

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

ROBERT M. SEGAL,
Respondent.

FILED

SID J. WHITE

NOV 16 1984

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

CASE NO. 65,655

(09C84C38)

(09C84C42)

(09C84C51)

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, a hearing was held on October 25, 1984. The pleadings, notices, transcripts and exhibits, all of which 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: John B. Root, Jr.

For the Respondent: Neither the respondent nor
any counsel on his behalf. ✓

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 find that the respondent, Robert M. Segal, is a member of The Florida Bar subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

As to Count I

I find that in June, 1983, respondent was retained by Suzette R. Batts to represent her in a DWI case in Seminole

County. She paid the respondent \$500.00 as a fee for his services.

Respondent failed to represent Ms. Batts' interest in any way and it was necessary for her to hire another attorney to handle the matter in her behalf. The respondent has failed to return any portion of the fee which he collected in this matter despite numerous attempts by both Ms. Batts and her new attorney to receive such a refund.

As to Count II

I find that prior to November 22, 1982, the respondent was hired by Ronald C. Mack, Jr. to represent him in a child support case in Brevard County, Florida. Respondent was paid \$650.00 as a fee for such representation.

No pleadings were filed, or any other action taken on behalf of Mr. Mack in the child support action. Although Mr. Mack tried to contact the respondent in writing on several occasions, his attempts were not met with success. The respondent has failed to contact Mr. Mack and no action on Mr. Mack's behalf has taken place. Further, Mr. Mack has not received any portion of his fee back.

As to Count III

Iva Jean C. O'Malley retained the respondent in April, 1982, to represent her in the settlement of her son's estate and to represent her in a possible wrongful death action. The respondent referred the wrongful death action to another law firm where settlement was eventually made.

A probate case was opened by the respondent but no further action taken in behalf of his client or the estate.

Ms. O'Malley has tried unsuccessfully to contact the respondent in this matter.

III. Recommendations as to Whether or Not the Respondent Should be Found Guilty: As to each count of the complaint I make the following recommendations as to guilt or innocence:

As to Count I

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility, to wit: (a) 7-101(A)(1) by failing to seek the lawful objectives of his client by not defending her in the DWI action through the court process; (b) 7-101(A)(2) by failing to carry out his contract of employment entered into with Ms. Batts after payment of \$500.00 as a fee for these services; and (c) 7-101(A)(3) for prejudicing and damaging his client in that Ms. Batts had to hire another attorney to handle the matter at additional expense.

As to Count II

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility, to wit: (a) 7-101(A)(1) by failing to seek the lawful objectives of his client in a child support action before the circuit court; (b) 7-101(A)(2) by failing to carry out his contract of employment entered into with Mr. Mack following payment of \$650.00 for these services; and (c) 7-101(A)(3) for prejudicing and damaging his client, Mr. Mack, in failing to represent and thereby further his best interests in a child support action brought against him.

As to Count III

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility, to wit: (a) 7-101(A)(1) for failing to seek the lawful objectives of his client in settling the estate as requested by Ms. O'Malley; (b) 7-101(A)(2) for failing to fulfill his contract of employment entered into with Ms. O'Malley for his professional services; and (c) 7-101(A)(3) for prejudicing or damaging Ms. O'Malley in not furthering the settlement of her deceased son's estate.

IV. Recommendation as to Disciplinary Measures to be Applied:

I recommend that the respondent be disbarred from the practice of law in Florida, that he be ordered to reimburse Ms. Batts the sum of \$500.00 which he received as a fee for his services from her, that he also be ordered to reimburse Mr. Mack the sum of \$650.00 which he received as the fee to represent Mr. Mack, and that he pay all costs of these disciplinary proceedings.

The previous record of this respondent fully justifies such a disposition. I have considered the action of the Supreme Court of Florida suspending the respondent from the practice of law for a period of twelve months and thereafter until rehabilitation and restitution are proved. (The Florida Bar v. Segal, 441 So.2d 624 (Fla. 1983)); and the action of the Supreme Court in holding the respondent in contempt on September 28, 1983, (Case No. 63,838) and suspended until further order of the Supreme Court for failure to appear in response to a subpoena duces tecum served upon him by The Florida Bar on April 6, 1983. It is

further noted that the respondent ignored the Supreme Court's order to show cause issued on July 13, 1983, and served on the respondent on June 20, 1983.

The cavalier attitude of the respondent herein in totally ignoring all Bar process and correspondence relating to his derelictions establishes a pattern of indifference and neglect, not only in his own defense, in that he failed to appear at grievance committee proceedings and referee hearings, but of even greater significance, he has totally ignored the legitimate needs of numerous clients after having accepted fees and assured them of his representation.

Although I have searched, I have found no factors in mitigation of the offenses charged in this case and the preceding cases, and in view of the nature and the number of these cases, including his previous record, a disbarment of the respondent together with an order for reimbursement of the fees paid by Ms. Batts (\$500.00) and Mr. Mack (\$650.00) and payment of costs is, in my opinion, an appropriate discipline to be carried out in this case.

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

Age: 39 (Born 1945)
Date Admitted to Bar: January 10, 1972
Prior Disciplinary Convictions and Measures Imposed
Therein: As discussed in Section IV above.
Other Personal Data: None.

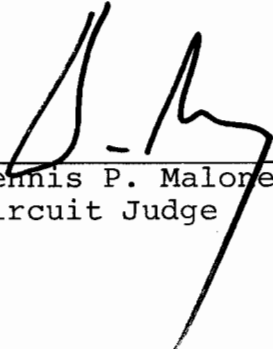
VI. Statement of Costs and Manner in Which Costs Should

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. Transcript of grievance committee hrg., 3/27/84	70.75
B. Referee Level Costs	
1. Administrative Costs	150.00
2. Transcript of referee hrg., 10/25/84	53.00
3. Bar Counsel's travel expenses (referee hrg.)	36.14
C. Miscellaneous Costs	
1. Staff investigator's expenses	<u>221.67</u>
CURRENT TOTAL	\$681.56

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 thirty 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 8th day of November, 1984.



Dennis P. Maloney, Referee
Circuit Judge

Copies to:

Mr. John B. Root, Jr.
Bar Counsel
The Florida Bar
605 East Robinson Street
Suite 610
Orlando, Florida 32801

Mr. Robert M. Segal
Respondent
771 Goldwater Court
Maitland, Florida 32751

Mr. John T. Berry
Staff Counsel
The Florida Bar
Tallahassee, Florida 32301

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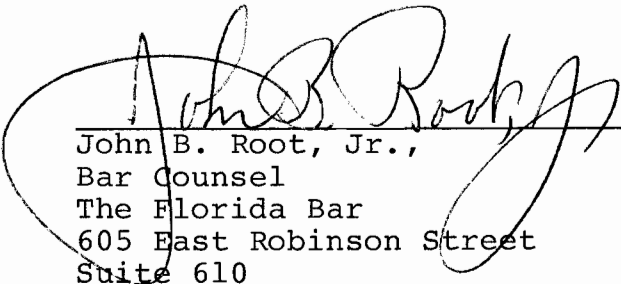
AFFIDAVIT OF COSTS

STATE OF FLORIDA)
COUNTY OF ORANGE)

BEFORE ME, personally appeared JOHN B. ROOT, JR., who,
first being duly sworn and under oath states the following:

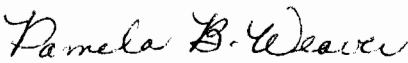
Below is an itemized list of the expenses incurred
in the above-styled cause.

- A. Grievance Committee Level Costs
 - 1. Administrative Costs \$150.00
 - 2. Transcript of grievance committee hrg., 3/27/84 70.75
 - B. Referee Level Costs
 - 1. Administrative Costs 150.00
 - 2. Transcript of referee hrg., 10/25/84 53.00
 - 3. Bar Counsel's travel expenses (referee hrg.) 36.14
 - C. Miscellaneous Costs
 - 1. Staff investigator's expenses 221.67
- CURRENT TOTAL \$681.56



 John B. Root, Jr.,
 Bar Counsel
 The Florida Bar
 605 East Robinson Street
 Suite 610
 Orlando, Florida 32801
 (305) 425-5424

Sworn to and subscribed before
me this 6th day of November,
1984.



 Pamela B. Weaver, Notary Public
 State of Florida at Large

My Commission Expires: _____

Notary Public, State of Florida
My Commission Expires July 15, 1987
Bonded Through Troy Fair - Insurance, Inc.