

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

PETER E. NAPIER,

Respondent.

CONFIDENTIAL

Case No. 65,338  
(TFB No. 06C83H98  
and 06C83116)

**FILED**  
SID J. WHITE  
MAR 11 1985

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 the article XI of the Integration Rule of The Florida Bar, a hearing was held on February 8, 1985. 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 Diane Victor Kuenzel

For The Respondent Howard Whittington

- 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, I accept the tendered Conditional Guilty Plea for Consent Judgment which admits to each act of misconduct alleged in Counts I through IV of the Amended Complaint attached hereto.
- III. Recommendation as to Whether or not the Respondent Should Be Found Guilty: As to each Count of the Amended Complaint. I make the following recommendations as to guilt or innocence:

As to Count I

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 9-102(B)(3); DR 9-102(B)(4); and Integration Rule, article XI, 11.02(4).

As to Count II

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 6-101(A)(3) and DR 9-102(B)(3).

As to Count III

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 6-101(A)(3) and DR 7-102(A)(5).

As to Count IV

I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: DR 9-102(A), Bylaws Section 11.02(4)(c) and Integration Rule, article XI, Rule 11.02(4).

IV. Recommendation as to Disciplinary Measures to be Applied: I recommend that the respondent receive a Public Reprimand without appearance before the Board of Governors of The Florida Bar and payment of costs.

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

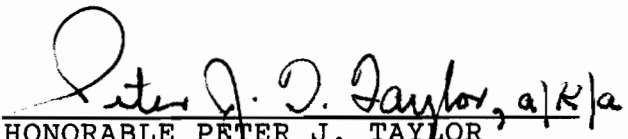
- (1) Age: 50
- (2) Dated Admitted to Bar: 1974
- (3) Respondent has recently disbanded his practice in Florida and is presently residing in Germany.
- (4) Respondent has no prior disciplinary record.

VI. 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. Court Reporter Costs	209.70
B. Referee Level Costs	
1. Administrative Costs	\$ 150.00
2. Transcript Costs	91.99
3. BSC/Bar Counsel Costs	30.70
Auditor's Report	
Time and Expenses	281.98
TOTAL AMOUNT DUE:	<u>\$ 914.37</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 8 day of March, 1985.

  
HONORABLE PETER J. TAYLOR

Copies furnished to:

Howard Whittington, Attorney for Respondent  
Diane Victor Kuenzel, Bar Staff Counsel  
John T. Berry, Staff Counsel