IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JOHN T. CARLON, JR.,

Respondent. /

CONFIDENTIAL

Supreme Court Case
No. 67,544

TFB Case No. 17C85F27

REPLY BRIEF OF

JOHN T. CARLON, JR.

JOHN T. CARLON, JR.
Petitioner for Review and
Respondent
2701-A E. Oakland Park Blvd.
P.O. Drawer 9237
Fort Lauderdale, FL 33310-9237
Tel.: (305) 563-2250
Fla. Bar No.: 011846

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PREFACE

This is the Reply Brief of Petitioner-Respondent JOHN T. CARLON, JR. Abbreviations utilized in this brief are as follows:

Bi - Initial Brief of Petitioner

App - Appendix of Petitioner

Ba - Answer Brief of the Florida Bar

ARGUMENT

While Respondent agrees with the Florida Bar's position on Ba-5 that "the facts of the complaint against the Respondent can be very simply stated," Respondent does not agree that the statement of those facts by the Florida Bar is accurate and further vigorously disagrees with the conclusions urged upon this Court by the Florida Bar.

The Florida Bar conveniently ignores the fact that at the time of the personal conference with Spier, Atkinson and Gaigelus, the validity of their election to condominium offices was being questioned, and they therefore had no clear authority at that time to act on behalf of the condominium. Thus, any conversation that may have taken place at that meeting (which was the only one ever attended by Respondent personally according to their own testimony) could only relate to them as individuals since their corporate authority was not established. The Florida Bar ignores the difference in those individual and corporate capacities.

These ladies in their respective individual capacities never received any bill from Respondent, so they are hardly in a position to complain of any "fraud," nor can the Florida Bar.

On April 20, 1982, which was some time after their meeting with Respondent and after assuming their respective corporate offices, the same ladies - now in their capacity as elected directors of the condominium association - formally named Marie

Hotaling and Respondent as "attorney" for the association (App-4). No mention was made of compensation rate, billing procedures, or any other restrictions on the employment of Respondent.

After Respondent's billing was completely ignored for several months, Respondent in late 1982 sued the association for reasonable compensation and subsequently was awarded a judgment of $1,048.00 by Hon. Alfred Skaf.

At the hearing on this matter, evidence introduced by the Respondent (Judge Skaf's voluntary testimony) conclusively established the complete falsity of the allegation of the Florida Bar that Ms. Hotaling failed to appear in Court on their behalf. (Paragraph 11 of the Complaint of the Florida Bar.)

Moreover, there not only was no evidence of an agreement by Respondent not to charge for fees, there is uncontradicted evidence that even the ladies of Tam O'Shanter understood that Respondent was not performing legal services without charge. The inference of such an agreement sought to be raised by the Florida Bar in the last paragraph of Ba-5 is improper. (The third word of that paragraph is obviously another Florida Bar error, incidentally.)

Finally, no relief from the Respondent's judgment has ever been sought by anyone on behalf of Tam O'Shanter in the manner provided by Florida Rules of Civil Procedure.

CONCLUSION

Much as the Florida Bar may wish to in this case, Respondent cannot be held accountable for the actions and/or alleged derelictions of Marie Hotaling.

Respondent was properly engaged by the condominium, albeit on a limited basis; he performed services for them and incurred indebtedness for their benefit; he sought and obtained by definition reasonable compensation for his services as provided by law. None of these actions, it is submitted, are properly the subject for discipline.

Whether the actions of the Florida Bar are motivated by personal considerations, a Marie Hotaling vendetta, or are simply the result of a frenzy to obtain the maximum possible convictions as justification for the continued existence of the particular Bar officials really does not matter.

The fact is the Florida Bar has wholly ignored the time parameters established by this Court and the Integration Rule without even attempting a showing of any cause whatever. While these delays may not be jurisdictional, neither should they be automatically excused. Here apparently the arrogance of the Florida Bar has apparently not permitted even an apology or request for excuse. Certainly in the absence of any allegation of extenuating circumstances, the only conclusion justifiable is that there are none.

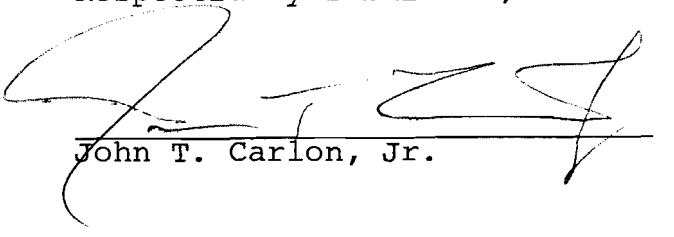
Otherwise, the Florida Bar has been elevated above the law and beyond any meaningful reach of this, or any other, Court. Respondent submits that should not be allowed to occur - or if it has occurred, it should be forthwith corrected.

This cause should be forthwith dismissed at the cost of the Florida Bar for the dual reasons that

a. the Florida Bar has been guilty of repeated and flagrant disregard of its obligations to the Integration Rule, and

b. the evidence adduced affirmatively shows that Respondent has not been guilty of any conduct justifying disciplinary measures.

Respectfully submitted,



John T. Carlon, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY I have furnished a copy hereof by mail to each of the following:

JACQUELYN PLASNER NEEDELMAN, Bar Counsel
The Florida Bar
602 Galleria Professional Building
915 Middle River Drive
Ft. Lauderdale, Florida 33304

and

JOHN T. BERRY, ESQ., Staff Counsel
The Florida Bar
Tallahassee, Florida 32301-8226

this 16th day of October, 1986.

JOHN T. CARLON, JR.
Respondent
2701-A East Oakland Park Blvd.
P.O. Drawer 9237
Fort Lauderdale, FL 33310-9237
Telephone: (305) 563-2250