

FILED

SID J. WHITE

MAR 11 1987

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR, :
Complainant, :
vs. :
H. LEE BAUMAN, :
Respondent. :

Supreme Court Case
No. 63,229

CLERK, SUPREME COURT
By _____
Deputy Clerk

The Florida Bar Case
11A81M67

RESPONSE TO BRIEF OF THE FLORIDA BAR

Respondent, H. LEE BAUMAN ("Bauman"), by and through his undersigned counsel, hereby files his Response to the Brief of the complainant, The Florida Bar, filed February 19, 1987, and states:

1. Bauman reaffirms those representations of The Florida Bar's Brief which specifically relate to the parties' Conditional Stipulation for Consent Judgment of October 9, 1986, and adopts the Amended Report of the Referee of December 23, 1986, conditioned upon that exception set forth in Paragraph 4 below.

2. However, because the Brief of The Florida Bar mischaracterizes certain admissions attributed to Bauman, correction and clarification of the record is warranted as follows:

3. On Page 2 of its Brief, The Florida Bar incorrectly attributes the statements made by an undercover officer as the admission of Bauman in his Conditional Stipulation for Consent Judgment. Such is not the case, specifically, see II(f), Pages 2 and 3, of the Amended Report of Referee, which incorporated the Conditional Stipulation. Such clarification is especially warranted in light of the effect such incorrectly attributed statements may have upon Bauman's ability to practice law until May 1987, should this Court adopt the Referee's Amended Report. Further any confusion in the record in this regard should be clarified to avoid any future negative impact upon Bauman's opportunity to seek and obtain reinstatement and to

practice law thereafter. Consequently, it is essential that the Court recognize that in his Conditional Stipulation, Bauman has not admitted making any such alleged statement as attributed to him by an undercover officer.

4. In his initial Report of Referee, Judge James R. Thompson stated that the parties submitted a Conditional Stipulation for Consent Judgment and incorporated its contents in his Report and Recommendation. However, due to an inadvertent omission by The Florida Bar in preparing its report submitted to the Referee, certain critical mitigating factors were omitted from the report tendered to The Supreme Court. Upon Bauman's submission of a Notice of Omission in Report of Referee, The Florida Bar corrected its oversight and included the mitigating factors in a second, amended Referee's Report forwarded to the Referee. However, the Amended Referee's Report subsequently filed with the Court is also defective in that it contains an error which mischaracterizes the agreement between the parties. Specifically, Judge Johnson in his Amended Report states that the respondent submitted a "conditional Guilty Plea and a Consent Judgment." As The Florida Bar is well aware, Bauman has never, at any time, stipulated to any conditional "Guilty Plea."

5. Although the mischaracterization and/or errors contained in the Brief of The Florida Bar or in The Florida Bar's preparation of the Amended Referee's Report were no doubt inadvertent, the potential for these errors and inaccuracies to impact negatively upon Bauman's cause in this matter requires clarification and correction of the record.

Respectfully submitted,

SPARBER, SHEVIN, SHAPO,
HEILBRONNER & BOOK, P.A.
Attorneys for Respondent
29th Floor AmeriFirst Bldg.
One Southeast Third Avenue
Miami, Florida 33131
(305) 347-4700

By 
ROBERT L. SHEVIN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed to THE HON. JAMES R. THOMPSON, REFEREE, Lee County Justice Center Complex, 1700 Monroe Street, Fort Myers, Florida 33901; JOHN T. BERRY, ESQ., The Florida Bar, Tallahassee, Florida 32301; and RANDI KLAYMAN LAZARUS, ESQ., The Florida Bar, 444 Brickell Avenue, Miami, Florida 33131, this 9th day of December, 1986.

for Robert L. Shevin
ROBERT L. SHEVIN

/34