

2. The purchasers accomplished a title search in order to obtain title insurance and in August, 1983, their attorney informed Respondent the note and mortgage had been held by both Roy Feagle and his former wife, Brenda, necessitating Brenda Feagle's signature on a satisfaction of mortgage.

3. Respondent unsuccessfully attempted to contact Brenda Feagle both by telephone and by letter over the next few months principally through her former husband.

4. Respondent made formal written demand on both Roy and Brenda Feagle for a properly executed satisfaction of mortgage under the auspices of Section 701.05 of the Florida Statutes by letter dated January 6, 1984. This letter gave notice and possible incarceration and monetary penalties for failing to provide proper satisfaction within thirty (30) days of full payment. It concluded, "We can assure you both that if we do not receive the Satisfaction timely, we shall do our best to have the court give you both the maximum sentence in jail and in your pocketbooks". See Exhibit "A" to the Complaint.

5. The letter was addressed to both Roy and Brenda Feagle, even though Roy had previously executed a satisfaction. Roy subsequently brought suit against Brenda Feagle and the transaction was concluded in March, 1984, after she provided a proper satisfaction of the mortgage.

6. I specifically find that Respondent's January 6, 1984, letter was forwarded to the Feagles solely to gain an advantage in the matter and not merely as a mechanism for providing "notice" of possible penalties for non-compliance with the statute. Respondent testified the sole purpose of the letter was to acquire the satisfaction of mortgage. (See transcript of Referee Hearing, p. 12) The concluding sentence clearly issues a threat of criminal prosecution

against the Feagles if they failed to timely execute the satisfaction. Furthermore, this threat was made not only to Brenda but also to Roy who had executed a satisfaction of mortgage at least six months earlier.

III. Recommendation as to Whether or not the Respondent Should be Found Guilty: I make the following recommendation as to guilt or innocence:

I recommend he be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility, to wit: 1-102(A)(6) for other misconduct reflecting adversely on his fitness to practice law and 7-105(A) for threatening criminal prosecution solely to gain an advantage in a civil matter.

IV. Recommendation as to Disciplinary Measures to be Applied:

I recommend that the Respondent receive a public reprimand in a public opinion issued by this Court and by personal appearance before The Board of Governors of The Florida Bar pursuant to Fla. Bar Integr. Rule, Article XI, Rule 11.10(3). Although the Florida Bar recommended a private reprimand since this case was one of minor misconduct rejected by the Respondent, I reject the recommendation. I find Respondent's conduct in this case egregious enough to warrant imposition of a public reprimand. See e.g. The Florida Bar vs. Kaufman, 409 So. 2d 480 (Fla 1982).

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

Date Admitted to The Florida Bar: 1966

Prior Disciplinary Convictions and Disciplinary Measures Imposed Therein: A public reprimand by personal appearance before The Board of Governors was ordered in Case 65,983 on May 2, 1985. As the Referee in that case, obviously I am familiar with its fact and I note the Court approved my recommendation of discipline.

Other personal data: Respondent is married and a sole practitioner in Winter Haven, Florida.

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., 12/13/84	228.50
3. Bar Counsel Travel Expenses	5.05

B. Referee Level Costs


1. Administrative Costs	\$150.00
2. Transcript of Referee Hrg. held 12/28/84	76.00

TOTAL: \$609.55

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 thirty (30) days after the judgment in this case becomes final unless a waiver is granted by The Board of Governors of The Florida Bar. In cases of acquittal of all

charges no Bar costs should be taxed to the Respondent and none of Respondents costs shall be taxed to the Bar.

DATED this 23^d day of August, 1985


THE HON. W. ROGERS TURNER,
Referee

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