

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,)
Complainant,)
v.)
WALTER F. MCQUADE,)
Respondent.)

FILED

SID J. W. [unclear]
FEB 21 1986

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

The Florida Bar Case
Nos.

11L85M12, 11L84M93,
11L85M69, 11L84M90,
11L85M17, 11L85M91,
11L85M92, 11L85M46

Supreme Court Case
No. 67,749

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS: Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct disciplinary proceedings as provided for by article XI, Rule 11.06 of the Integration Rule of The Florida Bar, a Final Hearing was held on February 10, 1986 in Miami, Dade County, Florida. All of the pleadings, notices, motions, orders, transcripts and exhibits are forwarded with this report and the foregoing constitutes the record of this case.

Louis Thaler appeared as Counsel for The Florida Bar. Respondent did not appear after being duly noticed.

On October 10, 1985, The Florida Bar filed a formal Complaint against Respondent based upon separate findings of Probable Cause by Eleventh Judicial Circuit Grievance Committee "L" on April 23, 1985 and August 14, 1985.

On October 16, 1985, The Florida Bar filed Request for Admissions pursuant to the Rules of Civil Procedure. Having received no response to the Request for Admissions, The Florida Bar filed a Motion for Order Deeming Matters Admitted on December 4, 1985. This Referee set a hearing on said motion on December 13, 1985. On December 13, 1985, this Referee granted The Florida Bar's motion and entered an

Order Deeming Matters Admitted based upon Respondent's non-appearance at the hearing and non-response to The Florida Bar properly propounded Request for Admissions. Further, on December 13, 1985, this Referee entered an Order on Ore Tenus Motion to Deem Confidentiality Waived by Respondent.

This matter was set for Final Hearing on February 10, 1986. Notices of Hearing were sent to Respondent's last known address of 820 S.W. 93rd Place, Miami, Florida 33174, by certified and regular mail. As has been the pattern throughout The Florida Bar's prosecution of this case, the certified mail notice was returned unclaimed. However, based upon evidence presented by Bar Counsel as to regular mail service, this Referee is satisfied that Respondent received notice of the Final Hearing.

II. FINDINGS OF FACT:

Respondent did not appear personally or by Counsel at the Final Hearing. The Referee accepted in evidence: the transcripts of Grievance Committee hearings held April 23, 1985 in The Florida Bar Case Nos. 11L84M90, 11L84M93, 11L85M12, 11L85M13, 11L85M46, 11L85M69 and held August 14, 1985 in The Florida Bar Case Nos. 11L85M91 and 11L85M92; and the transcript of the deposition of Daniel C. George and Mervyn Ames taken November 8, 1984. Based on a review of these various transcripts and the Order Deeming Matters Admitted, I find:

1. That Respondent, is and at all times hereinafter mentioned was, a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida and the Integration Rule of The Florida Bar.

2. That at all times hereinafter mentioned, Respondent was associated as a law partner with Daniel C. George, Esq., doing business as the Law Office of George and McQuade, 700 N.E. 125th Street, North Miami, Florida 33161.

3. That Respondent's association with the Law Office of George & McQuade was terminated by Daniel C. George, Esq. on or about October 19, 1984.

4. That during or about 1979, Helen Johnson retained Respondent to pursue a negligence/product's liability claim.

5. That on repeated occasions, Respondent advised Helen Johnson that he was working on her case.

6. That on repeated occasions, Respondent advised Helen Johnson that he had filed suit in her case.

7. That Respondent never filed suit and the statute of limitations expired on Helen Johnson's potential claim.

8. That Respondent paid Helen Johnson \$12,400 in piecemeal payments to prevent her from lodging a complaint with the State Attorney's Office and The Florida Bar.

9. That among the piecemeal payments, Respondent paid Helen Johnson \$6,666 with check #274 drawn on the George & McQuade (Attorneys at Law) trust account.

10. That there were never any funds belonging to Helen Johnson in the George & McQuade (Attorneys at Law) trust account and therefore Respondent converted other clients monies from the trust account to pay Helen Johnson.

11. That on or about August 15, 1984, Helen Johnson lodged a complaint against Respondent with The Florida Bar.

12. That on or about February 1, 1985, Respondent telephoned Helen Johnson and threatened Helen Johnson's life because she lodged a complaint against Respondent with The Florida Bar.

13. That during or about January 1978, Janet Lucas sold property located in Northeast Miami to a certain buyer.

14. That Janet Lucas held the mortgage on the property.

15. That during or about July 1982, Janet Lucas retained Respondent to start a foreclosure action against the buyer for failure of the buyer to make mortgage payments.

16. That when asked about the status of the foreclosure action, Respondent advised Janet Lucas that he had filed the foreclosure action.

17. That despite repeated telephone calls from Janet Lucas, Respondent failed to keep Janet Lucas advised of the status of the purported foreclosure action.

18. That Respondent failed to file a foreclosure action or take any other action against the buyer.

19. That Respondent's failure caused substantial financial harm to Janet Lucas.

20. That during or about July 1980, Mary LaScala retained Respondent to represent her and her mother, Josephine Galante, as a result of personal injuries both individuals suffered at Dallas-Fort Worth Airport occasioned by the negligence of Braniff International Airways.

21. That subsequently, Mary LaScala inquired of Respondent as to the status of her case and Respondent advised her that he had filed suit in federal court against Braniff International Airways and that said suit was pending before "Judge Eaton".

22. That during or about July 1984, Mary LaScala again inquired of Respondent as to the status of her case as the case was approximately four years old.

23. That Respondent advised Mary LaScala not to worry as Respondent had handled similar cases "up to eight years".

24. That Respondent further advised Mary LaScala that Braniff had offered \$50,000 and Respondent was trying to negotiate a settlement of \$75,000.

25. That Respondent never filed suit in any federal or state court.

26. That Respondent never negotiated any settlement offers with Braniff International Airways.

27. That because of Respondent's inaction and neglect, the statute of limitations expired on both Mary LaScala's and Josephine Galante's causes of action.

28. That during or about 1976, Leonard Aronson retained Respondent to represent him in a personal injury claim against Metropolitan Dade County.

29. That Respondent never filed suit on behalf of Aronson and the statute of limitations expired.

30. That during or about June 1983, Elizabeth Burnett Welke retained the services of Respondent to handle the estate of her deceased brother.

31. That Respondent took no action to process the estate of Elizabeth Burnett Welke's brother for a period of more than 14 months.

32. That despite repeated attempts to contact Respondent about the status of her brother's estate, Respondent did not advise Elizabeth Burnett Welke that Respondent had taken no action to process the estate.

33. That during or about November 1981, Francis Boccia retained Respondent relative to a civil judgment which had been rendered against Francis Boccia in Dade County, Florida.

34. That Francis Boccia's insurance company had satisfied the civil judgment but no settlement release was obtained as to Francis Boccia.

35. That, because no settlement release had been obtained as to Francis Boccia, Francis Boccia was undergoing difficulties in negotiating the sale or purchase of property in his name.

36. That Respondent advised Francis Boccia that he would obtain a settlement release for Francis Boccia.

37. That Francis Boccia paid Respondent \$824.65 in cash for court costs, document fees and witness fees.

38. That Respondent made no effort to obtain a release for Francis Boccia or otherwise solve Francis Boccia's legal problem.

39. That Francis Boccia continued to undergo difficulties in negotiating the sale or purchase of properties in his name.

40. That during or about 1981, Jorge Salpurido retained Respondent to pursue a claim of personal injury occurring to Jorge Salpurido.

41. That Respondent took no steps to either settle Jorge Salpurido's claim or file suit on Jorge Salpurido's behalf.

42. That on or about October 11, 1984, Respondent issued and signed check #2837 from the George & McQuade (Attorney at Law) operating account payable to "Sharon Hudson" in the amount of \$3,000.

43. That the entry in the George & McQuade (Attorney at Law) operating account ledger for check #2837 reflects an entry of \$5.00 for "Clk. Circuit Ct. file costs".

44. That there were no funds belonging to or properly owing to Sharon Hudson in the George and McQuade (Attorney at Law) operating account.

45. That Respondent converted \$3,000 from the George & McQuade, (Attorney at Law) operating account to extinguish a personal debt.

46. That on or about November 29, 1983, Respondent forged the name of a Circuit Court Judge to a fraudulently prepared "Final Judgment" in Dade County Circuit Court Case No. 83-13201(09), Daniel C. George and Walter F. McQuade, d.b.a. George & McQuade vs. Fidelity Interstate Life Insurance Company.

47. That on or about February 24, 1984, Respondent forged the name of a Circuit Court Judge to a fraudulently prepared "Order on Petitioner's Motions" in Dade County Circuit Case No. 82-15227, Lois Rene Herr vs. Barnett Banks Trust Company, N.A.

48. That Respondent, in approximately 20 instances, intercepted mail delivered to the Gold's Coast Insurance Company, a business operated by Respondent's law partner, Daniel C. George, Esq., separate and apart from the Law Office of George & McQuade, but which used the same office address.

49. That Respondent intercepted mail delivered to the Law Office of George & McQuade from various clients and left them unopened and neglected.

50. That Respondent, without the permission of any court or authority, in approximately 10 instances, took court files from the Dade County Courthouse and the Broward County Courthouse and failed to return them.

III. RECOMMENDATION AS TO GUILT:

Based on clear and convincing evidence, I recommend that Respondent be found guilty of violating the Code of Professional Responsibility and Integration Rule of The Florida Bar on all Counts charged in The Florida Bar's Complaint. Specifically, Respondent should be found guilty of violating Disciplinary Rules 1-102(A)(3); 1-102(A)(4); 1-102(A)(5); 1-102(A)(6); 6-101(A)(3) and 6-102(A) of the Code of Professional Responsibility and Rules 11.02(3) and 11.02(4) of the Integration Rule of The Florida Bar.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES:

The Florida Bar's official position with respect to discipline is that Respondent be disbarred from The Florida Bar.

Respondent has shown no cooperation with The Florida Bar or in these proceedings. Respondent has not opposed or defended his prosecution to date. In fact, Respondent has been deemed to have admitted all allegations of misconduct presented by The Florida Bar. Therefore, based upon the evidence, which has not been contradicted by Respondent in any way, I recommended that Respondent be disbarred from The Florida Bar pursuant to Rule 11.10(5) of the Integration Rule of The Florida Bar.

V. COSTS:

I find that the following costs were reasonably incurred by The Florida Bar and should be assessed against Respondent to be payable within 30 days after the Supreme Court's acceptance of this Report.

Administrative Costs
[Integration Rule 11.06(9)(a)]:
Grievance Level (8 x 150.00)..... \$ 1,200.00
Referee Level (8 x 150.00)..... 1,200.00

Court Reporter:

Deposition Daniel C. George (11/8/84)	226.49
Grievance Committee Hearings (4/23/85)	558.95
(8/14/85)	91.95
Pre-trial Hearing (12/13/85)	56.75
Final Hearing (2/10/86)	<u>66.80</u>
TOTAL	\$ 3,400.94 =====

DONE AND ORDERED IN CHAMBERS, at Fort Lauderdale, Broward County, Florida this 17 day of February, 1986.

Brian P. Kay
BRIAN P. KAY
Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee was sent to Sid J. White, Clerk, Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32301, along with all pleadings, notices, motions, orders, transcripts and exhibits; and true and correct copies were sent to Louis Thaler, Bar Counsel, The Florida Bar, Suite 211 Rivergate Plaza, 444 Brickell Avenue, Miami, Florida 33131 and to Respondent at his last known address of 820 S.W. 93rd Place, Miami, Florida 33174, on this 17 day of February, 1986.

Brian P. Kay
BRIAN/P. KAY
Referee