

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

CONFIDENTIAL

v.

CASE NO. 66,541

MARZELL MITCHELL, JR.,

The Florida Bar Case
No. 15C83F23

Respondent.

REPORT OF REFEREE

DEC 1985
CLERK, SUPREME COURT

By

Chief Deputy Clerk

I. Summary of Proceedings: The undersigned has been duly appointed by the Supreme Court of Florida as Referee in this cause to conduct disciplinary proceedings in accordance with Florida Bar Integration Rule, article XI.

Respondent appeared pro se. The Florida Bar, Complainant, was represented by Jacquelyn Plasner Needelman. Proceedings were held on May 1, 1985.

II. Findings of Fact as to the Misconduct of Which the Respondent is Charged:

After considering all the pleadings and evidence before me, pertinent portions of which are commented upon below, I find:

A. Marzell Mitchell, Jr., an attorney admitted to The Florida Bar, was audited by The Florida Bar concerning trust accounts spanning the period of May 1, 1980 through May 1983.

B. During the period audited funds belonging to Respondent and/or his wife were deposited into the trust account and personal payments were made from the trust account.

C. Quarterly trust account balance reconciliations were not available for inspection, the respondent failed to maintain deposit slips listing source of all receipts of trust funds, and failed to indicate the reason for disbursements from the trust account. No ledger cards or similar records were available for inspection during the audit period.

III. Recommendation as to Whether or Not the Respondent Should be Found Guilty:

I recommend that Respondent be found guilty and specifically that he be found guilty of violating The Florida Bar Integration Rule, article XI, Rule 11.02(4)(b) and (c) and the Bylaws thereunder and Disciplinary Rule 9-102 (preserving identity of funds and property of a client).

IV. Recommendation as to Disciplinary Measures to be Applied:

I recommend that the Respondent, Marzell Mitchell, Jr., be given a private reprimand and pay the costs of these proceedings. I would also convey the understanding that Respondent has been twice warned and if similar violations occur again it will not be tolerated, the result will be a suspension.

V. Past Disciplinary Record:

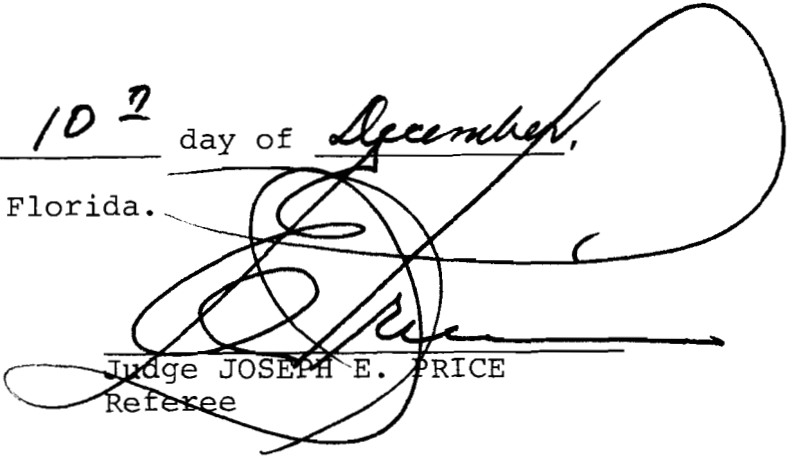
Respondent has previously received a private reprimand for similar misconduct in 1978.

VII. Statement of Costs and Manner in Which Costs Should be Taxed:

The following costs were reasonably incurred by The Florida Bar and are hereby taxed against Respondent:

<u>Administrative Costs</u>		
Referee Level	\$150.00	
Grievance Committee Level	<u>150.00</u>	\$300.00
<u>Service of Process</u>		35.50
<u>Witness Fees</u>		13.27
<u>Court Reporter Costs and Transcripts at Grievance Committee Level</u>		499.70
<u>Audit Costs</u>		762.00
<u>Bank Charges</u>		645.55
<u>Photocopies</u>		42.48
<u>Court Reporter Costs at Referee Level</u>		<u>332.25</u>
TOTAL COSTS		\$2,630.75

DONE and ORDERED this 10th day of December,
1985, at Broward County, Florida.


Judge JOSEPH E. PRICE
Referee

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