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THE FLORIDA BAR
FT. LAUDERDALE OFFICE

IN THE SUPREME COURT OF FLORIDA
BEFORE A REFEREE

FILED
SID J. WHITE
DEC 30 1985

THE FLORIDA BAR,
Complainant,
v.
STUART L. STEIN,
Respondent.

CONFIDENTIAL
CLERK, SUPREME COURT
Case No. 66,602
BY [Signature]
Chief Deputy Clerk
The Florida Bar Case No.
17A84F57

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS: The undersigned has been duly appointed as Referee in this cause to conduct disciplinary proceedings in accordance with article XI of the Integration Rule of The Florida Bar. Final hearing in this cause was held on August 23, 1985. A pre-discipline conference was held on September 27, 1985. The pleadings, orders, transcripts and exhibits all of which are forwarded to the Supreme Court with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

- For The Florida Bar - Jacquelyn Plasner Needelman
- For the Respondent - Alice M. Reiter

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, pertinent portions of which are commented upon below, I find:

1. The Respondent, Stuart L. Stein, is, and at all times hereinafter mentioned was, a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.
2. On or about September 12, 1983 Mrs. Anna Jaworsky retained Respondent to represent her in an appeal of a zoning matter to the City of Fort Lauderdale Board of Adjustment.
3. Mrs. Jaworsky paid Respondent \$1,000 for his legal services.
4. On September 13, 1983, Respondent appeared on Mrs. Jaworsky's behalf at a meeting of the City of Fort Lauderdale Board of Adjustment and requested a continuance for one month until the Board's next meeting.

5. The Respondent failed to follow up on the matter and did absolutely nothing on behalf of Mrs. Jaworsky until after it came to his attention that the meeting had been held on October 11, 1983.

6. At the October 11, 1983 hearing of the Board of Adjustment, no one appeared on behalf of Mrs. Jaworsky and Mrs. Jaworsky's petition was denied and she was subsequently assessed penalties that were eventually reduced to the amount of \$2,800.00.

7. Mrs. Jaworsky paid Respondent fees in the amount of \$1,000.00.

8. I find that the Respondent neglected Mrs. Jaworsky's case and due to Respondent's neglect Mrs. Jaworsky had to pay penalties to the City of Fort Lauderdale in the amount of \$2,800.00 (see page 73 of the transcript of the August 23, 1985 final hearing).

9. I find that the Respondent did not charge and collect a clearly excessive fee in light of his neglect. However, I do not feel the fee was reasonable.

III. RECOMMENDATIONS AS TO WHETHER OR NOT THE RESPONDENT SHOULD BE FOUND GUILTY: As to each allegation of the complaint I make the following recommendations as to guilt or innocence.

AS TO NEGLECT

I recommend that the Respondent be found guilty of violating Disciplinary Rule 6-101(A) (3) of the Code of Professional Responsibility in that he neglected a legal matter entrusted to him.

AS TO EXCESSIVE FEES

I recommend that the Respondent be found not guilty of violating Disciplinary Rule 2-106(A) of the Code of Professional Responsibility concerning excessive fees.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

I recommend that the Respondent receive a public reprimand and be placed on probation for a period of three (3) years pursuant to Florida Bar Integration Rule, article XI, Rule 11.10(1) and (3). During this

period of probation, the Respondent shall submit quarterly status reports to The Florida Bar as to the status of all pending cases. Additionally, a supervising attorney should be appointed by The Florida Bar to supervise Respondent's work. The above-referred to status reports shall also be furnished to said supervising attorney. I find that Respondent's confusion regarding the notice given as to the October 11, 1983 hearing to be a mitigating factor and a reason why I am not recommending more stringent discipline.

I further recommend that Respondent make restitution in the following amounts concerning his neglect in this cause:

1) \$1,000.00 to be returned for monies paid to Respondent as fees by Mrs. Jaworsky, \$500.00 of this amount should be paid directly to Mrs. Jaworsky and \$500.00 to be paid directly to William R. Leonard, Esquire, Mrs. Jaworsky's subsequent attorney.

2) Respondent should reimburse to Mrs. Jaworsky the \$2,800.00 penalties she was assessed and paid due to his neglect.

Accordingly, I recommend that restitution be made to Mrs. Jaworsky in the total amount of \$3,300.00 and \$500.00 to be paid to William R. Leonard, Esquire, by the Respondent.

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD:

Age: 39

Date admitted to The Florida Bar: September 15, 1977.

Prior disciplinary convictions and disciplinary measures imposed therein:

1) On June 6, 1985 in Case No. 63,669, Respondent received a public reprimand for violation of Disciplinary Rule 6-101(A) (2).

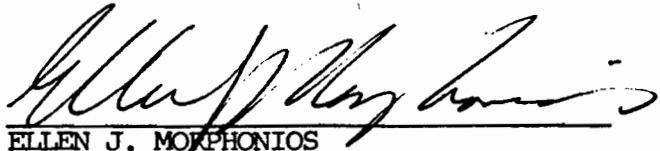
2) Also on June 6, 1985 in Case Numbers 63,413 and 65,878, Respondent was publicly reprimanded and suspended from the practice of law for ten (10) days for violations of Disciplinary Rules 1-102(A) (6) and 6-101(A) (3).

VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED:

I find the costs stated in The Florida Bar's statement of costs in the amount of \$2,170.70 were reasonably incurred by The Florida Bar and should 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 20 day of November, 1985.


ELLEN J. MORPHONIOS
Referee

Copies furnished to:

Jacquelyn Plasner Needelman, Bar Counsel
Alice M. Reiter, Attorney for Respondent
John T. Berry, Staff Counsel