

65,710

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,)
Complainant,)
v.)
MICHAEL L. MANN,)
Respondent.)
_____)

FILED
SID J. WHITE
AUG 6 1994
CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

CONFIDENTIAL
Supreme Court
Case No. _____
The Florida Bar
Case No. 11D82M61

RESPONDENT'S CONDITIONAL GUILTY PLEA
FOR CONSENT JUDGEMENT FOR NINETY DAY SUSPENSION

COMES NOW, MICHAEL L. MANN, pursuant to Article I, Rule 11.13(6) of the Integration Rule of The Florida Bar and hereby tenders his Conditional Guilty Plea For Consent Judgment for a ninety (90) day suspension from the practice of law and states as follows:

1. That Michael L. Mann, hereinafter referred to as Respondent, is 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.

2. That Respondent enters into this Conditional Guilty Plea for Consent Judgment for a ninety day suspension from the practice of law voluntarily and without threat or fear of coercion.

3. That Respondent has been afforded an opportunity to appear before Grievance Committee "D" of the Eleventh Judicial Circuit to present evidence and to cross-examine both his accuser and other potential witnesses, and that he hereby waives his right to same, thereby consenting to a finding of Probable Cause to pursue further disciplinary proceedings, consistent with the mandate of the Integration Rule of The Florida Bar.

4. That Respondent acknowledges that he has been afforded all procedural and substantive due process guarantees regarding this investigation and disciplinary proceeding, and he hereby waives any future objections relative to the denial of same.

5. That during or about January 1, 1981 through the present, Respondent has maintained Trust Account No. 3401026752 at the Barnett Bank, Miami, Florida.

6. That during or about the period January 1, 1981 through November 14, 1983, Respondent utilized the above-identified trust account as a depository for entrusted funds belonging to various clients.

7. That during the approximate three-year period encompassing the scope of The Florida Bar's investigation, 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. At various times during this period, Respondent misdirected in excess of SEVENTEEN THOUSAND DOLLARS (\$17,000) for this unauthorized purpose.

8. That during or about the approximate three-year period encompassing the scope of The Florida Bar's investigation, Respondent, at various times, utilized entrusted clients' funds for his own personal purposes; these continuing conversions occurred during 1981 and 1982. Although the precise amounts of the continuing conversions varied from month to month, they ranged from a low of THREE HUNDRED SIXTY FIVE DOLLARS SIX CENTS (\$365.06) to SIX THOUSAND FIVE HUNDRED NINETY SEVEN DOLLARS THIRTY THREE CENTS (\$6,597.33).

9. That during the aforementioned period of time, there existed many instances wherein the running balance of the trust account reflected overdrafts and transactions wherein the bank honored checks against insufficient funds.

10. That as the end of December, 1982 Respondent had repaid all earlier converted funds to his trust account.

11. That beginning during or about January, 1983, Respondent embarked upon a course of conduct whereby he contributed his own funds to the trust account (either by direct deposit to the account or by his retention of earned fees in the account). In this manner, Respondent was able to effectively unencumber the entrusted funds of all clients. By November, 1983, the entrusted funds of all clients were unaffected by any improper advanced costs of litigation. Respondent was by this time using his own funds to advance costs for those clients unable to advance costs retainers, rather than improperly using the funds of other clients who had entrusted same to him for other purposes.

12. That as of the date of this Conditional Guilty Plea for Consent Judgment, Respondent's trust account is in substantial compliance with all requirements of the Integration Rule of The Florida Bar, and all applicable Bylaws thereto.

13. That notwithstanding Respondent's improprieties, none of his clients have been substantially prejudiced.

14. That as a result of the foregoing, Respondent hereby acknowledges and admits that he was not in substantial compliance with the minimum requirements set forth in Article I, Rule 11.02(4) of the Integration Rule of The Florida Bar, the applicable Bylaws thereto, and Disciplinary Rule 9-102 of the Code of Professional Responsibility, in that and to wit:

- (a) Respondent applied trust funds to purposes other than the specific purpose for which said funds were originally entrusted, in violation of Rule 11.02(4);
- (b) Respondent failed to prepare and/or maintain a quarterly trust account balance reconciliations as required by Rule 11.02(4)(c) and Bylaws 11.02(4)(c), (4)(a);
- (c) Respondent failed to clearly and expressly identify all desposits and disbursements of trust funds, in violaiton of Rule 11.02(4)(b) and Bylaws 11.02(4)(c), (2)(b) & (c);
- (d) Respondent failed to prepare files and ledgers containing an accounting for each person from whom or for whom trust money was received, in violation of Bylaws 11.02(4)(c), (2)(d);
- (e) Respondent converted and misappropriated funds belonging to clients, and used them for his personal purposes, in violation of Rule 11.02(4), in toto; and
- (f) Respondent has comingled personal funds with the entrusted funds of clients, in violation of Disciplinary 9-102(A)(2) of the Code of Professional Responsibility.

15. That Respondent hereby stipulates to the facts, acknowledgments, and admissions contained herein, with the further understanding that these facts, acknowledgments, and admissions will not be subject to future modification or other extraordinary review, notwithstanding the outcome of this Plea.

16. That should this Plea be finally approved by the Supreme Court of Florida, Respondent agrees to accept as discipline a ninety day suspension from the practice of law, followed by a two-year period of monitored probation, during which time:

- (a) Respondent shall be required to present local Staff Counsel with detailed quarterly reconciliations of his trust account.
- (b) Respondent shall be required to retain the continuing 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 (to include the inspection of ledger cards and journals).
- (d) Respondent's failure to abide by the conditions of probation imposed by paragraphs (a), (b) and (c), directly above, shall constitute grounds for the institution of immediate disciplinary proceedings.

17. That should the Board of Governors of The Florida Bar or the Supreme Court of Florida not finally approve this Conditional Plea for Consent Judgment for the ninety day suspension from the practice of law, this Plea will be of no force and effect, subject only to the stipulation contained in Paragraph 15 directly above.

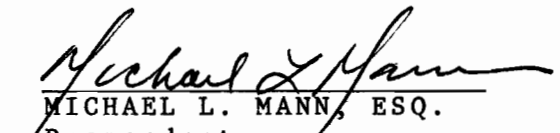
18. That should this Conditional Guilty Plea for Consent Judgment finally be approved by The Supreme Court of Florida, respondent hereby agrees to pay costs in the amount of TWO THOUSAND ONE HUNDRED FIFTY TWO DOLLARS AND FIFTY CENTS (\$2,152.50) within thirty (30) days of The Supreme Court's Final Order approving same.

19. That should the Supreme Court of Florida finally approve this Conditional Guilty Plea for Consent Judgment for Respondent's ninety day suspension from the practice of law, Respondent hereby agrees and acknowledges that same will not be the subject of future modification by any court, State or Federal.

20. That Respondent acknowledges and agrees that The Supreme Court of Florida may publish such facts, circumstances and violations relating to this Conditional Plea for Consent Judgment in any Order it may issue approving same.

Dated this 18 day of JUNE, 1984.

Respectfully submitted,


MICHAEL L. MANN, ESQ.
Respondent
3050 Biscayne Boulevard
Suite 800
Miami, FL 33137

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and dispatched executed copies of this Conditional Guilty Plea For Consent Judgment For Ninety Day Suspension From The Practice Of Law were hand-delivered to Branch Staff Counsel (or his designee) this 18 day of JUNE, 1984, for forwarding to The Board of Governors of The Florida Bar and The Supreme Court of Florida.


MICHAEL L. MANN, ESQ.
Respondent