

IN THE SUPREME COURT OF FLORIDA  
BEFORE A REFEREE

THE FLORIDA BAR,  
Complainant,

v.

JAMES F. JOHNSON, JR.,  
Petitioner.

CONFIDENTIAL

65,852

CASE NOS.: ~~63,668, 65,337~~

TFB FILE NOS.: 17B80F59, 17D82F57

**FILED**

SID J. WHITE

SEP 10 1984

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

PETITION FOR RESIGNATION

COMES NOW, the petitioner, James F. Johnson, Jr., and files this, his petition for resignation pending disciplinary proceedings, pursuant to Rule 11.08 of the Integration Rule of The Florida Bar and respectfully shows to the court as follows:

1. Petitioner was admitted to the practice of law in the State of Florida on February 11, 1972.
2. During my years of practice there were twenty-one (21) complaints filed with The Florida Bar, and, except as hereinafter specifically enumerated, all such complaints were either summarily dismissed or resulted in findings of no probable cause.
3. My present disciplinary problems consist of seven (7) matters at various stages of processing. They consist of the two (2) cases presently pending in this court before a referee as referenced in the above case style, and five (5) cases (The Florida Bar Nos. 17B84109, 17D84116, 17D84117, 17D84118 and 17D84119) which have been referred to grievance committee for investigation. Each shall be referred to, in turn.
4. The complaint in case 63,668 was filed in this court on May 12, 1983 and received by me on May 16, 1983. A referee has been appointed. The matter has not yet been reached for trial. In its complaint, The Florida Bar charges me with various alleged conflicts of interests involving one Lauriston L. Crockett and complains that I lacked the requisite experience to become embroiled in such complex representation. In my answer filed May 24, 1983 I denied each and every material allegation of the complaint.

5. In case 65,337, The Florida Bar, in a complaint filed May 22, 1984, again charges me with an alleged conflict of interest, this time concerning one Alwyn Brown and also with failing to render trust fund reports to the said Alwyn Brown. My answer, filed May 29, 1984 contains a general denial of both charges. A referee has been appointed and the matter awaits trial.

6. The Florida Bar case no. 17D84109 concerns a complaint by Robert M. Connolly that I have failed to account for approximately \$80,000.00 proceeds from certain stock I sold on his behalf and that I have failed to pay a certain promissory note I gave to Mr. Connolly. I have stated my position to The Florida Bar that I have fully accounted for and paid over all stock sale proceeds. I admit unequivocally that I have defaulted on the promissory note but do not consider this to be a grievable offense. Mr. Connolly has secured a judgment on the note.

7. The Florida Bar Case No. 17D84118 concerns the complaint of one Samuel Grant who claims that I settled a personal injury action on his behalf for \$3,000.00 without consulting Mr. Grant regarding the nature or amount of the settlement and without any discussion concerning the fees to be charged or distribution of the settlement proceeds.

8. The Florida Bar case no. 17D84119 involves a complaint filed by James R. Eddy, Esquire on behalf of one Charles S. Dale, Jr. This complaint charges that I purposely breached the terms of a settlement of a complex litigation which settlement was reduced to a written stipulation executed by me and which provided, inter alia, for the conveyance by me of a certain parcel of realty to the said Charles S. Dale, Jr., as trustee. The complaint alleges that I, in fact, conveyed the subject property to my father-in-law in direct contravention of the written settlement stipulation thereby defrauding the other parties to the stipulation.

9. The Florida Bar case no. 17D84116 involves the complaint of one Debra J. Miller, who, acting on behalf of Center for Neurological Services, Inc. filed a complaint charging that despite my written agreements to protect the said center in various personal injury actions to the extent of their claims for medical services rendered to the various clients involved I failed and refused to remit after settlement of several personal injury actions. The complaint and partial testimony given by Ms. Miller further alleges that I either did not deposit the settlement proceeds to my trust account or having

deposited such proceeds to my trust account misappropriated the same to my own use. Ms. Miller further complains that I took advantage of a client named Amerson by settling a personal injury action in the sum of \$42,500.00, remitting to the said Amerson \$13,000.00 and failing and refusing to account for the balance of the settlement proceeds. Ms. Miller further asserts that I received the sum of \$13,613.70 in connection with a proceeding involving a client, Larue Andrewson which I have failed and refused to account for and which I did not deposit to my trust account.

10. The Florida Bar case no. 17D84117 concerns the complaint of Larue Andrewson. Mr. Andrewson complains that I settled a portion of his personal accident case for \$25,000.00 in July, 1982 but have failed and refused to remit any portion of such settlement to him despite demand therefor.

11. On July 3, 1984 I concluded a plea bargain concerning several criminal matters pending against me in Brevard County, Florida. In case 84-546 CFA I was charged with the commission of grand theft, first degree, a second degree felony involving eleven customers of my construction business (J. F. Johnson Company, Inc.) which I operated at Melbourne, Florida. In case 84-781 CFA I was charged with an additional count of grand theft, first degree and one count of grand theft, second degree, a third degree felony. These charges also arose out of my dealings as a contractor. There was also a misdemeanor charge (case 84-580 MM-A) involving the alleged issuance by me of a "bad check". In my agreement which was accepted by Honorable Gilbert Goshorn, in Circuit Court, Eighteenth Judicial Circuit in and for Brevard County, I entered a nolo contendere plea to the second count (grand theft, second degree) in case 84-781 CFA and all other charges were nol prossed. Adjudication of guilt was withheld. My sentence includes a five (5) year probation supervised by authorities in Asheville, North Carolina where I presently reside, a prohibition from engaging in the construction business in Florida until July, 1989 and a direction that I make full restitution to all alleged victims. The total restitution involves approximately \$100,000.00. I have already met approximately \$70,000.00 of this condition.

12. Except for the foregoing there are no other disciplinary or criminal proceedings to which I am or was a party.

13. I believe that the public interest will not be adversely affected by the granting of this petition and that permitting me to resign without


leave to reapply will not adversely affect the purity of the courts, hinder the administration of justice or affect the confidence of the public in the legal profession. In light of this court's opinion in The Florida Bar v. Mattingly, 342 So.2d 508 (Fla. 1977) that a disbarment may not be permanent, I understand that I am consenting to the most serious discipline that can be imposed upon a member of The Florida Bar.

14. I understand that I would be generally liable for any costs incurred by The Florida Bar in prosecuting disciplinary proceedings against me. Under the circumstances I am willing to have taxed against me the costs incurred by The Florida Bar to date in the disciplinary proceedings that are listed as pending in this petition.

15. I agree to cooperate with my Client Security Fund investigation conducted by The Florida Bar and understand that I will remain personally liable to make restitution in the above described cases should such liability be determined in appropriate court proceedings.


16. I am not actively engaged in the practice of law.

17. I have retained counsel in this matter and am acting freely and voluntarily with the advice and assistance of such counsel. In resigning in this matter I am not admitting liability as having done anything wrong, but simply desire to\*\*\*  
WHEREFORE, I respectfully pray that my application for leave to resign without leave to reapply be granted.

  
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JAMES F. JOHNSON, JR.  
34 Busbee Road  
Asheville, N.C. 28803

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Petition was mailed to David M. Barnovitz, Bar Counsel, The Florida Bar, 915 Middle River Drive, Suite 602, Fort Lauderdale, FL 33304, and to John T. Berry, Staff Counsel The Florida Bar, Tallahassee, FL 32301-8226, by regular mail, on this 28 day of Aug, 1984.

  
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JAMES F. JOHNSON, JR.  
Petitioner

\*\*\*save my family any further public embarrassment and to acknowledge that I tried to conduct myself in accordance with the requirements of the Bar. However, I do not intend to practice law any further and I can not afford the expense of a long protracted proceeding before the Bar.