IN THE SUPREME COURT OF FLORIDA
BEFORE A REFEREE

THE FLORIDA BAR,

Complainant,

v.

JOHN W. TARRANT,

Respondent.

_____/

Supreme Court Case No. 65,414

TFB Case Nos. 15D83F20 & 15D83F37

REFEREE'S REPORT

1. SUMMARY OF PROCEEDINGS:

Pursuant to the undersigned having been duly appointed as referee to conduct disciplinary proceedings herein according to The Florida Bar Integration Rule, article XI, a hearing was held on November 27, 1984 on complainant's application for judgment on the pleadings. I granted complainant's application.

David M. Barnovitz appeared for the complainant. Respondent submitted a letter dated November 23, 1984 but did not otherwise appear.

2. SUFFICIENCY OF NOTICE AND PRE-REPORT PROCEEDINGS:

In compliance with The Florida Bar Integration Rule, article XI, Rule 11.02(2), The Florida Bar served the complaint and request for admissions upon respondent by certified mail addressed to respondent's last official mailing address which was the only address known to the Bar. Respondent defaulted in appearing and/or responding to the admissions requests. Despite such default the Bar employed one of its staff investigators to attempt to secure some means of contact with respondent. This resulted in the development of a post office address to which copies of the complaint, requests for admissions and the undersigned's appointment were mailed.

This second good faith mailing by the Bar elicited a response from respondent including an application for continuance. A continuance was granted until November 27, 1984 (the original hearing having been scheduled for August 27, 1984).

Respondent was duly served with a notice of hearing for November 27, 1984. By letter dated November 23, 1984 addressed to the undersigned and received November 26, 1984 respondent informed the undersigned that he would not contest this proceeding. Such letter together with respondent's August 14, 1984 letter were received in evidence and are filed with the record herein.

In light of the foregoing and of the other matters set forth in this report the undersigned determined that respondent had adequate notice and adequate opportunity to present whatever evidence he deemed appropriate.

3. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT FOR WHICH RESPONDENT IS CHARGED:

After considering all of the pleadings and evidence before me I find:

A. Respondent is (albeit suspended from the practice of law by order of the Supreme Court of Florida dated February 10, 1983 entered pursuant to petition of The Florida Bar under article XI, Rule 11.10(6) of the Integration Rule) 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.

B. On or about July 8, 1982, respondent, representing one Ann McIntosh (hereinafter referred to as "McIntosh") upon her purchase of a Palm Beach, Florida condominium unit, prepared a closing statement reciting a net balance of $329,507.25 due from McIntosh upon title closing.

C. On the same date, McIntosh issued a cashier's check to respondent in the said sum of $329,507.25 which respondent received and deposited to his Sun First National Bank trust account #4952011385.

D. Upon the title closing on July 9, 1982, the seller credited McIntosh with $1,517.50 consisting of the seller's obligation to provide a recording fee of $10.00 for a certain tax release and $1,507.50 in documentary stamps thereby reducing the net payment to the seller by $1,517.50.

E. Respondent paid the net, adjusted purchase price to the seller but failed and refused to record the deed to McIntosh nor acquire documentary stamps therefore retaining the $1,517.50 aforesaid, removing such sum from his trust account and appropriating the same for his own use and/or for other purposes.

F. As a result of respondent's actions McIntosh was compelled to part with an additional $1,517.50 in order to record her deed.

G. On March 15, 1982 and June 9, 1982 one George M. J. Meller, a former client of respondent, entrusted to respondent, a total of $3,489.00 to be used for the purpose of paying expenses relating to Meller's ownership of a Florida condominium.

H. Respondent deposited the said $3,489.00 to his Gulfstream Bank trust account #101-7-52085-9 and thereafter removed $1,618.25 of such proceeds from such trust account and appropriated the same for his own use and/or other purposes.

I. Some time during late 1980 or early 1981 respondent, accepting a retainer of between $200.00 - $300.00, undertook representation of one Betty Carlson in connection with the administration of her deceased husband's estate.

J. Thereafter, respondent took no action regarding the administration of Mr. Carlson's estate, failed to communicate in any fashion to Mrs. Carlson, failed and refused to respond to numerous inquiries by Mrs. Carlson regarding the matter and eventually abandoned his law practice without having taken any action on behalf of Mrs. Carlson or notifying her of his leaving or destination.

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

I recommend that the respondent, John W. Tarrant, be found guilty of violating The Florida Bar Integration Rule, article XI, Rule 11.02(4) which provides that money entrusted to an attorney is held in trust to be used only for the purpose for which it was entrusted and that failure to deliver the same upon demand constitutes a conversion. I further recommend that respondent be found guilty of violating Disciplinary Rules 1-102(A)(4), 9-102, 6-101(A)(3) and 7-101(A) of the Code of Professional Responsibility providing, respectively, that a lawyer shall not engage in conduct constituting dishonesty, fraud, deceit or misrepresentation; that a lawyer must deposit all clients' funds in one or more identifiable bank or savings and loan association accounts; that a lawyer shall not neglect a legal matter entrusted to him; and that a lawyer shall not intentionally fail to seek the lawful objective of his client through reasonably available means.

5. RECOMMENDATIONS AS TO DISCIPLINARY MEASURES TO BE APPLIED:

I recommend as discipline in this matter that the respondent, John W. Tarrant, be disbarred.

6. PERSONAL HISTORY:

Respondent, John W. Tarrant, was admitted to The Florida Bar in 1971 and is 40 years old. He has been under suspension from the practice of law since February 10, 1983 pursuant to Florida Bar Integration Rule, article XI, Rule 11.10(6). Respondent abandoned his clients and practice in or about September, 1982.

7. STATEMENT AS TO PAST DISCIPLINE:

Except for the temporary suspension as hereinabove reported for abandoning his clients and misappropriating client funds respondent has no other discipline history.

8. STATEMENT OF COSTS OF THE PROCEEDING AND RECOMMENDATIONS:

The costs of these proceedings were as follows:

Administrative Costs:

Grievance Committee Level	$ 150.00
Referee Level	150.00

Court Reporter Costs:

Grievance Committee Level	194.00
Referee Level	64.75
Photocopies	63.00
Subpoenas	35.00
Investigative Costs	42.00
TOTAL	$ 698.75

I recommend that such costs be taxed against the respondent.

RENDERED this 6TH day of DECEMBER, 1984, at Fort Lauderdale, Broward County, Florida.

RAYMOND J. HARE, Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Referee's Report was mailed to David M. Barnovitz, Bar Counsel, The Florida Bar, 915 Middle River Drive, Suite 602, Fort Lauderdale, FL 33304, and to John W. Tarrant, Respondent, 424 North J Street, Lake Worth, FL 33460, by regular mail, on this 6TH day of DECEMBER, 1984.

RAYMOND J. HARE, Referee