

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED
JUN 29 1986
CLERK, SUPREME COURT
By _____ Deputy Clerk

THE FLORIDA BAR,
Complainant,

CONFIDENTIAL
Case No. 68,641

v.

STEVEN L. SOMMERS,
Respondent.

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as Referee to conduct disciplinary proceedings herein according to Article XI of the Integration Rule of The Florida Bar, hearings were held on May 9, 1986. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits, all of which are forwarded to The Supreme Court of Florida with this report, constitute the record of this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: John B. Root, Jr., Orlando, Florida

For the Respondent: John A. Weiss, Tallahassee, Florida

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, pertinent portions of which are commented upon below, I find:

As to Count I (09D85C48)

That the Respondent admits violation of Disciplinary Rules:

- (A) 1-102(A)(1)
- (C) 1-102(A)(6)
- (E) 6-101(A)(3)
- (F) 7-101(A)(2)

That The Florida Bar drops charges of violation of:

- (B) 1-102(A)(5)
- (D) 6-101(A)(2)
- (G) 7-101(A)(3)

That Client Farnham is not entitled to any refund of the fee paid to Respondent due to the still pending case.

That the Referee finds this to be the Stipulation of the attorneys, and that it is reasonable, and adopts the said Stipulation.

As to Count II (09D85C74)

That the Respondent admits violation of Disciplinary Rules:

- (A) 1-102(A)(1)
- (C) 1-102(A)(6)
- (E) 6-101(A)(3)
- (F) 7-101(A)(2)

That The Florida Bar drops charges of violation of:

- (B) 1-102(A)(5)
- (D) 6-101(A)(2)
- (G) 7-101(A)(3)

That Respondent make restitution to Client Oh in the amount of \$200.00.

That the Referee finds this to be the Stipulation of the attorneys, and that it is reasonable, and adopts the said Stipulation.

As to Count III (09D85C86)

That the Respondent admits violation of Disciplinary Rules:

- (A) 1-102(A)(1)
- (B) 1-102(A)(5)
- (C) 1-102(A)(6)
- (E) 6-101(A)(3)
- (F) 7-101(A)(2)
- (G) 7-101(A)(3)

That The Florida Bar drops charges of violation of:

- (D) 6-101(A)(2)
- (H) 9-102(B)(4)

That the Respondent make restitution to Client Prothero in the amount of \$500.00.

That the Referee finds this to be the Stipulation of the attorneys, and that it is reasonable, and adopts the said Stipulation.

As to Count IV (09D85C92)

That the Respondent admits violation of Disciplinary Rules:

- (A) 1-102(A)(1)
- (C) 1-102(A)(6)
- (E) 6-101(A)(3)
- (F) 7-101(A)(2)

That The Florida Bar drops charges of violation of:

- (B) 1-102(A)(5)
- (D) 6-101(A)(2)
- (G) 7-101(A)(3)
- (H) 9-102(B)(4)

That Client Meier is not entitled to any refund of the fee paid to Respondent due to the still pending case.

That the Referee finds this to be the Stipulation of the attorneys, and that it is reasonable, and adopts the said Stipulation.

As to Count V (09D86C15)

That the Respondent denies violation of Disciplinary Rules:

- (A) 1-102(A)(6)
- (B) 6-101(A)(3)

That The Florida Bar drops charges of violation of:

- (B) 101(A)(3)

That the Referee finds that Respondent was never retained by Client Strickland to represent her. That Client Strickland paid Respondent a consultation fee of \$30.00 and is not entitled to any refund. That Client Strickland retained other counsel and filed her lawsuit within the statutory time limits and has not suffered any loss due to the nonrecovery of papers left at Respondent's office.

As to Count VI (09D86C16)

That the Respondent admits violation of Disciplinary Rules:

- (A) 1-102(A)(1)
- (B) 1-102(A)(6)
- (C) 6-101(A)(3)
- (D) 7-101(A)(2)

That Respondent make restitution to Client Williams in the amount of \$400.00.

That the Referee finds this to be the Stipulation of the attorneys, and that it is reasonable, and adopts the said Stipulation.

As to Count VII (09D86C18)

That the Respondent admits violation of Disciplinary Rules:

- (A) 1-102(A)(1)
- (B) 1-102(A)(5)
- (C) 1-102(A)(6)
- (E) 6-101(A)(3)
- (F) 7-101(A)(2)
- (G) 7-101(A)(3)

That The Florida Bar drops charges of violation of:

- (D) 6-101(A)(2)

That Respondent make restitution to Client Gunter in the amount of \$700.00.

That the Referee finds this to be the Stipulation of the attorneys, and that it is reasonable, and adopts the said Stipulation.

As to Count VIII (09D86C21)

That the Respondent admits violation of Disciplinary Rules:

- (A) 1-102(A)(1)
- (B) 1-102(A)(5)
- (C) 1-102(A)(6)
- (D) 6-101(A)(2)
- (E) 6-101(A)(3)
- (F) 7-101(A)(2)
- (G) 7-101(A)(3)

That the Respondent make restitution to Client Branson in the amount of \$1,000.00.

That the Referee finds this to be the Stipulation of the attorneys, and that it is reasonable, and adopts the said Stipulation.

III. Recommendations as to whether or not the Respondent should be found guilty: As to each Count of the Complaint, I make the following recommendations as to guilt or innocence:

As to Counts I, II, III, IV, VI, VII and VIII

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating all of the Disciplinary Rules of the Code of Professional Responsibility hereinabove stipulated, the Referee having adopted the Stipulations of counsel for The Florida Bar and Respondent.

As to Count V

That the Respondent is not guilty.

- IV. Recommendation as to Disciplinary Measures to be applied: (1) I recommend that the Respondent be suspended for a period of Six months and thereafter until he shall prove his rehabilitation. (2) I further recommend that the Respondent comply with all the Aftercare chemical abuse program of Brookwood and avail himself of the services of The Florida Bar's Charles Hagan, Jr.'s program during the terms of his suspension.

As to Count V

Having found the Respondent not guilty, no discipline is recommended.

- V. Personal History and Post Disciplinary Record: After finding guilty 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:

Age: Respondent born in 1952
Date admitted to Bar: May 31, 1977
Prior disciplinary convictions and disciplinary measures imposed therein: None
Other personal data: Respondent voluntarily committed himself to Brookwood Manor for treatment of chemical substance abuse and completed their six week program.

- VI. Statement of costs and manner in which cost should be taxed: I find the following costs were reasonably incurred by The Florida Bar:

A. Referee Level Costs	
1. Administrative Costs	\$ 50.00
2. Transcript Costs	156.88
3. Bar Counsel/Branch Staff Counsel Travel Costs	12.50
B. Miscellaneous Costs	
1. Investigator's Expenses	<u>216.00</u>
TOTAL ITEMIZED COSTS:	\$ 435.38

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 become final unless a waiver is granted by the Board of Governors of The Florida Bar.

DATED this 18th day of June, 1986.

Frances Ann Jamieson
FRANCES ANN JAMIESON, Referee

Copies furnished to:

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