

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

LAWRENCE LYMAN,

Respondent.

CONFIDENTIAL

Case No. 65,248
(TFB #06C83H41)

FILED

SID J. WHITE

NOV 21 1984

CLERK, SUPREME COURT

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, the following proceedings occurred: On August 31, 1984, complainant and respondent indicated that respondent's Motion to Retain Confidentiality was, in essence, moot in that a Conditional Guilty Plea was following in the near future. On October 5, 1984, respondent tendered and signed a Conditional Guilty Plea for Consent Judgment in exchange for the agreement of The Florida Bar to recommend that respondent be disciplined by Public Reprimand to be issued by the Supreme Court of Florida, with an appearance by respondent before the Board of Governors. On October 5, 1984, a hearing was held before me as to discipline. The following items which constitute the record in this case are hereby forwarded to the Supreme Court of Florida with this report: 1. Complaint, 2. Answer to Complaint, 3. Motion to Retain Confidentiality, 4. Notice for Hearing on August 31, 1984, 5. Notice for Hearing on October 5, 1984, 6. Cost Summary, 7. Respondent's Conditional Guilty Plea for Consent Judgment.
- II. Findings of Fact as to Each Item of Misconduct of which the Respondent is charged: After considering all the pleadings and evidence before me, pertinent portions of which are commented upon below, I find: The facts are as set forth in the Consent Judgment filed by The Florida Bar. Respondent admitted to each paragraph through the guilty plea which can be found in the record. The body of the Consent Judgment filed by The Florida Bar is as follows:
1. That Lawrence Lyman, hereinafter referred to as respondent, 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.
 2. That respondent hereby agrees to accept, as a disciplinary sanction, a public reprimand to be issued by the Supreme Court of Florida, with an appearance before the Board of Governors.
 3. That this Conditional Guilty Plea for Consent Judgment emanates from the grievance filed by The Florida Bar, bearing The Florida Bar file number 06C83H41.
 4. That Respondent acknowledges that on or about June 14, 1983, Grievance Committee "C" of the Sixth Judicial Circuit entered a finding of Probable Cause to pursue further disciplinary proceedings based upon perceived violations of DR 2-101(A), DR 2-102(A), and DR 5-101 of the Code of Professional Responsibility.
 5. That on February 14, 1984, the grievance committee revisited the case at the direction of the Board of Governors, and found probable cause for the violation of DR 1-102(A)(4) for conduct involving misrepresentation.

7. That in late summer of 1982, two former clients retained respondent to incorporate a company, Resort Consultants, Incorporated, whose function was to promote condominium time-sharing developments.
8. That Resort Consultants, Incorporated entered into contracts with Via Roma and Resort Sixty-Six, both time-sharing developments located at Anna Maria Island on the southwest shore of Tampa Bay.
9. That respondent, as attorney for Resort Consultants, Incorporated, agreed to endorse a brochure advertising both Via Roma Beach Club and Resort Sixty-Six of Anna Maria Island.
10. That the fee arrangement provided respondent with fifty cents (\$.50) for each couple who completed the time-sharing sales presentation.
11. That although the brochures for Via Roma Beach Club, drafted and signed by respondent as "Lawrence E. Lyman, Attorney at Law" began with the following phrase: "I have been retained by Via Roma Beach Club of Anna Maria Island, Florida to verify the awarding of your gift," respondent later stated that he did not represent Via Roma Beach Club.
12. That although the brochures for Resort Sixty-Six, drafted and signed by respondent as "Lawrence E. Lyman, Attorney at Law," began as follows: "I have been retained by Resort Sixty-Six of Anna Maria Island, Florida to verify the awarding of your gift," respondent later stated that he did not represent Resort Sixty-Six.
13. That although respondent stated in the advertisements that he had been retained to verify that awarding of the gifts, he later testified that he did not police or supervise the awarding of gifts nor did he have knowledge of the mechanics of the random procedure by which the gifts were distributed.
14. That in the brochures for Via Roma and Resort Sixty-Six, respondent further stated, "It is the most practical way to introduce qualified people like yourself to the beautiful Resort Sixty-Six luxury timesharing resort where you and your family can own and enjoy inflation-free vacationing forever."
15. That respondent did not know the recipients of the advertisements nor did he know whether they were, in fact, qualified.
16. That respondent guaranteed "inflation-free vacationing forever" despite the fact that the timesharing package included maintenance fees which would increase with inflation factors.
17. That in a letter dated September 24, 1982, Joan Fowler, Ethics Counsel for The Florida Bar, advised respondent that the brochure mailed on behalf of Via Roma Beach Club, essentially identical to that mailed on behalf of Resort Sixty-Six, was clearly in violation of Disciplinary Rule 2-101(C)(6).
18. Grievance Committee C for the Sixth Judicial Circuit did not find probable cause for violation Disciplinary Rule 2-101(C)(6). Additionally, on two occasions, respondent requested a further ethics opinion of the subject and was refused.
19. That despite this letter from The Florida Bar, respondent failed to stop the mailings, and did not terminate his relationship with Resort Consultants, Incorporated until December, 1982, when the advertising arrangement with his client proved to be unprofitable for him.
20. That respondent was retained by a promotional firm in Daytona Beach, Florida and approved a mail advertisement for a condominium time-sharing development, Laurel Point, in Gatlinburg, Tennessee.
21. That respondent accepted a fee arrangement whereby respondent would receive one dollar (\$1.00) for each prospective customer that appeared at the development for a tour and sales presentation.

22. That the advertising campaign was mailed from Tennessee to prospective customers in Tennessee on respondent's St. Petersburg law office letterhead.

23. That the advertisement was signed by respondent as "Attorney at Law," and stated, "As the Attorney of Record, I have assumed responsibility for assuring that all gifts in the program outlined below shall, in accordance to the law, be awarded to the rightful recipient."

24. That respondent has considered the findings of Grievance Committee "C" of the Sixth Judicial Circuit and hereby admits to violation of Disciplinary Rules 2-101(A), DR 2-102(A), DR 5-101, and DR 1-102(A)(4) of the Code of Professional Responsibility.

25. That respondent acknowledges that this Conditional Guilty Plea for Consent Judgment for Public Reprimand is tendered freely, voluntarily, and without fear or threat of coercion.

26. That should this Conditional Guilty Plea for Consent Judgment for Public Reprimand not be finally approved by the Supreme Court of Florida, said Plea will be of no force and effect.

27. That should the Conditional Guilty Plea for Consent Judgment for Public Reprimand be approved by the Supreme Court of Florida, the respondent hereby agrees to pay costs in the amount of \$527.30 within thirty (30) days of the Supreme Court's final Order approving same.

III. Recommendations as to Whether or not the Respondent Should be found Guilty:

I recommend that Lawrence Lyman has violated Disciplinary Rule 2-101(A) (using or participating in communication containing a false, fraudulent, misleading, or deceptive statement or claim); DR 1-102(A)(4)(engaging in conduct involving misrepresentation); DR 2-102(A)(participating in the use of a professional notice or device containing a false, fraudulent, misleading or deceptive statement or claim); DR 5-101(accepting employment when the interests of the lawyer may impair his independent professional judgment).

IV. Recommendations as to Disciplinary Measure to be Applied: I recommend that respondent be disciplined by a Public Reprimand to be issued by the Supreme Court of Florida, with an appearance before the Board of Governors, and payment of costs of these proceedings.

V. Personal History and Past Disciplinary Record: After finding respondent guilty and prior to recommending discipline to be administered pursuant to Rule 11.06(9)(a)(4), I considered the following personal history and prior disciplinary record of the respondent, to wit:

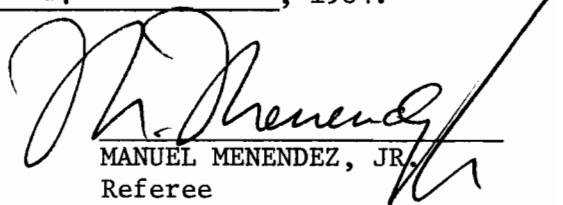
- (1) Age: 49
- (2) Date of Admission: 1962
- (3) Solo Practice
- (4) No designations or certificates
- (5) Respondent is not married. He has four (4) dependents.
- (6) Respondent received one Board Level Private Reprimand in 1977.
- (7) Respondent has been cooperative with The Bar throughout this disciplinary proceeding.

VI. Statement of Costs and Manner in Which Costs Should be Taxed:

Grievance Committee Level	
Administrative Cost	\$150.00
Court Reporter Cost (June 14, 1983)	197.30
Referee Level	
Administrative Cost	150.00
Court Reporter Cost (August 31, 1984)	30.00
Court Reporter Cost (October 5, 1984)	30.00
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TOTAL COSTS TO DATE	\$557.30

It is apparent that other costs have been 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 thirty (30) days after the judgment in this case becomes final.

Dated this 8TH day of November, 1984.


MANUEL MENENDEZ, JR.
Referee

Copies furnished to:

Mr. Lawrence Lyman, Respondent
Ms. Diane Victor Kuenzel, Bar Counsel
Mr. John T. Berry, Staff Counsel, Tallahassee