

IN THE SUPREME COURT OF FLORIDA

(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.
CHARLES E. BARTLETT,
Respondent.


FILED

S/D J. WHITE

JUL 16 1984

CLERK, SUPREME COURT

CASE NO. 63,294
(04A82N49)

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 Article XI of the Integration Rule of the Florida Bar, hearings were held on January 17, 1984. The Pleadings, Notices, Motions, Orders, Transcript and Exhibits all of which are forwarded to the Supreme Court of Florida with this report, constitute the record in this case. The following attorney appeared as counsel for the party:

For the Florida Bar JOHN A. BOGGS, ESQ.

For the Respondent NO APPEARANCE

II. After considering all the pleadings, admission, and evidence adduced by The Florida Bar, I find:

Charles E. Bartlett, a member of The Florida Bar, waived appearance before a grievance committee thus waived finding of probable cause, was duly noticed of hearing and therefore the undersigned has jurisdiction of the parties and subject matter.

III. Findings of Fact as to Each Item of Misconduct of which the Respondent is Charged:

As to the Complaint

I find:

1. The Respondent maintained an account at the Barnett Bank of Orange Park, hereinafter referred to as "Attorney Account."
2. He maintained an account in Southeast Bank of Orange Park hereinafter referred to as "Client Account."

3. Both accounts were trusts.
4. The Respondent deposited on August 21, 1981, in the "Attorney Account" monies belonging to one, Carver Cook. Also, in this account Respondent deposited personal funds. Monies were paid out of said account on behalf of Mr. Cook, but a ledger card was not maintained reflecting monies entrusted by Mr. Cook, nor disbursed on his behalf. There was a mixing of personal and client's funds.
5. On December 11, 1981, a client of Respondent, Richard McPherson, deposited with him \$375.00 to defray the cost surveying services of Joseph G. Knapp performed on behalf McPherson.
6. On March 30, 1982, Respondent drew on his client account a check payable to Mr. Knapp in partial payment of the bill for said services.
7. On last said date Respondent's client account had a balance of \$102.11. Hence, the check to surveyor Knapp was not paid until April 12, 1982, and then, against funds not related to McPherson.
8. Respondent failed to prepare or keep a ledger card reflecting receipt or payment of this client's money. In this account personal and client's monies were co-mingled.
9. On November 4, 1981 Respondent's client account and attorney account contained \$1,550.70 less than his trust obligation to a client.
10. On February 16, 1982 the Respondent issued two checks drawn on the client account for a total sum of \$97.00 resulting in an overdraft of \$199.09. Previously, the client account had a minus balance from November 20, 1981 to January 22, 1982.
11. From June 1981 to August of 1982 Respondent did not prepare and keep ledger cards or equivalent records reflecting deposits and disbursement of money entrusted to him by

clients, and for June 1981, did not keep cancelled checks from his attorney account. Further, he failed to adequately identify in both accounts deposits and disbursements, and did not maintain quarterly reconciliations of either.

IV. Recommendation as to Guilt:

I specifically recommend that Respondent be found guilty of the following violations of The Integration Rule, and Professional Code of Responsibility, to-wit:

- A. Rule 11.02(4) for failure to maintain minimum records to identify the deposits into and disbursements from two trust accounts.
- B. Rule 9-102(A) for commingling trust funds in two accounts.
- C. Rule 9-102(B) Failure to render appropriate accounting of trust funds due to lack of or inadequate records.

V. Recommendation as to Disciplinary Measures to be Applied:

I recommend that the Respondent be suspended from the practice of law for a period of thirty days, and that he be required to attend a complete seminar on trust accounting with certificate of compliance therewith being filed with the Clerk of the Supreme Court of Florida.

Failure without good cause to attend such seminar within twelve months should reopen the judgment.

VI. The Respondent was admitted to The Florida Bar in 1977. He cooperated with Complainant. The Respondent absented himself from the hearing. Therefore, I am not aware of any remorse, change in method of record keeping or anything in mitigation. The total amount of money involved was a relatively small sum.

The Respondent simply does not have any appreciation of the importance of compliance with an attorney's obligation regarding trust accounts. He does not have a previous disciplinary record. No one lost any money entrusted to him, and there is not any record of with-holding any payment after request.

VII. Statement of Costs and Manner in which Cost should be Taxed:

Below is an itemized list of the expenses incurred in the above-styled cause.

A. Grievance Committee Level Costs

Rule 11.06(9)(a) \$ 150.00

B. Referee level costs:

Rule 11.06(9)(a) 150.00

Bar counsel travel and out-of-pocket expenses 95.50

Auditors travel costs, time and out-of-pocket expenses (see Exhibit A) \$1,356.38

Total all costs \$1,751.88

C. These costs represent all costs incurred in the prosecution of this matter by The Florida Bar except the costs of the court reporter for appearance and preparation of the transcript of proceedings before the referee in this matter.

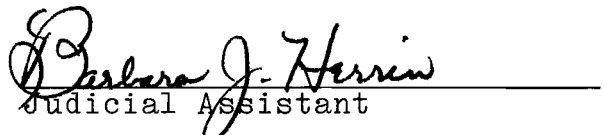
It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the Respondent, and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final unless a waiver is granted by the Board of Governors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

Dated this 13th day of July, A.D, 1984.


Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to HONORABLE SID J. WHITE, Clerk of The Supreme Court of Florida, Supreme Court Building, Tallahassee, FL 32301 a copy to JOHN A. BOGGS, ESQ., 3737 Forsyth Way, Tallahassee, FL 32308 and CHARLES E. BARTLETT, ESQ., Village Green Center, Orange Park, FL 32076, by U.S. Mail, properly stamped, this 13th day of July, A.D., 1984.


Judicial Assistant