

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

WAYNE R. JOHNSON,

Respondent.

CONFIDENTIAL

CASE NO. 67,522
(TFB Nos. 06A83180)
06A84H77)

FILED
SID J. WHITE
APR 28 1986
CLERK, SUPREME COURT

REPORT OF REFEREE By Chief Deputy Clerk

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee on August 30, 1985, to conduct disciplinary proceedings herein according to article XI of the Integration Rule of The Florida Bar, a status conference was held on November 25, 1985, (Respondent did not appear, although his former attorney did appear and was formally allowed to withdraw) and a Pre-trial Conference was held on December 10, 1985, (Respondent did appear, but subsequently refused to waive venue and rejected plea negotiations with Bar counsel). A two day trial was set for February 25 and 26, 1986, and all Florida Bar witnesses were subpoenaed. Immediately prior to the commencement of the hearing on February 25, 1986, Respondent entered a plea to all allegations in the complaint before this Referee. This Referee allowed the Florida Bar to submit a Sentencing Memorandum with a copy to the Respondent and allowed Respondent ten (10) days to respond to The Florida Bar's Sentencing Memorandum. The Florida Bar submitted its Sentencing Memorandum, but Respondent did not submit his memorandum within the ten (10) day period and telephonically communicated to this Referee's Judicial Assistant that he did not intend to submit a Sentencing Memorandum. The enclosed pleadings, orders, transcripts and exhibits are forwarded to The Supreme Court of Florida with this report, and constitute the record in this case.

The following attorneys appeared as counsel for the parties:

- For The Florida Bar: Stephen Rushing
- For The Respondent: Pro Se

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, I accept the tendered Guilty Plea which admits to each act of misconduct alleged in the complaint attached hereto.

III. Recommendation as to Whether or Not the Respondent Should Be Found Guilty: I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: That WAYNE R. JOHNSON has violated the Disciplinary Rules listed below:

COUNT I
(TFB No. 06A83180)

Respondent violated The Florida Bar Code of Professional Responsibility, Disciplinary Rule 1-102(A) (3) (engaging in conduct involving fraud, dishonesty, deceit, or misrepresentation);

DR 6-101(A) (1) (handling a legal matter which he was incompetent to handle); DR 6-101(A) (2) (failing to adequately prepare, under the circumstances of the case); DR 9-102(B) (3) (failing to render an appropriate account of funds); and DR 9-102(B) (4) (failing to promptly deliver to a client all funds to which the client is entitled).

COUNT II
(TFB No. 06A84H77)

Respondent violated The Florida Bar Code of Professional Responsibility, Disciplinary Rule 1-102(A) (5) (engaged in conduct prejudicial to the administration of justice); DR 1-102(A) (6) (engaged in conduct adversely reflecting on his fitness to practice law); DR 2-110(A) (failing to receive permission of a tribunal when permission is required prior to withdrawal); and DR 6-101(A) (3) (neglecting a legal matter entrusted to him).

IV. Recommendation as to Disciplinary Measures to be Applied: I recommend that the Respondent be disbarred from the practice of law and pay restitution and costs.

V. Personal History and Past Disciplinary Record: After finding of guilt 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:

(1) Age: 41

(2) Date Admitted to Bar: May 15, 1981

(3) Respondent graduated from Golden State University, San Francisco, California, in 1976. He clerked for a law firm in Bakersfield, California for one year and then worked as a financial analyst before moving to Florida in 1979. Respondent worked for a Florida law firm until it dissolved in 1982, and then went into sole practice at that time.

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:		
Administrative Costs	\$	150.00
Typing Service		99.00
Court Reporter Costs		321.45
Staff Investigator Expenses		1,201.50
Witness Fees		185.00
Branch Auditor		619.18
Branch Staff Counsel Expenses		10.80
Clerk of the Circuit Court		136.00
B. Referee Level		
Administrative Costs		150.00
Court Reporter Costs		331.85
Branch Staff Counsel Expenses		18.55
Branch Auditor Expenses		8.10
U.S. Bank Records		13.75
TOTAL AMOUNT DUE TO DATE:		<u>\$3,245.18</u>

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 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 22ND day of April, 1986.



MANUEL MENENDEZ, JR.
Referee

Copies furnished to:

Wayne R. Johnson, Respondent
John T. Berry, Staff Counsel, The Florida Bar
Stephen Rushing, Branch Staff Counsel

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

CONFIDENTIAL

Complainant,

CASE NO. 67,378
(TFB Nos. 06A83180)
06A84H77)

v.

WAYNE R. JOHNSON,

Respondent.

_____ /

STATEMENT OF COSTS

Grievance Committee Level
(TFB Nos. 06A83180 and 06A84H77):

A. Administrative costs at the Grievance Committee Level Florida Bar Integration Rule 11.06 (9) (a)	\$	150.00
1. Speedy Typing Service:		
<u>TFB No. 06A83180</u>		
(3/14/86) 16 pages @ \$3.00		78.00
<u>TFB No. 06A84H77</u>		
(3/21/84) 7 pages @ \$3.00		21.00
2. Witness Fees:		
James Ashford		15.00
Charles Ray		15.00
Earl Rayner		15.00
U.S. Bank subpoena records		140.00
3. Court Reporter Expenses: 11/19/84		
a. Attendance Fee: \$60.00		
b. Transcript Costs: 88 pages @ \$2.40		271.20
4. Court Reporter Expenses: 2/21/85		
a. Attendance Fee: \$26.25		
b. Transcript Costs: 10 pages @ \$2.40		50.25
5. Staff Investigator Expenses:		
(Ernest J. Kirstein, Jr.)		
a. <u>TFB No. 06A83180</u>		
Time Expended: 39.0 hrs. @ \$14.00		546.00
21.1 hrs. @ \$15.00		316.50
Mileage: 420 miles @ \$.25		105.00
b. <u>TFB No. 06A84H77</u>		
Time Expended: 3.6 hrs. @ \$14.00		50.40
5.0 hrs. @ \$15.00		75.00
Mileage: 30 miles @ \$0.26		7.80
60.0 miles @ \$0.27)		16.20
6. <u>TFB No. 06A84H77</u>		
Staff Investigator Expenses:		
(Walter B. Granger)		
a. Time Expended: 4 hrs. @ \$14.00		56.00
Mileage: 110 miles @ \$.26		28.60

- | | | |
|-----|--|--------|
| 7. | Karleen De Blaker
Clerk of the Circuit Court | |
| | 11/16/84 copying cost | 99.00 |
| | 09/28/84 copying cost | 6.00 |
| | 09/13/84 copying cost | 9.00 |
| | 02/17/84 copying cost | 22.00 |
| 8. | Branch Auditor Expenses:
Pedro J. Pizarro | |
| | a. Time Expended 16 5/10 hours | 339.74 |
| | b. Travel Expenses | 279.44 |
| 9. | Branch Staff Counsel Expenses:
Stephen Rushing (11/19/84) | |
| | Mileage: 20 miles @ .27 | 5.40 |
| 10. | Branch Staff Counsel Expenses:
Stephen Rushing (02/21/85) | |
| | Mileage: 20 miles @ .27 | 5.40 |

Referee Level

Case No. 67,378

(TFB Nos. 06A83180 & 06A84H77)

- | | | |
|----|--|-------------------|
| B. | Administrative cost at the Referee
level Florida Bar Integration Rule,
article XI, Rule 11.06(9) (a) | 150.00 |
| 1. | Court Reporter Expenses: 2/25/86 | |
| | a. Appearance Fee: \$30.00 | |
| | b. Transcript Costs: 33 pages @ 2.75 | 90.75 |
| 2. | Branch Staff Counsel Expenses:
Pre-trial Conference
Stephen Rushing (11/25/85) | |
| | Travel: 20 miles @ .27 | |
| | Parking: \$7.00 | 12.40 |
| 3. | Branch Staff Counsel: 12/10/85
Stephen Rushing | |
| | Mileage: 20 miles @ .27 | |
| | Parking: .75 | 6.15 |
| 4. | Court Reporter Expenses: 2/25/86 | |
| | a. Appearance Fee: \$30.00 | |
| | b. Transcript Costs: 211.20 | 241.10 |
| 5. | Branch Auditor Expenses: Pedro J. Pizarro
(2/25/86) | |
| | Travel: 30 miles @ .27 | 8.10 |
| 6. | U. S. Bank: 2/25/86
Subpoena Records | 13.75 |
| | TOTAL AMOUNT DUE TO DATE: | <u>\$3,245.18</u> |

The above costs have been incurred at the Grievance Committee and Referee level by The Florida Bar in the above-referenced date.

Dated this 18th day of April, 1986.

Respectfully submitted,



Stephen Rushing, Branch Staff Counsel
The Florida Bar, Suite C-49
Tampa Airport Marriott Hotel
Tampa, Florida 33607
(813) 875-9821

Copies furnished to:

Wayne R. Johnson, Respondent

John T. Berry, Staff Counsel, The Florida Bar