

IN THE SUPREME COURT OF FLORIDA

FILED

SID J. WHITE

AUG 15 1984

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

pl

THE FLORIDA BAR,

Complainant,

v.

MICHAEL L. MANN,

Respondent.

CONFIDENTIAL

TFB Case No. 11D82M61

SUPREME COURT CASE NO. 65,710

AMENDED PETITION FOR APPROVAL OF CONDITIONAL GUILTY PLEA

AND ENTRY OF FINAL ORDER OF DISCIPLINE

COMES NOW, THE FLORIDA BAR, and respectfully requests the Court to approve respondent's Conditional Guilty Plea for Consent Judgment for Ninety Day Suspension and in support thereof states as follows:

1. This amendment petition is in replacement of that petition previously filed with this Court under Certificate of Service dated August 2, 1984, by Bar counsel, Robert D. Rosenbloom.
2. The original complaint underlying the instant conditional guilty plea was preliminarily investigated by Eleventh Judicial Circuit Grievance Committee "D."
3. At the request of the grievance committee, a staff auditor of The Florida Bar performed a comprehensive audit of the respondent's trust account.
4. Upon receipt of the final report of audit, the respondent waived formal probable cause proceedings, and submitted his

Conditional Guilty Plea for Consent Judgment for Ninety Day
Suspension.

5. On or about July 20, 1984, the Board of Governors of The Florida Bar considered the Respondent's Conditional Guilty Plea and voted to recommend approval of same to this Court.

6. The Florida Bar's investigation and audit conclusively demonstrated:

A. That during the approximate three-year period encompassing The Florida Bar's investigation, the respondent engaged in a continuous course of conduct wherein he improperly used funds entrusted to him by various clients to "finance" the litigation of other clients who were without the necessary funds to advance cost retainers to initiate or continue their own individual litigation.

B. That at various times during this period, the respondent misdirected in excess of \$17,000 for this unauthorized purpose.

C. That, further, during or about the approximate three-year period encompassing the scope of the trust account audit, respondent, at various times, utilized entrusted clients' funds for his own personal expenses.

D. That these continuing conversions occurred during 1981 and 1982 and although the precise amounts of the continuing conversions varied from month to month, such conversions range from a low of \$365.06 to a high of \$6,597.33.

E. That during the aforementioned period of time, there were instances wherein the running balance of the respondent's trust account reflected overdrafts and transactions wherein the bank honored checks against insufficient funds.

F. That as of the end of December, 1982, the respondent had repaid to his trust account all earlier converted funds and as of the date of the Bar's initial petition to approve conditional guilty plea, the respondent's trust account was in substantial compliance with all requirements of The Florida Bar Integration Rule.

7. Respondent is 36 years old and was admitted to The Florida Bar in 1973. Respondent has never been the subject of prior disciplinary proceedings, and in addition to his civil law practice, he has been active in the local civic community.

8. Respondent has submitted a Conditional Guilty Plea for Consent Judgment for Ninety Day Suspension to be followed by a two-year period of monitored probation during which time:

A. The respondent shall be required to present local staff counsel with detailed quarterly reconciliations of his trust accounts.

B. The respondent shall be required to retain the services of a certified public accountant to monitor and oversee his trust account and operating account.

C. The Florida Bar shall have the uncontested right, with or without cause, to inspect and audit respondent's trust account and operating account (including inspection of respondent's client's ledger cards and all applicable journals).

D. Respondent's failure to abide by the conditions of probation, as set forth above, shall constitute grounds for the institution of immediate disciplinary proceedings.

9. Respondent in his Conditional Guilty Plea for Consent Judgment for Ninety Day Suspension has admitted to violating The Florida Bar Integration Rule, article XI:

A. Rule 11.02(4)--by applying trust funds to purposes other than those for which they were intended;

B. Rule 11.02(4)(c) and Bylaw 11.02(4)(c)--by failing to quarterly reconcile his trust account;

C. Rule 11.02(4)(b) and Bylaw 11.02(4)(c)--by failing to clearly identify all receipts and disbursements of trust funds;

D. Rule 11.02(4)(c)--by failing to maintain client ledger cards;


E. Rule 11.02(4)--by converting clients' trust funds to his own personal use; and

F. Disciplinary Rule 9-102(a)(2)--by commingling his personal or law office funds with clients' trust funds.

10. That should this Conditional Guilty Plea for Consent Judgment be approved by the Supreme Court of Florida, respondent has agreed to pay costs in the amount of \$2,152.50 within 30 days of the Court's final order approving the same.

WHEREFORE, THE FLORIDA BAR, respectfully requests that this Court approve the attached Conditional Guilty Plea for Consent Judgment and enter a final order of discipline consistent with the terms of said plea.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing amended petition was mailed to Michael L. Mann, by certified mail, return receipt requested #31012, at 3050 Biscayne Boulevard, Suite 800, Miami, Florida 33137 this 15th day of August, 1984.



JOHN A. BOGGS