


FILED
SID J. WHITE

IN THE SUPREME COURT OF FLORIDA NOV 27 1985

(Before a Referee)

CLERK, SUPREME COURT
By 
Chief Deputy Clerk

THE FLORIDA BAR,

Complainant,

CONFIDENTIAL

vs.

Case No. 67,199

MICHAEL B. SCHULMAN,

(TFB Case No. 02-85N66)

Respondent.
_____ /

REPORT OF REFEREE

Pursuant to the Supreme Court's Order dated June 24, 1985, the undersigned was 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 June 19, 1985, The Florida Bar filed its Complaint against Respondent and on July 2, 1985, it filed its Request for Admissions with the court. On August 1, 1985, Respondent filed his answers to both the Bar's Complaint and Request for Admissions in which he admitted each and every allegation contained in those pleadings. On August 20, 1985, The Florida Bar filed its Motion for Summary Judgment with the referee. All of the aforementioned, which are forwarded to the Supreme Court of Florida with this report, constitute the record in this case.

FINDINGS

After considering all the pleadings, the referee finds as follows:

1. At all times mentioned herein, Respondent was a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. Respondent is also a member of the Bar of the State of New York.

3. From sometime in November 1980 to sometime in March 1981, Respondent and his law partner, Mark Kressner, purchased confidential hospital records and accident reports from attorney Charles Smith with the knowledge that said records and reports were confidential records maintained by Smith's employer, the Federation of Jewish Philanthropies Service Corporation.

4. Respondent and his partner from time to time used the aforesaid hospital records as the source of potential clients.

5. Through an investigator employed by Respondent's firm, Respondent solicited individuals identified from the confidential records as having potential claims against the Federation's hospitals and recreational facilities. The investigator contacted those individuals and suggested that Respondent's firm be retained to prosecute claims against the Federation.

6. Respondent accepted employment, resulting from such solicitation of clients by his investigator, in a wrongful death action involving the Tirado family. In the ensuing litigation, Respondent and his partner were replaced by another attorney at their request.

7. Respondent and his partner failed to report to the proper authorities unprivileged information in their possession relating to the illegal activities of Charles Smith, an attorney admitted to the practice of law in the State of New York.

8. Respondent and his partner discontinued purchasing records from Charles Smith and soliciting potential clients based on information contained in those records before they became aware that they were the subject of a criminal investigation.

9. Respondent received no fees by reason of any of the aforesaid conduct.

10. The Florida Bar reasonably incurred Administrative costs of \$150 at the Grievance Committee Level and \$150 at the Referee Level, for a total of \$300.

RECOMMENDATIONS

The referee recommends that Respondent be found guilty of the following violations of the Code of Professional Responsibility:

Disciplinary Rules 1-102(A)(2) (a lawyer shall not circumvent a disciplinary rule through actions of another); 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice); 1-103(B) (a lawyer possessing unprivileged knowledge concerning another lawyer shall reveal such knowledge to authority empowered to investigate

or act upon the conduct of lawyers); 2-103(B) (a lawyer shall not compensate a person to recommend his employment by a client); 2-103(C) (a lawyer shall not request a person to recommend employment of himself); and 2-103(E) (a lawyer shall not accept employment when he knows or it is obvious that the person who seeks his services does so as a result of conduct prohibited under this Disciplinary Rule).

The referee further recommends that Respondent be disciplined by:

A public reprimand and payment of costs of these proceedings.

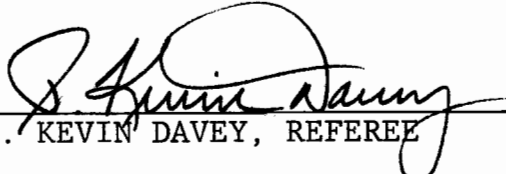
[See The Florida Bar v. Gaer, 380 So. 2d 439 (Fla. 1980)]

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

- A. His age of 31 years and admission to The Florida Bar on December 5, 1978.
- B. His lack of prior disciplinary proceedings or incidents.
- C. His cooperation with The Florida Bar.

It is further recommended that Administrative costs of \$300 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 26th day of November, 1985.


P. KEVIN DAVEY, REFEREE

Copies furnished to:

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