

FILED

SID J. WHITE

MAR 6 1985

CLERK, SUPREME COURT

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

CONFIDENTIAL

By _____
Chief Deputy Clerk

Complainant,

Case No. 66,279

(TFB # 06B83H47,06B84H04)

(06B84H07,06B84H12,06B84H14)

v.

(06B84H20,06B84H24,06B84H25)

(06B84H29,06B84H31,06B84H32)

D. HAGER KINNER,

(06B84H36,06B84H37,06B84H46)

(06B84H48,06B84H55,06B84H56)

Respondent.

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the article XI of the Integration Rule of The Florida Bar. The enclosed pleadings, orders, transcripts and exhibits 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 Steve Rushing

For The Respondent Michael L. Kinney

II. Findings of Fact as to Each Item of Misconduct of Which the Respondent is Charged: After considering all the pleadings and evidence before me, I accept the tendered Conditional Guilty Plea for Consent Judgment which admits to each act of misconduct alleged in the complaint attached hereto.

III. Recommendation as to Whether or not the Respondent Should Be Found Guilty: I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: That D. Hager Kinner has violated Disciplinary Rules 1-102(A)(4) (Conduct involving dishonesty, fraud, deceit, or misrepresentation); DR 1-102(A)(6) (Engage in conduct which adversely reflects on his fitness to practice law); DR 2-106(A) (Lawyer shall not enter into an agreement for charge or collect an illegal or clearly excessive fee); DR 2-110 (A)(3) (Failure to promptly refund unearned fees); DR 6-101(A)(3) (Neglect of a legal matter entrusted to him); DR 7-101(A)(1) (Failure to seek the lawful objectives of his client); DR 7-101(A)(2) (Failure to carry out a contract of employment); DR 7-101(A)(3) (Intentionally prejudice or damage client during the course of professional relationship); DR 9-102(B)(4) (Failure to promptly pay or deliver on client's request the client's funds or properties belonging to client); and Integration Rule, article XI, Rule 11.02(4) (Money entrusted to an attorney for a specific purpose, including advances for costs and fees, is held in trust and must be applied only to that purpose).

IV. Recommendation as to Disciplinary Measures to be Applied:
I recommend that the respondent receive disbarment,
payment of restitution and payment of costs.

V. Personal History and Past Disciplinary Record: After
finding of guilt 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: (To be
completed after hearing)

- (1) Age: 35
- (2) Dated Admitted to Bar: September 19, 1979
- (3) Aggravating Factors: none
- (4) Mitigating Factors: plead guilty eliminating necessity
of hearing and no prior record
- (5) Respondent's prior disciplinary record: none

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. Court Reporter Costs	312.56
3. Witness Fees	15.00
4. Staff Investigator Costs	465.60
5. Typing Costs	33.00
B. Referee Level Costs	
1. Administrative Costs	\$ 150.00
2. Court Reporter Costs (2/22/85)	
3. Branch Staff Counsel Costs	29.95
4. Audit Expenses: (To be supplied)	-----
TOTAL AMOUNT DUE TO DATE:	<u>\$1,156.11</u>

Respondent has the right to apply for readmission three years from
September, 1983.

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 both the judgment in this case becomes
final and after respondent is released from incarceration, unless
a waiver is granted by The Board of Governors of The Florida Bar.

DATED this 22 day of February, 1985.



HONORABLE HENRY L. COE, III
Referee

I, D. HAGER KINNER, have reviewed this Preliminary Report of
Referee and agree it is in accordance with my understanding of
the Guilty Plea I have voluntarily entered in this matter.



D. HAGER KINNER

Copies furnished to:
Michael L. Kinney, Attorney for Respondent
Steve Rushing, Branch Staff Counsel