

IN THE SUPREME COURT OF FLORIDA

(Before a Referee)

FILED

SID J. WHITE

JUL 24 1985

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

THE FLORIDA BAR,

Complainant,

CONFIDENTIAL

v.

Case No. 66,880)

(TFB No. 04D84N18 and 04D84N28)

DONALD P. SLUDER

Respondent.

REPORT OF REFEREE

I. Summary of Proceedings

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to article XI of the Integration Rule of The Florida Bar, the following proceedings occurred:

On April 8, 1985, Respondent in this matter tendered an Conditional Guilty Plea in exchange for the Bar's recommendation as to discipline. The Conditional Guilty Plea, Joint Recommendation as to Discipline, and motions, all of which are forwarded to the Supreme Court of Florida with this report, constitute the record in this case.

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

After considering all the pleadings, I find:

1. That in case no. 04D-84N-18 Respondent was retained in September of 1983 to file a claim against the Dart Equipment Installation Company for failure to perform work on his client's automobile.

2. That Respondent was paid \$252.00 to cover filing fees and costs, and as part of his client's file took possession of the title to the automobile involved in the suit.

3. That Respondent did not file suit as he was retained to do and for a period of time could not account for his client's file or automobile title. Respondent admitted that he had no trust account and that he had disbursed the entire \$252.00 for personal use.

4. That in case no. 04D-84N28 Respondent was retained by Ora A. Nevin to represent her in an ongoing claim against Baptist Medical Center. Respondent was paid \$180.00 at the initial stage of his representation. Respondent filed a notice of appearance on December 1, 1983.

5. That Respondent was aware that certain discovery was delinquent, that interrogatories had not been answered and that notices for production of documents had not been responded to when Respondent filed his notice of formal appearance.

6. That a motion was filed on December 28, 1983 to impose sanctions for non compliance with court ordered discovery. Respondent received a copy of the motion on December 27, 1983. Respondent received a notice of hearing on the motion on January 4, 1984 scheduling a hearing for March 19, 1984. Respondent did not appear at that hearing.

7. That Respondent was sent notice of a hearing to take place on February 3, 1984. Respondent did not appear at that

hearing and as a result a court order imposing sanctions for non compliance with court ordered discovery was entered by Major B. Harding, Circuit Judge, on February 10, 1984.

8. That Respondent took no action in response to the court order and did not contact his client to inform her of the sanctions.

9. That Respondent did not deposit the \$180.00 in a trust account and could not document how it was disbursed. Respondent also could not account for the whereabouts of his client's file and related documents.

III. Recommendations as to Whether the Respondent Should be Found Guilty

I recommend that the Respondent's Conditional Plea of Guilty be accepted and specifically that he be found guilty of the following violations of the Code of Professional Responsibility:

1. DR 1-102(A)(1) (a lawyer shall not violate a disciplinary rule);
2. DR 6-101(A)(3) (neglect of a legal matter);
3. DR 9-102(A)(preserving the identity of funds and property of a client);
4. Integration Rule 11.02(4)(maintaining the identity of trust funds and fees).

IV. Recommendation as to Disciplinary Measures to be Applied

I recommend that Respondent be disciplined by:

1. A public reprimand to be published by the Supreme Court of Florida;
2. Probation for the period of three years with monthly reports from an alcohol rehabilitation counselor, approved by The Florida Bar;
3. That Respondent will be required to maintain a clients' trust account if engaged in the active practice of law;
4. That The Florida Bar may perform audits of his trust account at any time during the period of probation, without cause;
5. A failure to observe the conditions of probation shall result in the terminatin of probation pursuant to article XI, Rule 11.01(1) of the Integration Rule of The Florida Bar;
6. Payment of costs of these proceedings in the amount of \$799.21 within 30 days of the Supreme Court's final order approving same.

V. Personal History and Past Disciplinary Record

Prior to discipline pursuant to article XI, Rule 11.06(a)(4), I considered the following personal history of Respondent, to wit:

Age: 41

Date admitted to Bar: October 6, 1972

Prior Discipline: 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. Bar Counsel Travel	\$124.21
3. Court Reporter	\$375.00

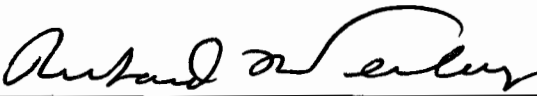
B. Referee Level Costs

1. Administrative Costs	<u>\$150.00</u>
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TOTAL	\$799.21
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It is recommended that such costs 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 22^d day of July, 1985.



Referee

RICHARD G. WEINBERG
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Copies to:

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