

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

E. PAUL DIETRICH,

Respondent.

CONFIDENTIAL

Case No. 64,811
(TFB NOS. 06A83H11)
06A83HD3)
06A83218)
06A83246)
06A83H28)

FILED

SID J. WHITE

DEC 3 1984

REPORT OF REFEREE

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

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, the enclosed Pleadings, Orders, Transcripts and Exhibits are forwarded to The Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For the Florida Bar Steve Rushing

For the Respondent Richard T. Earle, Jr.

FINDINGS OF FACT

II. The Complaint consists of five counts, each of which involve different factual situations and to each of which the Respondent admitted the factual allegations. The Referee finds from the evidence and the record that prior to the conduct alleged in the Complaint, Respondent practiced law in St. Petersburg. He was active in Bar activities and served for several years as a member of the local Grievance Committee. He was respected by his peers and his honesty and integrity were unquestioned. He had no disciplinary record prior to the conduct alleged in the Complaint, although he had practiced law since 1969.

Shortly prior to the conduct alleged in the Complaint, Respondent had serious marital problems which ultimately resulted in a divorce. At or about the same time, he became addicted to alcohol and consumed so much that he became incompetent to engage in the practice of law and incapable of rationally evaluating his own conduct. As a result thereof, he neglected his law practice, with the resulting diminishing of his income, which exacerbated both his marital and drinking problems.

The matter came to a head when Respondent found himself without any law practice, practically destitute, with no way in which to make restitution for his defalcations. Respondent thereupon joined Alcoholics Anonymous, regularly attending meetings (which he still regularly attends) and altogether ceased the drinking of alcoholic beverages. His marital problems were resolved by dissolution thereof.

Referee further finds that the Respondent cooperated fully with the Florida Bar in its investigation of his defalcations and with the Probate Division of the Circuit Court and the Law Enforcement Authorities in regard to said defalcations. Respondent was charged with various felonies as a result of his conduct, he pled guilty thereto, made a full disclosure, as a result of which he was found guilty and placed on probation and is still on probation.

Respondent has remarried and is living with his wife. He has secured employment outside of the field of law. He bears no ill-will to the Organized Bar, the Court, or Law Enforcement Officials and is genuinely remorseful.

All of his defalcations have been reimbursed, either by himself or by his sureties and he has made arrangements with said sureties to reimburse them.

RECOMMENDATIONS AS TO WHETHER THE RESPONDENT
SHOULD BE FOUND GUILTY

COUNT I

Having admitted the allegations of fact in Count I, the Referee recommends that he be found guilty of violating the Code of Professional Responsibility, Disciplinary Rule 1-102(A)(3) (Engaging in illegal conduct involving moral turpitude); (DR 1-102(A)(4) (Conduct involving dishonesty, fraud, deceit or misrepresentation); (DR 1-102(A)(6) (Conduct which adversely reflects on his fitness to practice law); DR 6-101(A)(3) (Neglect of a legal matter); DR 9-102(B)(3) (Failure to maintain and render accountings of complete records); DR 9-102(B)(4) (Failure to promptly pay or deliver client's funds as requested); and Integration Law, Article XI, Rule 11.02(4) (Money entrusted to an attorney must be applied only to that purpose.)

COUNT II

Having admitted the factual allegations in Count II, it is recommended that Respondent be found guilty of violating the Code of Professional Responsibility, DR 1-102(A)(6) (Conduct which adversely reflects on his fitness to practice law; and DR 6-101(a)(3) (Neglect of a legal matter.

COUNT III

Respondent having admitted the conduct alleged in Count III, the Referee recommends that he be found guilty of violating the Code of Professional Responsibility, Disciplinary Rule 1-102(A)(3) (Engaging in illegal conduct involving moral turpitude); DR 1-102(A)(4) (Conduct involving dishonesty, fraud, deceit or misrepresentation); DR 1-102(A)(6) (Conduct that adversely reflects on his fitness to practice law); (DR 9-102(B)(3) (Failure to maintain complete records and render accounting); and Integration Law Article XI, Rule 11-02(4) (Money entrusted to an attorney must be applied only to that purpose).

COUNT IV

The Respondent admitted the conduct alleged in Count IV and Referee, therefore, recommends that he be found guilty of violating the Code of Professional Responsibility, Disciplinary Rule 1-102(A)(3) (engaging in illegal conduct

involving moral turpitude); DR 1-102(A)(4) (conduct involving dishonesty, fraud, deceit, or misrepresentation); DR 1-102(A)(6) (Conduct which adversely reflects on his fitness to practice law); DR 6-101(A)(3) (Neglect of a legal matter); DR 9-102(B)(3) (failure to maintain complete records and render account); and Integration Rule, Article X, Rule 11.02(4) (money entrusted to an attorney must be applied only to that purpose).

COUNT V

The Respondent admitted the allegations of misconduct in Count V and Referee, therefore, recommends that he be found guilty of violating the Code of Professional Responsibility, Disciplinary Rule 9-102(A) (Trust funds shall be deposited in identifiable accounts); DR 9-102(B) (Maintain complete records and render accounts); Integration Rule, article XI, Rule 11.02(04)(b) (Proper maintenance of trust account records); Bylaws Section 11.02(4)(c)(2) (Failure to maintain minimum trust accounting records) and Bylaws Section 11.02(4)(3)(a) (Lack of quarterly reconciliation of trust accounts).

RECOMMENDATIONS AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that the Respondent be suspended from the Florida Bar for a period of two years, to commence on the date of this report and further, until he successfully concludes his probation in the criminal matters and further, until he demonstrates his rehabilitation.

In making this recommendation, the Referee is not unmindful of the seriousness of the offenses of which the Respondent is guilty. I also do not believe that the excessive use of alcohol is a valid justification for misconduct by a lawyer. On the other hand, the purpose of disciplining lawyers is not punishment. Instead, discipline is for the purposes of protecting the Bench, the Bar and the public from those persons unfit to engage in the practice of law and for deterring other lawyers from engaging in similar conduct. Based upon the facts as found by me, I am of the view that if Respondent continues his present course of conduct, the Bench, the Bar and the public will need no protection if he is reinstated. It will be necessary for him to continue this course of conduct for at least two years and then through a reinstatement proceeding, if he is to prove rehabilitation and be reinstated. At the same time, the tragedy which has befallen the Respondent, both in the Criminal Court system, his practice of law and in this disciplinary proceeding should be adequate to deter any lawyer from engaging in similar misconduct.

PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

1. Age - 42
2. Date admitted to the Bar - 1969
3. The Respondent has no disciplinary history prior to the conduct alleged in the Complaint, has been active in Bar activities and, in fact, served as a member of a local Grievance Committee.
4. Respondent was temporarily suspended by Order of the Supreme Court of Florida on June 30, 1983 and was suspended on March 27, 1984, pursuant to the automatic felony suspensions provisions of the Integration Rule, Article XI, Rule 11.07(2).

STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

I find the following costs were reasonably incurred by The Florida Bar.

A. Grievance Committee Level Costs	
1. Administrative Costs	\$150.00
2. Typing services	89.79
B. Referee Level Costs	
1. Administrative costs	150.00
2. Court Reporting Costs	164.85
3. Bar counsel expenses	7.20
4. Audit Expenses	2,088.29
5. Staff investigator costs	1,334.24
	<u>\$ 3,984.34</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, 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 28th day of November, 1984.


RALPH STEINBERG, Referee
Circuit Judge

Copies furnished to:
Richard T. Earle, Jr., Attorney for Respondent
Steve Rushing, Branch Staff Counsel
John T. Berry, Staff Counsel