

IN THE SUPREME COURT OF FLORIDA

(Before A Referee)

THE FLORIDA BAR, )

Complainant, )

vs. )

SHELDON B. PALLEY, )

Respondent. )

CONFIDENTIAL

Supreme Court Case  
No. 65,990

The Florida Bar Case  
No. 11J85M07

**FILED**

SID J. WHITE

APR 8 1985

CLERK, SUPREME COURT

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

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS: Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct disciplinary proceedings as provided for by article XI of the Integration Rule of The Florida Bar, a Final Hearing was held on January 30, 1984. All of the pleadings, notices, motions, orders, transcripts and exhibits are forwarded with this report and the foregoing constitutes the record of this case.

The following attorneys appeared as counsel for the parties:

On Behalf of The Florida Bar: Patricia S. Etkin  
On Behalf of the Respondent: pro se

On September 14, 1984 Respondent submitted a Conditional Guilty Plea for Consent Judgment which provided for a public reprimand with two (2) years' probation during which time he would submit quarterly reports from a Certified Public Accountant reflecting that his trust account was being maintained in compliance with Integration Rule 11.02(4)(c) and pay costs of the proceedings and audit.

On October 2, 1984 Complainant filed a Response to Respondent's Conditional Guilty Plea for Consent Judgment which reflects the position of The Florida Bar, as approved by the Designated Reviewer of the Eleventh Judicial Circuit Grievance Committee "J", that Respondent's plea be accepted based upon the imposition of the following disciplinary terms:

(a) public reprimand to be published in the Southern Reporter upon entry of the final order of discipline by the Supreme Court of Florida;

(b) two (2) years' probation during which time Respondent is required to submit quarterly reports from a Certified Public Accountant reflecting that his trust account is being maintained in compliance with Rule 11.02(4)(c) of the Integration Rule of The Florida Bar;

(c) taxation of costs of the proceedings assessed against Respondent, with execution to issue with interest at a rate of 12% to accrue on all costs not paid within thirty (30) days of entry of the Supreme Court's final order, unless the time for payment is extended by the Board of Governors.

At the final hearing, Respondent confirmed to this Referee that he would accept the aforementioned disciplinary terms.

Having reviewed the record of these proceedings, I find that Respondent's plea and the recommendation of The Florida Bar as to terms of discipline are both fair to the Respondent and in the best interests of the public. Accordingly, Respondent's Conditional Guilty Plea for Consent Judgment and the terms of discipline recommended by The Florida Bar are accepted and hereby adopted as the recommendations of this Referee in this matter.

II. FINDINGS OF FACT: In his Stipulation of Facts dated July 6, 1984, Respondent acknowledges that the facts as set forth in the Stipulation are true and accurate and shall have full force and effect. Based upon the foregoing, I find that Respondent is deemed to have admitted the matters set forth in the Stipulation.

Accordingly, Respondent's Stipulation, attached hereto and incorporated herein as Exhibit "A", together with the facts set forth in Respondent's Conditional Guilty Plea for Consent Judgment, attached hereto and incorporated herein as Exhibit "B", are accepted and hereby adopted as the findings of fact in this matter.

III. RECOMMENDATION AS TO GUILT: In his Conditional Guilty Plea for Consent Judgment and as confirmed by his statements to this Referee at final hearing, Respondent admits that he engaged in the following course of conduct which was unethical:

WEP  
Lack of adequate identification of all receipts and disbursements of trust funds; lack of adequate files or ledgers containing an accounting for each person from whom and for whom trust money was received; lack of quarterly trust account balance reconciliations; commingling of trust funds with personal funds in an operating account not labeled as a trust account; payment to certain clients for monthly mortgage payments prior to collecting funds from mortgagors which in some cases resulted in use of other client's trust funds rather than personal funds; receiving life insurance premiums on approximately 15 mortgages and attempting to be a self insuror of said mortgagors.

Based upon Respondent's admissions, I recommend that Respondent be found guilty of violating article XI, Rule 11.02(4) of the Integration Rule of The Florida Bar, Bylaws under the Integration Rule, article XI, Section 11.02(4)(c) and Disciplinary Rule 9-102(A) of the Code of Professional Responsibility.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

In considering discipline I note the following mitigating factors:

- (1) Respondent has been cooperative with The Florida Bar's investigation.
- (2) Respondent has been forthright in his disclosure as to the factual circumstances that underlie these charges.
- (3) There is no evidence of any intent to deceive or defraud any client or other person dealing with Respondent in a fiduciary capacity.

Accordingly, I accept Respondent's Conditional Guilty Plea for Consent Judgment and recommend the imposition of the following disciplinary terms:

- (a) public reprimand to be published in the Southern Reporter upon entry of the final order of discipline by the Supreme Court of Florida;
- (b) two (2) years' probation during which time Respondent is required to submit quarterly reports from a Certified Public Accountant reflecting that his trust account is being maintained in compliance with Rule 11.02(4)(c) of the Integration Rule of The Florida Bar;

V. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER IN WHICH COSTS SHOULD BE TAXED: I find that the following were reasonably incurred by The Florida Bar as costs in these proceedings and should be assessed against Respondent:

	<u>Amount</u>
Administrative Costs:	
Grievance Committee	\$ 150.00
Referee Level	150.00
Cost of Audit:	2,777.68
Court Reporter costs	
for Final Hearing:	<u>92.01</u>
TOTAL	\$3,169.69

It is recommended that the foregoing costs be assessed against Respondent. It is further recommended that execution issue with interest at a rate of twelve percent (12%) to accrue on all costs not paid within 30 days of entry of the Supreme Court's final order, unless the time for such payment is extended by the Board of Governors of The Florida Bar.

Dated this 22 day of <sup>March</sup>~~February~~, 1985

  
MARK E. POLEN  
Referee

Copies furnished to:  
Patricia S. Etkin, Esq.  
Sheldon B. Palley, Esq.