

IN THE SUPREME COURT OF FLORIDA
(Before A Referee)

THE FLORIDA BAR,
Complainant,
v.
MICHAEL H. MERRILL,
Respondent.

CONFIDENTIAL
Supreme Court Case.
No. 65,652
The Florida Bar Case
Nos. 20A84F08, 20A84F15
and 20A84F37

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS: The undersigned was duly appointed as Referee by the Acting Chief Justice of the Supreme Court of Florida on August 6, 1984 to conduct disciplinary proceedings as provided for by Article XI of the Integration Rule of The Florida Bar. All pleadings, notices and orders are forwarded with this report and the foregoing constitutes the record of these proceedings. The following attorneys appeared as counsel for the parties;

On Behalf of The Florida Bar: Richard B. Liss, Esq.
On Behalf of Respondent: Dewey Mockler, Esq.

On September 13, 1984, Respondent tendered a Consent Judgment wherein he stated his desire to plead guilty in this cause and to accept, as a disciplinary sanction, a Public Reprimand, to be issued by the Supreme Court of Florida and published in the Southern Reporter.

Having reviewed the record of these proceedings and discipline imposed by the Court in similar cases, I find that the aforesaid Consent Judgment is both fair to Respondent and in the best interests of the public. Accordingly, Respondent's Consent Judgment is accepted and hereby adopted as the recommendation of this Referee. It is further recommended, as stipulated to by counsel, that Respondent refund any fees paid to him by his clients, in the matters charged, that have not already been refunded.

II. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH THE RESPONDENT IS CHARGED: As a result of the submission and acceptance, by this Referee, of Respondent's Consent Judgment, Respondent is deemed to have admitted all matters alleged in the complaint filed by The Florida Bar, assigned Supreme Court Case No. 65,652, which is incorporated herein by reference as if fully set forth. Further, this Referee specifically makes the following findings of fact:

Findings as to Count I

Respondent was retained to handle a dissolution of marriage proceeding and neglected to timely process the matter; failed to properly handle cost money advanced by the client; failed to timely refund all unused costs and fees; and failed to exercise proper supervision of his office staff.

Findings as to Count II

Respondent was retained to establish a foreign judgment as a Florida judgment and failed to conclude this representation in a reasonable period of time and failed to make any refund to the client.

Findings as to Count III

Respondent was retained to handle an adoption matter and neglected to prepare the Petition for Adoption in compliance with statutory requirements; failed to file any Petition for Adoption on behalf of his clients; failed to exercise proper supervision of his office staff; and failed to timely refund fees and costs to his clients.

III. RECOMMENDATION AS TO WHETHER RESPONDENT SHOULD BE FOUND GUILTY: As a result of the submission and recommended acceptance, by this Referee, of Respondent's Consent Judgment, it is recommended that Respondent be found guilty of all violations charged in The Florida Bar's complaint, and specifically that he be found guilty of violating Disciplinary Rules 1-102(A)(1), 1-102(A)(6), 3-104(C), 6-101(A)(2), 6-101(A)(3), 9-102(A)(2) and 9-102(B)(4) of the Code of Professional Responsibility and Article XI, Rules 11.02(2) and 11.02(4) of the Integration Rule of The Florida Bar.

IV. STATEMENT OF PAST DISCIPLINARY MEASURES: No past disciplinary measures pertaining to Respondent have been made known to the Referee.

V. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER IN WHICH COSTS SHOULD BE TAXED: This Referee finds that The Florida Bar incurred costs in the amount of One Thousand Three Hundred Thirty-Eight Dollars and Eighty-Eight Cents (\$1,338.88) and said costs should be taxed against Respondent.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED: Having accepted Respondent's Consent Judgment, I recommend the following sanctions be imposed upon Respondent by the Supreme Court of Florida:

- 1) A Public Reprimand to be issued by the Supreme Court of Florida and published in the Southern Reporter.
- 2) Taxation of costs in the amount of One Thousand Three Hundred Thirty-Eight Dollars and Eighty-Eight Cents (\$1,338.88) against Respondent, with execution to issue and with interest at a rate of twelve per cent (12%) to accrue on all costs not paid within thirty (30) days of entry of the Supreme Court's Final Order in this cause, unless the time for payment is extended by the Board of Governors of The Florida Bar.
- 3) A refund to Mario I. Andrea in the amount of Four Hundred Fifty Dollars and No Cents (\$450.00) in that The Florida Bar is satisfied that restitution has been made by Respondent to the other clients referenced in the Complaint.

DATED this 12 day of October, 1984.


Durand J. Adams
Referee

Copies furnished to:

Richard B. Liss, Esq., Attorney for Complainant
Dewey Mockler, Esq., Attorney for Respondent