

IN THE SUPREME COURT OF FLORIDA  
BEFORE A REFEREE

THE FLORIDA BAR,

Complainant,

v.

GARY E. CHASE,

Respondent.

TFB CASE NO.: 15D84F40

SUPREME COURT CASE NO.: 65,759

**FILED**

SID J. WHITE

NOV 29 1984 ✓

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk *pl*

REFEREE'S REPORT

1. SUMMARY OF PROCEEDINGS:

Pursuant to the undersigned's appointment as referee to conduct disciplinary proceedings herein according to Fla. Bar Integr. Rule, article XI, a hearing was held on October 24, 1984 on complainant's application for judgment on the pleadings. I granted the complainant's application.

David M. Barnovitz, bar counsel, appeared for the complainant. Respondent appeared, pro se.

2. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT FOR WHICH RESPONDENT IS CHARGED:

After considering all of the pleadings and evidence before me, I find:

A. 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.

B. On or about November 28, 1983 respondent undertook representation of One Susan Blecka (hereinafter referred to as "Blecka") in connection with a misdemeanor charge pending against Blecka in Palm Beach County, Florida, requesting and receiving payment of a \$250.00 legal fee on account of such representation.

C. On or about January 16, 1984, Blecka, having received no written or verbal communication from respondent, was arrested pursuant to a warrant, taken to jail, booked and informed by representatives of the State of Florida that the misdemeanor charge aforesaid was "nol prossed" and the underlying charge refiled as a felony.

D. Blecka informed respondent of the foregoing by telephone on January 16, 1984 and reconfirmed the same in a meeting with respondent at respondent's office on January 18, 1984 at which time respondent assured Blecka

that he would attend the arraignment scheduled for February 10, 1984 and requested an additional \$500.00 legal fee which Blecka paid.

E. Respondent thereafter failed to file a notice of appearance and waiver and failed to communicate with Blecka despite numerous requests from Blecka requesting information regarding her case which messages were recorded on an answering machine maintained by respondent at his office and/or received by one Richard DeToma, a non-lawyer employed by respondent.

F. After recording numerous additional telephone messages on respondent's answering machine, all of which were ignored by respondent, Blecka finally established telephone contact with the said Richard DeToma on February 13, 1984 who informed Blecka that the arraignment was continued to February 17, 1984 and that respondent would attend the same and take care of all matters pertaining thereto.

G. Relying on the representation aforesaid Blecka did not attend the February 17, 1984 arraignment.

H. Respondent failed to attend such arraignment, make any arrangements for substitute counsel or inform the court or Blecka of his intention not to attend.

I. As a result of respondent's failure to attend the February 17, 1984 arraignment, his failure to communicate with Blecka, his failure to file a notice of appearance and waiver, and his failure to communicate with the court, the bond previously posted by Blecka on her initial arrest was ordered to be cancelled and a warrant was issued for Blecka's arrest.

J. Upon being advised of the foregoing on February 17, 1984, Blecka immediately attempted to communicate with respondent by telephone and by personal appearance at respondent's office where Blecka was informed by the said Richard DeToma that respondent's whereabouts were unknown.

K. Blecka thereupon attempted to contact respondent at his home but was informed by a person identifying herself as respondent's wife that respondent's whereabouts were unknown.

L. Blecka thereafter continued in her attempt to contact respondent by calling respondent numerous times on February 17, 18, 19 and 20, 1984, each time reaching an answering machine, each time leaving messages.

M. Respondent failed to communicate with Blecka until February 20, 1984, at which time Blecka terminated respondent as her attorney.

N. During the course of events as hereinabove recited respondent relied upon one Richard DeToma, a non-lawyer employed by him, to receive messages from respondent's clients and inform respondent of such messages.

O. In or about November, 1983 respondent discovered that the said Richard DeToma was performing his duties as respondent's law clerk in an unsatisfactory manner and specifically discovered that the said Richard DeToma was negligent in informing respondent concerning messages received by the said Richard DeToma addressed to respondent.

P. Despite such discovery and despite respondent's subsequent observations during the intervening months up to and through February, 1984 that the said Richard DeToma continued to perform poorly and to neglect passing along messages to respondent, respondent nonetheless continued to employ the said Richard DeToma and continued to repose in the said Richard DeToma various responsibilities including the receiving and passing along of messages for respondent.

Q. Respondent claims not to have received messages directed to him left with the said Richard DeToma during the period of time hereinabove made reference to.

3. RECOMMENDATION AS TO WHETHER OR NOT RESPONDENT SHOULD BE FOUND GUILTY:

I recommend that the respondent, Gary E. Chase, be found guilty of violating Disciplinary Rules 6-101(A)(3) [neglecting a case entrusted to him as an attorney] and 3-104(C) [failing to exercise a high standard of care to assure compliance by non-lawyer personnel with the applicable provisions of the Code of Professional Responsibility] of the Code of Professional Responsibility.

4. RECOMMENDATIONS AS TO DISCIPLINARY MEASURES TO BE APPLIED:

I recommend as discipline in this matter that the respondent, Gary E. Chase, be administered a public reprimand.

5. PERSONAL HISTORY:

Respondent, Gary E. Chase, was admitted to The Florida Bar in 1982 and is 30 years old.

6. STATEMENT AS TO PAST DISCIPLINE:

Respondent has no prior disciplinary history.

7. STATEMENT OF COSTS OF THE PROCEEDINGS AND RECOMMENDATIONS:

The costs of these proceedings were as follows:

Administration Costs:	
Grievance Committee Level -----	\$ 150.00
Referee Level -----	150.00
Court Reporter Costs:	
Grievance Committee Level -----	161.00
Referee Level -----	85.31
Photocopies -----	<u>10.00</u>
<u>TOTAL</u> -----	\$ 556.31

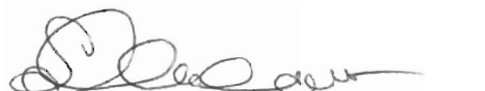
I recommend that such costs be taxed against the respondent.

RENDERED this 26 day of nov, 1984, at Miami, Dade County, Florida.

  
 EDWARD D. COWART, REFEREE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Referee's Report was sent to David M. Barnovitz, Bar Counsel, The Florida Bar, 915 Middle River Drive, Suite 602, Fort Lauderdale, FL 33304, and to Gary E. Chase, Respondent, 500 S.E. 17th Street, Suite 222, Fort Lauderdale, FL 33316, by regular mail, on this 27<sup>th</sup> day of nov, 1984.

  
 EDWARD D. COWART, REFEREE

EDWARD D. COWART  
 CIRCUIT JUDGE  
 ELEVENTH JUDICIAL CIRCUIT OF FLORIDA  
 301 B METRO JUSTICE BLDG  
 1351 NW 12th STREET  
 MIAMI, FLORIDA 33125

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