IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR, RE:

AMENDMENT TO INTEGRATION RULE CASE NO. 64,333

RESPONSE OF HENRY P. TRAWICK, JR.

In its order dated April 18, 1985 the Court promulgated Integration Rule 11.02(4)(f) and invited comments and suggestions. This response is filed in answer to that invitation.

There is one question not answered by the proposed rule that is a continuing, but definitely minor, problem if the rule is made effective as written. Quite often real estate closings and other similar transactions that would be encompassed by the new rule require last minute adjustments. Most of time the party delivering a check at closing already has the check made in an amount prescribed by an earlier or tentative closing statement. As a result, often personal checks for small amounts, usually less than $500, are made and accepted as a part of the transaction. This respondent and most lawyers who are closing such transactions, are willing to assume the responsibility for these small checks because we can cover that amount ourselves if a problem develops.

This respondent believes the rule as proposed by the Court permits us to do that, but also provides that the acceptance of such a check that was not collected "...may be grounds for a finding of professional misconduct." Since the purpose of all trust accounting rules is to properly handle and document trust funds, respondent suggests that the following sentence be added to the last paragraph of the proposed rule:

> "In any event if the lawyer who accepts a check pays the amount of any failed deposit himself or from sources available to him otherwise than from the trust account, he is not guilty of professional misconduct."

The undersigned certifies that a copy of the foregoing has been furnished to Gerald F. Richman as president of The Florida Bar, Patrick G. Emmanuel as president-elect of The Florida Bar,

John F. Harkness, Jr. as executive director of The Florida Bar and John T. Berry by mail on May 16, 1985.

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