IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

ALAN B. FIELDS, JR.,

Respondent.
_____/

CONFIDENTIAL

CASE NO. 65,650

(07B84C04 - Vicky Lindley)
(07B84C08 - Mr. & Mrs. Price)
(07B84C13 - Dede Sharples)

COMPLAINANT'S RESPONSE BRIEF

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STATEMENT OF THE CASE

This case involves a multi-count complaint. In Count I (07B84C04), Vicky Weaver (formerly Lindley) complained to The Florida Bar in August, 1983; in Count II, (07B84C08) Peter and Joanne Price complained in November, 1983; and in Count III, Dede Sharples complained in February, 1984. These complaints were heard by the grievance committee on March 30, 1984, resulting in findings of probable cause. The Bar's complaint was filed with this Court on July 26, 1984. The Honorable William T. Swigert, Circuit Court Judge, in the Fifth Judicial Circuit, was appointed referee. A hearing on pretrial motions was held November 9, 1984 and final hearing accomplished February 8, 1985. The referee report was thereafter forwarded to this Court on April 15, 1985.

In the report, the referee made recommendations as to violations of The Florida Bar's Integration Rule and Disciplinary Rules of the Code of Professional Responsibility. As to Count I, the referee recommends respondent be found guilty of violating Disciplinary Rule 1-102(A)(6) for conduct adversely reflecting on his fitness to practice law and that he be found not guilty of violating Rule 11.02(3)(a) of the

Integration Rule for action contrary to honesty, justice and good morals. In Count II, he recommends respondent be found not guilty of violating Rule 11.02(4) of the Integration Rule for failing to return property entrusted to him for a specific purpose as well as Disciplinary Rules 1-102(A)(6) for conduct adversely reflecting on his fitness to practice law and 9-102(B)(4) for failing to promptly deliver property to a client upon request. As to Count III, he recommends respondent be found guilty of violating Disciplinary Rules 1-102(A)(6) for conduct adversely reflecting on his fitness to practice law, 2-106(A) and 2-106(B) for charging a clearly excessive fee and 3-104 for failing to properly supervise and exercise a high standard of care to insure compliance by nonlawyer personnel with the Code of Professional Responsibility. He also recommends a finding of not guilty of violating Rule 11.02(3)(a) of the Integration Rule for conduct contrary to honesty, justice or good morals. Finally, in Count IV, he recommends respondent be found guilty of violating Disciplinary Rule 1-102(A)(6) for conduct adversely reflecting on his fitness to practice law.

As discipline, the referee recommends the respondent be publicly reprimanded by personal appearance before the Board of Governors of The Florida Bar, and pay costs now totalling $2,064.49. At their May, 1985 meeting, the Board of Governors of The Florida Bar considered the referee's report and recommendations and approved same.

POINTS INVOLVED ON APPEAL

(A) WHETHER THE REFEREE'S FINDINGS OF FACT ARE CLEARLY AND CONVINCINGLY SUPPORTED BY THE EVIDENCE IN THE RECORD.

(B) WHETHER THE REFEREE'S RECOMMENDED PUBLIC REPRIMAND AND PAYMENT OF COSTS IS THE APPROPRIATE MEASURE OF DISCIPLINE.

STATEMENT OF FACTS

Count I - 07B84C04. Around May, 1980, respondent was retained by Vicky Lindley (now Weaver) to file a paternity suit and to provide other relief with respect to title to her property. (Final hearing transcript, page 183, hereinafter T.). She paid him $100.00 as a deposit. During her initial visit, no fee arrangement was discussed nor did she sign a fee agreement. There also was no discussion of finance or interest charges on the unpaid fee/principal amounts. Ms. Lindley was advised that typically the court would order the ex-husband to pay attorney's fees. (T., p. 184). By October, 1980, Ms. Lindley had become impatient with her case progress. Someone in respondent's office advised her the other attorney was causing the delay, which was not the case because some delay apparently was caused by respondent. Ms. Lindley then informed respondent she no longer wished his services and subsequently hired James W. Sibrey in November. (Referee Report, Part II, paragraph 3, hereinafter RR).

In November, 1980, respondent sent letters to Ms. Lindley through Mr. Sibrey enclosing a motion and consent for leave to withdraw and later a bill for $672.36. The bill, dated

November 25, 1980, gave notice of a one-and-a-half percent per month finance charge on the outstanding balance. This same notice had appeared on prior September and October bills. (T., pp. 142-143). By letter from Mr. Sibrey, dated January 20, 1981, Ms. Lindley requested an itemization of respondent's charges. Respondent replied by letter dated January 22, 1985, that he would itemize his charges in court and thereafter refused further accounting. Ms. Lindley has received only monthly billing statements from respondent and finally saw a copy of her account at the referee hearing. (T., pp. 187-188).

Respondent's firm brought suit against Ms. Lindley in July, 1983, almost two-and-one-half years after his January 22, 1985 letter, alleging a debt owed of $995.95 which included the principal plus a finance or interest charge for the period. Ms. Lindley had been billed sporadically if at all during this time and stated she did not receive any statements for an extended period. (T., p. 187). Respondent's records show a finance charge of $259.75 was posted March 29, 1983 for the February, 1981 through March, 1983 period and that a bill for that amount was sent to Ms. Lindley in June, 1983. According to respondent's bookkeeper, the posting and billing had been

done preparatory to suit with little if anything done in the interim. (T., p. 203). The referee noted that in computing the finance charge, respondent's bookkeeper was adding the monthly charge to both the unpaid principal amount and the unpaid previous finance charges thereby making the annual percentage rate in excess of the maximum allowed by statute of 18% per year. (T., p. 208). He further noted the charges should have been denominated as interest at the statutorily allowable rate of 6% prior to June 30, 1982 and 12% thereafter for matters without contracts. Judgment was subsequently entered against Ms. Lindley in the total amount of $1,045.59 which included the $995.95 sued for plus costs. (RR, paragraph 7).

The referee recommends respondent be found not guilty of the charges in Count II. The Board concurred and no statement of facts is necessary

Count III (07B84C13) concerns Dede Sharples, who retained respondent in December, 1978 to arrange for an increase in her child support. She was receiving $120.00 per month for both children, one of whom was approaching the age of eighteen. The

child support order had occurred about ten years previously and Ms. Sharples made respondent aware the husband was amenable at the time of divorce to voluntary increases if warranted. (T., pp. 159, 161). She also informed respondent her husband was a man of means. (T., p. 164). At the end of the case in September, 1979, the court increased the child support to $200.00 for the one child. (T., pp. 157-158).

During their initial meeting respondent advised Ms. Sharples the court normally would make her ex-husband pay her attorney's fees but she would be primarily liable. Ms. Sharples was also advised by the bookkeeper the desired work would probably take only a few hours and she paid a partial retainer of $50.00. She advised both respondent and the bookkeeper her resources were limited. (T., pp. 158-159). A few days later, Ms. Sharples was furnished with a fee agreement by respondent's bookkeeper which provided for an hourly rate of $85.00 per hour and a finance charge of one-and-one-half percent per month or 18% per year on the unpaid balance of the bill. After reading it, she determined not to sign it and left the office. (T., pp. 158-160). Respondent was not made aware of this until his representation ceased. (RR, paragraph 14).

Beginning the month after her initial visit, Ms. Sharples received monthly bills from respondent indicating the statement balance and noting a one-and-one-half percent per month finance charge. She attempted on many occasions to contact respondent about the growing bills and finance charges but was unsuccessful. In her discussions with respondent's bookkeeper she was continually told the statements were routine and not to worry about them because they expected the ex-husband to pay the fee. (T., pp. 163-165).

Ms. Sharples received a final bill from respondent in October, 1979 for legal services and expenses showing a balance due of $2,052.46. Around January, 1980, she met with respondent after the court ordered her ex-husband to pay only $131.00 in costs. She told respondent she could not pay his bill and respondent agreed to reduce same but never did. (T., pp. 166-167). Respondent's firm brought suit in July, 1980 against Ms. Sharples alleging a debt owed of $2,352.00, which included finance charges of 18% from October 25, 1979. In 1983, respondent was awarded judgment in excess of $3,800.00 including interest of $1,429.26. Upon appeal, the judgment was set aside and remanded to the county court where the amount was

lowered to approximately $3,300.00, reflecting interest at the statutory rate for matters without contract as opposed to respondent's finance charge of one-and-one-half percent per month. (RR, paragraph 16).

The referee noted that respondent's bookkeeper had computed the monthly finance charge not only on the unpaid balance but also on unpaid finance charges, resulting in a usurious amount. In fact, he observed, she used this method of posting for all unpaid bills which procedure respondent did not properly supervise. (T., pp. 208-209, 283, 285). He further noted respondent filed suit and included the improperly computed finance charges which were never agreed to either orally or in writing by Ms. Sharples. (RR, paragraph 20).

Respondent also charged and collected a clearly excessive fee for his services to Ms. Sharples. He was successful in obtaining an increase in child support from about $120.00 to $200.00 from the out-of-state ex-husband for which he charged over $2,000.00 including finance charges in excess of 18% per year. Three attorneys testified as to the reasonableness of the fee. Two indicated respondent had done considerable work

and incurred the time spent. However, they both indicated much of what respondent had done was not warranted by the case. They also stated a reasonable fee would be between $500.00 and $750.00. The third attorney, who represented respondent in the fee suits, had previously provided an affidavit in the child custody proceeding and had pegged a reasonable amount at $1,350.00. (RR, paragraph 18). The referee also noted the length of time between the previous child support order and this case of ten years, the willingness of the husband to increase child support, the inflationary impact over the past ten years. He further noted that respondent, acting as co-counsel in this, filed lengthy and considerable motions and discovery, most of which were of little value in narrowing the issues and readying the case for hearing. (RR, paragraph 19).

Count IV. Respondent's law firm filed at least 28 suits during 1982 and 1983 in an effect to collect fees from clients and ex-clients. (T., p. 10). Respondent's firm, Dowda and Fields, P.A. is effectively solely respondent since Mr. Dowda has been retired several years and no longer receives a salary from the firm. (T., p. 18). The referee noted that only seven fee suits were filed by approximately thirty two other

practicing attorneys in Palatka during the same period. (T., p. 15).

These suits, purportedly filed on the recommendation of respondent's accountant, ran the gamut ranging in amounts from less than $100.00 to an excess few thousand dollars. (T., p. 11).

The referee noted that Opinions of the Professional Ethics Committee of The Florida Bar are only advisory. However, in this case respondent attached a copy of a staff opinion enclosing Ethics Opinion 73-14 to paragraph 5 of his affirmative defenses to the amended complaint. The opinion discusses the criteria utilized to determine whether a client is perpetrating a fraud or gross imposition on the attorney which is the criteria set forth in Ethical Consideration 2-23. The referee further noted that respondent did not follow any set criteria in determining whether to file suit. (T., pp. 16, 292-297). Many of the fees sued for were not substantial in nature. Respondent stated one-third proved uncollectible and service of process could not be made on another third. (T., p. 272). It was also doubtful whether the clients had firmly

refused to pay prior to imposition of suit. Ms. Lindley merely wanted an accounting and Ms. Sharples had little luck in communicating with respondent about his fee arrangement. Mr. Hodges had paid much of his $300.00 fee but was sued for $100.00 plus costs after he discussed payment problems with the bookkeeper. (T., pp. 151-155). The referee noted that although Ethical Consideration 2-23 is not a mandatory Disciplinary Rule, respondent's conduct in this regard clearly is not within is parameters. (RR, paragraphs 23 and 24).

In recommending the discipline of public reprimand, the referee considered the fact respondent had no previous disciplinary record. He also noted his prior Florida Bar committee and local Bar work.

ARGUMENT

(A) THE REFEREE'S FINDINGS OF FACT ARE CLEARLY AND CONVINCINGLY SUPPORTED BY THE EVIDENCE IN THE RECORD.

Respondent takes issue in an interesting way with several of the referee's findings of fact including one relating to Count II wherein the referee recommended the respondent be found not guilty. Moreover, respondent wishes for this Court to substitute his proposed findings of fact which were not accepted by the referee in his report. Of course, this is something the Court will not do absent a demonstration that the referee's findings of fact are without support in the record. This is not the case here. Simple perusal of the referee's report and citations to the record, let alone the exhibits, amply demonstrates there was clear and convincing evidence for all of his findings of fact as well as his conclusions. Respondent ignores the well-settled case law that the referee's findings of fact are accorded the same weight as a civil trier of fact pursuant to Fla. Bar Integr. Rule, art. XI, Rule 11.06(9)(a)(1). The Florida Bar v. Hawkins, 444 So.2d 961, 962 (Fla. 1984). It is this Court's duty to review the report and if the recommendation of guilt is supported by the record impose the appropriate penalty. See The Florida

Bar v. Hoffer, 383 So.2d 639, 642 (Fla. 1980) and The Florida Bar v. Hirsch, 359 So.2d 856, 857 (Fla. 1978). In the latter case, this Court wrote, "Fact finding responsibility in disciplinary proceedings is imposed upon the referee. His findings should be upheld unless clearly erroneous or without support in the evidence. The Florida Bar v. Wagner, 212 So.2d 770 (Fla. 1968)." Hirsch, at page 857. In the former case at page 642 this Court stated:

> Our responsibility in a disciplinary proceeding is to review the referee's report and, if his recommendation of guilt is supported by the record, to impose an appropriate penalty. The Florida Bar v. Hirsch, 359 So.2d 856 (Fla. 1978). The referee, as our fact finder, properly resolves conflicts in the evidence. See The Florida Bar v. Rose, 187 So.2d 329 (Fla. 1966).

This referee's findings of fact are amply supported by the record. His recommendations of guilt and discipline are based on clear and convincing evidence. Those findings of fact deserve the full support of this Court and his recommendations should be adopted as well. Respondent's position simply is in error.

(B) THE REFEREE'S RECOMMENDED PUBLIC REPRIMAND AND PAYMENT OF COSTS IS THE APPROPRIATE MEASURE OF DISCIPLINE.

Essentially, respondent argues a public reprimand is an excessive discipline in this case. Again, the Bar submits respondent is in error when he asserts that it's generally reserved for members of The Florida Bar who intentionally violate the rules and injure the public. As this Court stated in The Florida Bar v. Welty, 382 So.2d 1220 (Fla. 1980) at page 1223, "Public reprimand should be reserved for such instances as isolated instances of neglect, The Florida Bar v. Larkin, 370 So.2d 371 (Fla. 1979); or technical violations of trust accounting rules without willful intent, The Florida Bar v. Horner, 356 So.2d 292 (Fla. 1978); or lapses of judgment, The Florida Bar v. Welch, 369 So.2d 343 (Fla. 1979)." Larkin, supra, involved a situation wherein the attorney, through neglect, allowed the statute of limitations to run on his clients' claim. Horner, supra, involved technical misuse of funds and thereafter a delay in settling matters with the client's widow. Welch, supra, involved a defense attorney who absented himself without leave of court during jury deliberations in a criminal case to go bowling and was not present when the jury came in and the verdict was announced.

While it would appear that there may have been some damage to the clients in Larkin and some delay in an accounting in Horner, there does not appear to have been any actual damage to the client in the Welch matter. Moreover, none of these cases involve what one could term intentional violations of the rule. Furthermore, public discipline is used in neglect situations for violations of Disciplinary Rule 6-101(A)(3) which does not require an intentional finding such as under Disciplinary Rule 7-101. See e.g., The Florida Bar v. Merrill, 462 So.2d 827 (Fla. 1985), which has other violations as well; and The Florida Bar v. Grant, 432 So.2d 53 (Fla. 1983). Moreover, public reprimand was utilized by this Court where an attorney engaged in an improper business transaction with a client and whose trust account records were not properly kept. The Florida Bar v. Golden, 401 So.2d 1340 (Fla. 1981). In that instance, the attorney borrowed some money without providing appropriate security and without advising the client of the fiduciary capacity attorneys have when entering into business transactions with a client and was later unable to make repayment. Again, there was no evidence the attorney intentionally violated the rules at the outset.

If the referee had recommended the respondent be found guilty of an isolated act of misconduct his argument would have more merit. However, the referee has found the respondent guilty of a series of acts of misconduct thus calling for an enhanced discipline. Although this respondent has no prior discipline during his eighteen years of practice, those very years of practice should enhance his knowledge of the rules and guidelines. In this instance, the referee has recommended the respondent be found guilty of improperly charging finance or interest charges without the prior agreement of the client and/or proper disclosure at the outset and permitting the charge to be calculated both on the unpaid principal balance and unpaid accumulated finance/interest charges thus rendering a usurious rate in both Counts I and III with respect to Ms. Lindley and Ms. Sharples. He also recommends the respondent be found guilty of failing to properly supervise his nonlawyer personnel with respect to the finance charge calculations and that respondent be found guilty of charging Ms. Sharples a clearly excessive fee. Finally, the referee recommends the respondent be found guilty of filing fee suits against his clients and former clients without any set criteria to determine whether the client had the ability to pay the fee,

that the fee in question was substantial in nature or that the client had steadfastly refused to pay the respondent's fee. In this latter respect, the referee relied upon The Florida Bar Ethics Opinion 73-14 even though it is advisory in nature only. This is because the respondent appended a copy of that opinion to paragraph 5 of his affirmative defenses to the amended complaint. A copy is in the Appendix. Accordingly, the referee was justified in relying upon that opinion in making his findings of fact and recommendations of guilt as to that count.

Since the referee has recommended that the respondent be found guilty of a series of acts of misconduct which recommendations clearly flow from his findings of fact, there is an additional principle justifying at least a public reprimand in this case. Specifically, acts of misconduct which are minor in nature can warrant enhanced discipline where several are involved. See The Florida Bar v. Brigman, 307 So.2d 161 (Fla. 1975). The attorney was found guilty of accepting representation of the beneficiaries of an estate while advising the executor who had a controversy with those beneficiaries and without disclosure to them; for receiving a

fee in a divorce case, doing nothing and refusing to discuss it with the client; refusing to account for funds received in a real estate closing for several months; and accepting an accident case for out-of-town clients, failing to communicate with them and later entering into a voluntary dismissal of their case without their knowledge. The Court concluded that a six month suspension with proof of rehabilitation was appropriate. This principle was more recently applied in The Florida Bar v. Abrams, 402 So.2d 1150 (Fla. 1981) which cited the Brigman case.

Public discipline also is warranted for the clearly excessive fee charge by itself. See e.g., The Florida Bar v. Kirtz, 445 So.2d 576 (Fla. 1984). A clearly excessive fee formed part of that case resulting in a four month suspension. In the referee's report, which was furnished to this referee it appeared he overcharged the client some $970.00 and the referee specifically rejected the respondent's excuse of poor bookkeeping with respect to the overcharge. A copy is in the ppendix. See also The Florida Bar v. Moriber, 314 So.2d 145 (Fla. 1975) where the attorney received a forty-five day suspension for charging a clearly excessive fee in a simple

estate matter wherein he charged almost $8,000.00 and the referee found his reasonable fee would have been $2,500.00. Failure to properly supervise nonlawyer personnel has formed part of discipline cases in the past, many of which have resulted in private reprimands and remain confidential. However, See The Florida Bar v. Rogowsky, 399 So.2d 1390 (Fla. 1981).

In sum, the referee's recommended public reprimand is amply warranted from his findings and recommendations. The Bar submits that it is a discipline somewhat generous to the respondent. Clearly, charging a clearly excessive fee is damaging to the public as is suing to collect back fees without following any set criteria and for some very minor amounts. Respondent further notes that the referee's recommended discipline grants no relief to the complaining parties. The Bar was prepared to file a cross-petition for review until it was notified by respondent with supporting documentation that he had settled his dispute with Ms. Sharples for $750.00 which was one of the amounts testified to as appropriate fee amount. The same letter indicates that he is attempting to satisfactorily reach an agreement with Ms. Lindley.

Furthermore, at the time of the referee's hearing, respondent had not collected anything from either complaining individual. There is general relief for the public in the recommended discipline. A public reprimand will certainly alert the public to the respondent's past practices and allow them to better make a determination as to whether they wish to avail themselves of his services. It should also preclude those practices from occurring in the future.

As most recently stated in The Florida Bar v. Lord, 433 So.2d 983, 986 (Fla. 1983), a recommended discipline must serve three purposes. First, the judgment must be fair to both society and the respondent protecting the former from unethical conduct and not unduly denying them the services of a qualified lawyer. This prong clearly is met. Second, it must be fair to the respondent both sufficient to punish the breach and at the same time encourage reform and rehabilitation. It would appear that this prong is also satisfied. Finally, the judgment must be severe enough to deter others who might be tempted to engage in similar misconduct. A public reprimand along with a written opinion will certainly put other members of the Bar on notice.

Further, it is without question the public has a vital interest in an effective attorney discipline program. See Fla. Bar Integr. Rule, art. XI, Rule 11.02 which states in part, "The primary purpose of discipline of attorneys is the protection of the public, and the administration of justice, as well as the protection of the legal profession through the discipline of members of the Bar." In The Florida Bar v. Larkin, 447 So.2d 1340 (Fla. 1984) this Court adopted a referee's statement that:

> Protection of the public, punishment, rehabilitation of an attorney who commits ethical violations are three important purposes of disciplinary measures. Equally important purposes, however, are a deterrence to other members of the Bar and the creation and protection of a favorable image of the profession. The latter will not occur unless the profession imposes visible and effective disciplinary measures when serious violations occur. (At page 1341).

This referee's recommended public discipline will better enhance public confidence in the Bar disciplinary process.

Finally, respondent argues that the referee's recommendations seek to punish him for a variety of improper reasons for violations of vague guidelines. First, respondent

is in error that the license to practice law in Florida is a property right. This is defined in Rule 11.02 as follows: "[A] license to practice law confers no vested right to the holder thereof, but is a conditional privilege revokable for cause." See also Petition of Wolf, 257 So.2d 547 (Fla. 1972) at page 548 where this Court wrote, "The license to practice law is privilege, not a right, and a lawyer who has been disbarred must sustain a heavy burden of proving fitness in terms of integrity as well as professional competency."

In this case, the referee's recommendations clearly flow from his findings. It is manifestly improper to charge a finance or interest charge to a client absent their prior approval or at least full disclosure at the outset. Such was not done in the Lindley or Sharples cases whereas, the Prices gave him their prior agreement. Furthermore, it is manifestly improper to charge amounts that are in excess of the statutorily permitted maximum. In this instance, the respondent totally failed to properly supervise his bookkeeper who routinely charged interest on prior accumulated fees and unpaid interest thus bringing the amount charged to usurious levels. The referee's recommendation the respondent be found

guilty of charging a clearly excessive fee is clearly and convincingly supported by the overwhelming weight of the evidence. Note further the referee specifically relied upon the criteria set forth in Disciplinary Rule 2-106(B) in making his findings, conclusions and his recommendations. Respondent's apparent argument governing fees to the extent that clearly excessive fees are violative of the Disciplinary Rules is an unlawful restraint of trade is nonsense. His defense that the amount of the fee had been decided by the county court in both the Lindley and Sharples matters is also without merit. See Fla. Bar Integr. Rule, art. XI, Rule 11.04(2)(c) which reads in part: "The acquittal of an accused in a criminal proceeding shall not necessarily be a bar to disciplinary proceedings nor shall the findings, judgment or decree of any court in civil proceedings necessarily be binding in disciplinary proceedings."

Respondent also appears to argue that the referee's findings and recommendations in Count IV are violative of his particular rights. In this instance, respondent asserts that he relied upon the professional ethics opinions of The Florida

Bar. Those opinions are for general guidance of the membership and cannot be used as the basis for action in a disciplinary proceeding except where the respondent has made application to use same. In this instance, the respondent did put forth Ethics Opinion 73-14 which the referee duly relied on in making his findings of fact and recommendations of guilt in this particular count. The criteria mentioned at the bottom of that opinion are criteria the referee adopted and which the respondent had blithely ignored. The referee's finding in this count should also be upheld. It is clearly and convincingly supported by the weight of the evidence. Finally, the Bar notes respondent appears to want concrete criteria with respect to when litigation should be instituted against clients or former clients to collect old fees. The Bar submits such criteria is expressly contained in Ethical Consideration 2-23 which states in part, "He should not sue a client for fee unless necessary to prevent fraud or gross imposition by the client." Just as the criteria of what constitutes a clearly excessive fee is set forth in Disciplinary Rule 2-106(B) that ethical consideration gives the necessary guidelines as commented on by the cited ethics opinion, as has been amplified

by the opinion respondent relied upon as part of his affirmative defenses.

This referee has rendered an outstanding report. His findings of fact are supported by the clear and convincing weight of the evidence. His recommendations flow from those facts. They should be upheld in every respect and this Court should order respondent be publicly reprimanded by personal appearance before the Board of Governors, issue a public opinion detailing the facts of this case for the education of the rest of the members of the Bar and order him to pay costs now totalling $2,064.49.

CONCLUSION

WHEREFORE, The Florida Bar prays this Honorable Court will review the referee's findings of fact, his recommendations of guilt and/or innocence and his recommended discipline and order the respondent to be publicly reprimanded by personal appearance before the Board of Governors of The Florida Bar and pay the costs of these proceedings currently totalling $2,064.49 and issue an appropriate public opinion order setting forth the facts of this case for the education of the other members of the Bar.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven copies of the foregoing Complainant's Response Brief have been furnished by mail to the Clerk of the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32301; a copy of the foregoing Brief has been furnished by mail to Frank M. Gafford, Counsel for Respondent, Post Office Box 1789, Lake City, Florida 32055; a copy of the foregoing Brief has been furnished by mail to Alan B. Fields, Jr., Respondent, Dowda and Fields, Chartered, Post Office Drawer F, Palatka, Florida 32078; a copy of the foregoing Brief has been furnished by mail to Staff Counsel, The Florida Bar, Tallahassee, Florida 32301 on this 14th day of June, 1985.

David G. McGunegle,
Bar Counsel