


IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

v.

LOUIS L. SUPRINA,  
Respondent.

CASE NO. 65,983  
(1084C7)

**FILED**  
SID J. WHITE  
JAN 18 1985  
CLERK, SUPREME COURT  
By   
Chief Deputy Clerk

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, hearings were held on December 3, 1984 and December 28, 1984. The pleadings, notices, motions, orders, 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: David G. McGunegle

For The Respondent: Louis L. Suprina, in pro se

Due to the nature of my recommended discipline set forth below, this case is now public.

II. Findings of Fact as to Each Item of Misconduct of which the Respondent is charged: After considering all of the pleadings and evidence before me, pertinent portions of which are commented on below, I find that:

1. The respondent, Louis L. Suprina, is, and at all times hereinafter mentioned, was, a member of The Florida Bar and subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida. He resides and practices law in Polk County, Florida.

2. Respondent filed a claim for attorney's fees against the estate of Emma and Elihu Drayton in 1983. After the personal representative objected to the claim no further action was taken in the estate. Respondent then filed an action in Polk County Court against the estate of Emma Drayton requesting a judgment in the amount of \$2,077.44 for fees arising out of his representation of the decedent primarily through 1979.

3. A final hearing was held on April 12, 1982, wherein respondent testified in his own behalf. He presented no signed agreement from the decedent or other written memorandum beyond his office bill reflecting charges for legal work. At the conclusion of the hearing, the court denied respondent's claim. The respondent stated he anticipated that hearing would be primarily to cover the question of whether the statute of limitations applied and therefore was not ready to present evidence. He further indicated his oral motion for a continuance was denied. Respondent also submitted his periodic billings to the clients at the referee hearing which are respondent's Exhibit 3.

4. At the county court hearing, the respondent stated part of the claim was for a loan he had made to the decedent of \$600.00 from personal funds maintained within the trust account.

5. Prior to the county court hearing in April, 1984, the respondent was contacted by Dorothy White who he had represented in the past and who was the personal representative of the estate. She was then represented by other counsel and I conclude respondent was either then or shortly thereafter aware of that fact. However, he did not tell her he could not advise her and to work through her attorney. Moreover, it appears he independently contacted her at least once in an attempt to get her to admit his fees being sought were a proper charge and should be paid. He was unsuccessful. These contacts were made when he knew she was represented by other counsel and that that counsel had not authorized such contact.

6. Respondent maintained a trust account with the First National Bank of Winter Haven. However, he did not conduct nor maintain quarterly reconciliations of his trust account as was required until June 30, 1984. In fact, the only reconciliation available was one for April, 1984, which was prepared in advance of the staff investigator's visit. It does appear the respondent balanced his checkbook on a monthly basis. He also stated he reconciled his internal trust account records once a year but did not keep any copies. Voided checks were not available since respondent routinely discarded them. The client ledger sheets consisted of notations on manila client file folders or a draft paper form on the inside of the client file folders. These

records do not always reflect each transaction by date of deposit, check issued date and number or balance of funds on deposit for the client.

7. Respondent also utilized his trust account as a depository and conduit for funds being collected in business matters including a profit sharing plan, withholding taxes and mortgage payments. He further made loans to clients through his trust account. In fact about \$25,000.00 was loaned to M. K. Desmond in 1982 for a business venture which involved the respondent. \$375.00 was issued to Isaac Jones in 1984 for his living expenses in advance of a settlement. Respondent also paid social security and withholding by trust account checks.

8. In certain instances, respondent also paid out checks before adequate funds were on deposit in the trust account. For example, he drew Check No. 1019 on April 20, 1984, in the amount of \$11,000.00 to Mr. Updyke but did not deposit that sum until April 24, 1984. Fortunately, the check was not presented to the bank for payment until April 27, 1984. Respondent had \$2,000.00 in client funds for Mr. Head on deposit on January 12, 1984, but on January 16, 1984, he issued a check to the client for \$4,433.94 creating a deficit of \$2,433.90 which was not corrected until a \$40,000.00 deposit was made on February 6, 1984. It does appear the respondent had sufficient collections of nontrust funds in the account to cover these particular deficits. Moreover, none of the respondent's checks were returned due to insufficient funds nor was the account overdrawn. Finally, respondent stated he deposited \$3,000.00 of his own money into

the trust account when he opened it and regularly advances costs to his clients and collects what is due at the end of the case.

9. Respondent stated he was unaware of the rules on trust account recordkeeping until after this case arose. However, he certified on his 1983-1984 dues statement he had read those rules and bylaws and was in substantial minimum compliance with them.

10. I find that the respondent has improperly maintained his trust account recordkeeping. Moreover, he has commingled his own personal funds within the account and overspent client funds prior to having them on deposit. I specifically find that his handling of his trust account recordkeeping is grossly inadequate. His overspending of client accounts for however temporary a basis and commingling of his personal and business moneys within the account are simply improper and inexcusable. Respondent's handling of his trust account, let alone the recordkeeping, indicates a complete lack of understanding of the concept of and need for a trust account. His excuse relative to the supposed complexity of the rules governing trust accounting must be rejected. The trust account should contain only clients' funds, collections containing both client funds and attorney's fees until the latter is determined and minimal funds to cover possible bank charges. Commingling other moneys within the trust account shatters the concept and can lead to a host of problems, especially where the recordkeeping is inadequate.

III. Recommendation as to Whether or not the Respondent

Should be found Guilty: I recommend the respondent be found guilty and specifically that he be found guilty of violating the following Integration Rules of The Florida Bar and/or Disciplinary Rules of the Code of Professional Responsibility, to wit: Rules 11.02(4) for mishandling his trust account and misusing trust funds and 11.02(4)(c) for improper trust account recordkeeping.

I recommend he be found not guilty of violating Rule 11.02(3)(a) for conduct contrary to honesty, justice or good morals.

I further recommend the respondent has violated Disciplinary Rules 1-102(A)(6) for conduct reflecting adversely on his fitness to practice law; 5-103(B) for improperly advancing loans to clients out of the trust account at a time when litigation was contemplated or pending in both the Drayton and Jones matter; 7-104(A)(1) for improperly contacting Mrs. White, a party in litigation represented by counsel, without the permission of the other counsel on the subject matter of the litigation; 9-102(A) for commingling personal and business funds with trust funds within the trust account; and 9-102(B)(3) for improper trust account recordkeeping.

I also recommend the respondent be found not guilty of violating Disciplinary Rules 2-106(A) and 2-106(B) for charging and attempting to collect a clearly excessive fee in the Drayton estate case given the records submitted.

IV. Recommendation as to Disciplinary Measures to be Applied: I recommend the respondent be publicly reprimanded by a public opinion issued by this Court and personal appearance before the Board of Governors of The Florida Bar pursuant to Fla. Bar Integr. Rule, article XI, Rule 11.10(3).

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

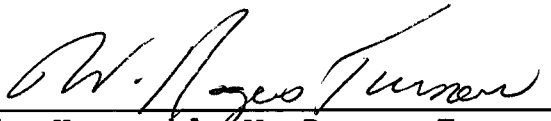
Age: 56  
Dated Admitted to The Florida Bar: 1966  
Prior disciplinary convictions and disciplinary measures imposed therein: N/A  
Other personal data: Respondent is a sole practitioner in Winter Haven, Florida, and is married.

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., 7/12/84	290.70
B. Referee Level Costs	
1. Administrative Costs	150.00
2. Transcript of referee hrg. held 12/28/84	308.00
3. Bar counsel's travel expenses	7.00
C. Miscellaneous Costs	
1. Staff investigator's expenses	147.84
2. Long distance telephone charges	<u>3.39</u>
TOTAL ITEMIZED COSTS:	\$1,056.93

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 30 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 16th day of January, 1985.

  
The Honorable W. Rogers Turner,  
Referee

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