

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED
SID J. WHITE
MAY 1986
CLERK, SUPREME COURT
By _____
Deputy Clerk

THE FLORIDA BAR,
Complainant,
v.
ROBERT J. PINCKET,
Respondent.

Case No. 67,87A4
(TFB No. 02-86N82)

REPORT OF THE REFEREE

I. Summary of Proceedings

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to The Florida Bar Integration Rule, article XI, the following proceedings occurred:

On November 8, 1985, The Florida Bar filed its complaint against Respondent. A copy of the complaint and a request for admissions were mailed to Pincket's record bar address. In addition, on November 16, 1985 copies were sent to Pincket at the Federal Correctional Institute--Tallahassee, Florida, where he is incarcerated. Pincket did not answer or object to the Request for Admissions. A motion for judgment on the pleadings was served on or about January 7, 1986. This matter was heard on April 29, 1986 on the motion for judgment on the pleadings filed by The Florida Bar.

II. Findings of Fact as to Each Item of Misconduct of Which Respondent is Charged

After considering all the pleadings and granting the motion for judgment on the pleadings, I find:

Robert J. Pincket was suspended from the practice of law for two years, commencing on January 25, 1980 (The Florida Bar v. Pincket, 398 So.2d 802 (Fla. 1981)). He was suspended for violating DR 9-102 (preserving the identity of funds and property of a client) and Integration Rule 11.02(4) (breach of discipline with respect to trust funds and fees).

Thereafter, Pincket became president and chief operating officer of Curtis, Harper and Banks, a commercial collection agency. The monies collected by Pincket, however, were not provided to the organization's clients. Instead, they were directed to Pincket's own personal use. As a result, Pincket was charged in an eleven count indictment. On August 16, 1985, he was adjudicated guilty of a felony in the United States District Court for the District of Florida. His conviction was predicated upon a plea of guilty to count I of the indictment. Count I charged Pincket with unlawfully, willfully and knowingly devising a scheme to defraud and obtain money and property by means of false and fraudulent pretenses, representations and promises, to wit, placing an envelope in the United States mail to be delivered by the United States Postal Service, in violation of Title 18, U.S.C. Sections 1341 and 1342.

Pincket's actions constitute a violation of Fla. Bar Integr. Rule, Article XI, Rule 11.02(3) which proscribes conduct by an attorney contrary to honesty, justice or good morals and a violation of Disciplinary Rules 1-102(A)(4) and 1-102(A)(6) which prohibit an attorney from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation and which adversely reflects on his fitness to practice law.

III. Recommendations as to Whether Respondent Should Be Found Guilty

I recommend that Respondent be found guilty of the following violations of the Code of Professional Responsibility:

Fla. Bar. Integr. Rule 11.02(3) (the commission by a lawyer of any act contrary to honesty, justice or good morals, whether the act is committed in the course of his relations as an attorney or otherwise).

DR 1-102(A)(4), a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

DR 1-102(A)(6), a lawyer shall not engage in any other conduct that adversely reflects on his fitness to practice law.

IV. Recommendation as to Disciplinary Measures to Be Applied

I recommend that Respondent be disbarred.

V. Personal History and Past Disciplinary Record

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

Age: 43 years old

Date Admitted to Bar: November 19, 1971

Prior Discipline: The Florida Bar v. Pincket, 398 So.2d 802 (Fla. 1981). Respondent received a two year suspension for trust fund violations.

VI. Statement of Costs and Manner in Which Costs Should Be Taken

I find the following costs were reasonably incurred by The Florida Bar:

A. Grievance Committee Level

1. Administrative Costs	\$ -0-
2. Court Reporter and Transcripts Costs	-0-
3. Bar Counsel Travel Costs	-0-

B. Referee Level

1. Administrative Costs	\$150.00
2. Court Report and Transcript Costs	71.60
3. Bar Counsel Travel Costs	<u>-0-</u>
TOTAL	221.60

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and be payable beginning 30 days after judgment in this case becomes final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this 27th day of May, 1986.


Referee

Copies to:

John A. Boggs, Bar Counsel
Robert J. Pincket, Respondent