodson.

As to Case No. 65,818 (17C83F39), Count I

I recommend Respondent be found guilty of the following violations, to wit:

Code of Professional Responsibility Disciplinary Rule 1-102(A)(6) (a lawyer shall not engage in any conduct that adversely reflects on his fitness to practice law), Rule 3-104(C) (a lawyer shall exercise a high standard of care to assure compliance by nonlawyer personnel), and Rule 9-102(B)(4) (a lawyer shall promptly deliver to the client, upon request, property the client is entitled to receive).

As to Case No. 65,818 (17C83F32), Count II

I recommend Respondent be found guilty of the following violations, to wit:

Code of Professional Responsibility Disciplinary Rule  
1-102(A)(1) (a lawyer shall not violate a disciplinary rule),  
Rule 1-102(A)(4) (a lawyer shall not engage in conduct  
involving dishonesty, fraud, deceit or misrepresentation),  
Rule 1-102(A)(6) (a lawyer shall not engage in any other  
conduct that adversely reflects on his fitness to practice law),  
Rule 6-10k(A)(1) (a lawyer shall not handle a legal matter  
which he knows or should know he is not competent to handle),  
Rule 6-101(A)(2) (a lawyer shall not handle a legal matter  
without preparation adequate in the circumstances), Rule 6-101(A)(3)  
(a lawyer shall not neglect a legal matter entrusted to him),  
Rule 7-101(A)(1) (a lawyer shall not intentionally fail to seek  
the lawful objectives of his client), Rule 7-101(A)(2) (a lawyer  
shall not intentionally fail to carry out a contract of employment  
entered into with a client) and Rule 7-101(A)(3) (a lawyer shall  
not intentionally prejudice or damage his client.

IV. Recommendation as to Disciplinary Measures to be Applied:

I recommend as follows:

(1) Respondent be suspended from the practice of law for a period of eighteen (18) months with proof of rehabilitation required pursuant to article XI, Rule 11.11 of the Integration Rule.

(2) Prior to reinstatement, Respondent should be required to take and successfully pass the entire Florida Bar examination, including the ethics portion of same.

(3) After Respondent has met the foregoing conditions and is reinstated to the practice of law, Respondent should be placed on probation for a period of eighteen (18) months, and should only be permitted to practice under the guidance of another member of The Florida Bar who is not currently under some type of disciplinary proceeding.

I find in these three (3) cases, Respondent's conduct prejudiced her clients. The matters before me, could or did in fact have severe monetary and other consequences to the individuals involved.

Respondent has evidenced a complete and utter disregard for her clients in these cases, and has evidenced a disdain for our process by failing to appear at the November 16, 1984, hearing. For the protection of those individuals who would seek out attorneys within the State of Florida to represent them in various and sundry matters, albeit wealthy clients or indigent clients, something must be done. Ms. Hotaling's actions in the various cases before me leaves much to be desired and evidences a lack of knowledge in the subject matter in which she attempts to represent people.

V. Past Disciplinary Record: After my findings of guilt and prior to recommending discipline pursuant to Rule 11.06(9)(4), I considered the prior disciplinary record of Respondent, to wit: The Florida Bar v. Marie Susan Hotaling, Supreme Court Opinion, No. 62,782, March 29, 1984, wherein Respondent received a public reprimand and was placed on probation for a period of two (2) years. Respondent is presently on probation.

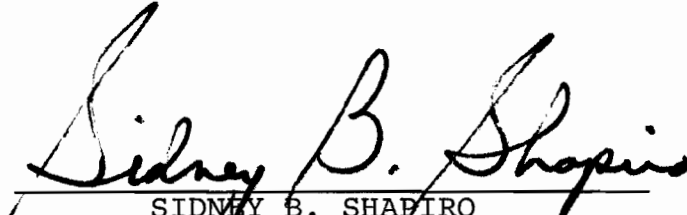
VII. Statement of Costs and Manner in Which Costs Should Be Taxed:

The following costs were reasonably incurred by The Florida Bar:

Administrative Costs at Grievance Committee Level under Rule 11.06(9)(a)(5) (three (3) cases)	\$450.00
Administrative Costs at Referee Level under Rule 11.06(9)(a)(5)	\$150.00
Bar Counsel Copying Costs	28.00
Service of Process	60.00
Witness Fees	69.10
Court Reporter Attendance and Transcripts	814.51
TOTAL COSTS	<u>\$1,571.61</u>

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.

Dated this 5<sup>th</sup> day of December, 1984.

  
\_\_\_\_\_  
SIDNEY B. SHAPIRO  
Referee

Copies furnished to:

Jacquelyn Plasner Needelman, Bar Counsel  
Marie S. Hotaling, Respondent.

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

CASE NOS. 63,050 and 65,818

v.

The Florida Bar Case Nos.  
17C83F32, 17C83F33 and  
17C83F39

MARIE S. HOTALING,

Respondent.

**FILED**  
SID J. WHITE

THE FLORIDA BAR'S STATEMENT OF COSTS DEC 11 1984


Administrative Costs at Grievance Committee Level under Rule 11.06(9) (a) (5) (three (3) cases)	\$450.00
Administrative Costs at Referee level under Rule 11.06(9) (a) (5)	150.00
Bar Counsel Copying Costs	28.00
Service of Process	60.00
Witness Fees	69.10
Court Reporter Attendance and Transcripts	<u>814.51</u>

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

TOTAL COSTS DUE THE FLORIDA BAR \$1,571.61

Respectfully submitted,

  
JACQUELYN PLASNER NEEDELMAN  
Bar Counsel  
The Florida Bar  
Galleria Professional Building  
915 Middle River Drive, Suite 602  
Fort Lauderdale, Florida 33304  
(305) 564-3944

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Statement of Costs was furnished to Marie Susan Hotaling, Respondent, at her official record Bar address 1519 Northeast Fourth Avenue, Fort Lauderdale, Florida 33304 by regular United States mail on this 30th day of November, 1984, and a copy to John T. Berry, Staff Counsel, The Florida Bar, Tallahassee, Florida 32301-8226.

  
JACQUELYN PLASNER NEEDELMAN