

FILED

SID J. WHITE

NOV 27 1985

IN THE SUPREME COURT OF FLORIDA

(Before a Referee)

CLERK, SUPREME COURT

By [Signature]
Chief Deputy Clerk

THE FLORIDA BAR,

Complainant,

CONFIDENTIAL

vs.

Case No. 67,200

MORTON S. SWIRSKY,

(TFB No. NFC86001)

Respondent.

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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 September 17, 1985, it filed its Request for Admissions with the court. Respondent failed to respond to the Bar's pleadings. As a result of Respondent's failure to respond, the Bar filed a Motion to Deem Matters Admitted and Motion for Summary Judgment on September 24, 1985. The aforementioned, all of 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. Respondent is, and at all times mentioned in this complaint 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 State of New York.

3. On April 19, 1983, Respondent was suspended by New York Supreme Court, Appellate Division, based upon six pending complaints alleging fraud and conversions committed against his clients in amounts ranging from \$450 to \$91,000 and his failure to cooperate with the investigation into those charges.

4. Respondent pled guilty to the crime of grand larceny in the second degree and was convicted of that crime in the New York Supreme Court of New York County on February 23, 1984.

5. The Appellate Division of the New York Supreme Court, First Judicial Department, issued a final order disbaring Respondent on August 29, 1984.

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

Prior to recommending discipline pursuant to article XI, Rule 11.06(9)(a)(4), I considered the following personal history of Respondent:

- A. His age of 43 years and admission to
The Florida Bar on December 14, 1973.
- B. His lack of prior disciplinary proceedings.

RECOMMENDATIONS

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

Disciplinary Rules 1-102(A)(3) (a lawyer shall not engage in illegal conduct involving moral turpitude), 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation), 9-102(B)(3) (a lawyer shall maintain complete records of all funds of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them), 9-102(B)(4) (a lawyer shall promptly pay to the client as requested by a client the funds in the possession of the lawyer which the client is entitled to receive), and Integration Rule 11.02(4) (Money entrusted to an attorney for a specific purpose is held in trust and must be applied only to that purpose).

The referee further recommends that Respondent be disciplined by:

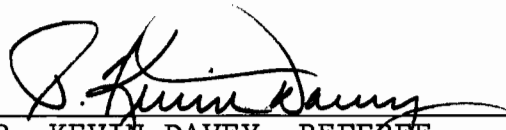
Disbarment and the payment of costs in these proceedings.

[See The Florida Bar v. Brigman, 405 So. 2d 983 (Fla. 1981); The Florida Bar v. Stillman, 401 So. 2d 1306 (Fla. 1981).

It is further recommended that the 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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