

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR, )  
Complainant, ) CONFIDENTIAL  
v. ) Supreme Court Case No. 63,574  
ARTHUR G. BRODSKY, )  
Respondent. )

**FILED**

SID J. V.

7 1995

CLERK, SUPREME COURT

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



REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

1. On April 25, 1983, The Florida Bar filed its Complaint and Request for Admissions with the Supreme Court of Florida. The undersigned was duly appointed as Referee by order of the Chief Justice, dated May 9, 1983. A final hearing concerning this matter was held on December 3, 1984 at the Lee County Justice Center Complex, Fort Myers, Florida.

The following attorneys appeared for the parties:

On behalf of The Florida Bar: Paul A. Gross, of Miami

On behalf of Respondent: No appearance

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

After considering all the pleading, documentary evidence, and testimony, the undersigned referee finds:

IN GENERAL

1. That the Respondent Arthur G. Brodsky, is and at all times hereinafter mentioned, was a member of The Florida Bar, subject to the Jurisdiction and Disciplinary

Rules of the Supreme Court of Florida, (article V, section 15 of the Florida Constitution and Florida Bar Integration Rule, article XI). The venue in this case is Lee County Florida (Bar Exhibit 2).

2. That copies of the Complaint and Request for Admissions were mailed to the Respondent, by certified mail to his official Bar address at 250 Catalonia Avenue, Suite 400, Coral Gables, Florida 33134. In addition, the Complaint and Request for Admissions were sent to other known addresses by certified mail, as shown on the Certificate of Service located in the Complaint and Request for Admissions.

3. That Florida Bar Integration Rule, article II, Section 6, states: "It should be the duty of each member of the Florida Bar immediately to advise the executive director of any change of mailing address or military status." Also, Florida Bar Integration Rule, article XI, Rule 11.01 (2), states:

mailing by registered or certified mail of papers or notices prescribed by these rules to the last mailing address of an attorney as shown by the official records in the office of the executive director of The Florida Bar shall be sufficient notice and service unless this court shall direct otherwise.

4. That at all times material to the investigation and prosecution of the various allegations giving rise to the complaint sub judice, The Florida Bar has diligently pursued its obligations and ethical responsibility to contact the Respondent and to provide him with notice of all proceedings, pleadings, hearings, and the like (R.3 and Composite Exhibit 3).

5. That at all times material to the hearing of this cause, both The Florida Bar and Respondent have been afforded

ample opportunity to file pleadings, to personally appear before this Referee, and to present witnesses, testimony, and all other matters of evidence material and relevant to this cause.

III. AS TO ALLEGATIONS IN COMPLAINT: The questions in the Complainant's Request for Admissions were taken as being admitted, as the Respondent failed to respond to them (Florida Rules of Civil Procedure, Rule 1.370). In addition, the grievance committee record was introduced and accepted in evidence. See The Florida Bar v. Junkin, 89 So.2d 481 (Fla. 1956), and The Florida Bar v. Schneiderman, 285 So.2d 392 (Fla. 1973).

Based upon the above, the undersigned finds that all allegations in the Complaint have been proven by clear and convincing evidence. See The Florida Bar v. Travelstead, 435 So.2d 832 (Fla. 1983), where an attorney was disbarred, even though said attorney did not respond to the Bar's complaint.

IV. THE FACTS IN THIS CASE ARE AS FOLLOWS:

The detailed allegations are set forth in the Complaint and in the transcript of proceedings of the grievance committee hearing (Bar Exhibit 4). However, in concise form, the facts are as follows:

Michael E. Rubin, a member of the Massachusetts and Florida Bars, associated himself with the Respondent for the purpose of having the Respondent perform Legal work on three matters, to wit: A contract problem, probating a small estate and a domestic relation case. The Respondent accepted separate retainer fees for each matter, totaling \$3,150.00, and agreed to represent the clients. Since the Respondent made no progress in these cases, Mr. Rubin obtained

the files from the Respondent and successfully completed the cases. The Respondent gave Mr. Rubin three checks, as follows: two checks for \$300.00 each, represented one total refund and a partial refund of the retainers given Respondent on the contract matter and the estate matter. A check for \$833.33 was given Mr. Rubin, which represented the fee that Mr. Rubin was to receive for his portion of the representation in the domestic relations case. All three of the foregoing checks were returned due to insufficient funds. Attempts by Mr. Rubin to contact Respondent were unsuccessful.

V. RECOMMENDATIONS AS TO WHETHER OR NOT RESPONDENT SHOULD BE FOUND GUILTY:

As to all allegations, the undersigned recommends that the Respondent be found guilty. Specifically, it is recommended that Arthur G. Brodsky be found guilty of violating the following Disciplinary Rules of the code of Professional Responsibility to wit:

DR 1-102(A)(1) (a lawyer shall not violate a disciplinary rule).

DR 1-102(A)(3) (a lawyer shall not engage in illegal conduct involving moral turpitude).

DR 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation).

DR 1-102(A)(6) (a lawyer shall not engage in any other conduct that adversely reflects on his fitness to practice law).

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

The undersigned recommends that the Respondent be suspended from practicing law for a period of three years and that he be required to show proof of rehabilitation prior to being reinstated as a member of The Florida Bar

in good standing. As part of the proof of rehabilitation, the Respondent should be required to make good on the checks that were returned for insufficient funds. The undersigned has considered the Respondent's prior disciplinary record, to wit: A private reprimand and a public reprimand (Bar Exhibits 5 and 6).

In The Florida Bar v. Vernell, 374 So.2d 473, at 476 (Fla. 1979), the Supreme Court has stated:

This court dealt more severely with cumulative misconduct than with isolated misconduct, [citing The Florida Bar v. Rubin,] 362 So.2d 12 (Fla. 1978).

Accordingly, in view of the prior disciplinary record of the Respondent, this referee has dealt more severely in this case, than if this would have been the Respondent's first violation.

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

The undersigned referee finds the following costs were reasonably incurred by The Florida Bar:

Court Reporter for Grievance Committee hearings 2/2/83 .....	\$102.00 (Exh. A)
Court Reporter for Referee hearing 12/3/84 .....	56.71 (Exh. B)
Administrative Cost (Florida Bar Integration Rule 11.06 (9) (a) (5):	
At Grievance Committee Level .....	150.00
At Referee Level .....	150.00
Travel expenses for Bar Counsel ...	<u>171.98</u> (Exh. C)
TOTAL COSTS: .....	\$630.69

It is recommended that \$630.69 in costs and expenses be charged to the Respondent and said costs and expenses be payable within thirty days of the Supreme Court's Order in this case.

Dated this 21 day of December, 1984, at Fort  
Myers Florida.

Will J. Nelson  
William J. Nelson, Referee  
Lee County Justice Center  
Complex  
1700 Monroe Street  
Fort Myers, Florida 33901

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the copies of the foregoing  
Report of Referee were mailed this 2 day of  
Jan December 1985, to the followings persons, to wit:  
Paul A. Gross, Bar Counsel, 211 Rivergate Plaza, 444  
Brickell Avenue, Miami, Florida 33131 and to Arthur G.  
Brodsky, the Respondent, at 250 Catalonia Avenue, Suite 400,  
Coral Gables, Florida 33134.

Will J. Nelson  
William J. Nelson  
Referee

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

FILED

SID J. WHITE

JUN 3 1985

CLERK, SUPREME COURT

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

THE FLORIDA BAR,  
Complainant,

v.

Case No. 63,574

ARTHUR G. BRODSKY,  
Respondent.

AMENDED  
REPORT OF REFEREE

The last sentence of Paragraph VI of the Report of Referee, which is located at the top of Page 5 of the Report of Referee, is amended to read as follows:

The undersigned has considered the Respondent's prior disciplinary record, to wit: a public reprimand, and a suspension for three(3) months. (Bar Exhibits 5 and 6).

Dated this 31 day of May, 1985, at Ft. Myers, Florida.



WILLIAM J. NELSON, REFEREE  
Lee County Justice Center Complex  
1700 Monroe Street  
Ft. Myers, Florida 33901

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true copies of the foregoing Amended Report of Referee were mailed this 31 day of May, 1985, to the following persons: Paul A. Gross, Bar Counsel, 211 Rivergate Plaza, 444 Brickell Avenue, Miami, Florida 33131, and to Arthur G. Brodsky, the Respondent, 250 Catalonia Avenue, Suite 400, Coral Gables, Florida 33134 (the Respondent's official Bar address), and to 890 Camino Colibri, Calabras, California, his last known address, which was very recently discovered.

  
WILLIAM J. NELSON, REFEREE  
Judicial Assistant