

IN THE SUPREME COURT OF FLORIDA

FILED
CLERK
By _____

THE FLORIDA BAR,)	
Complainant,)	Supreme Court Case
)	No. 68,350
vs.)	
)	The Florida Bar Case
BLAS E. PADRINO,)	No. 11J85M76
Respondent.)	

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 of the Integration Rule of The Florida Bar, review of a consent judgment for discipline was undertaken. All of the pleadings, notices, motions, orders, transcripts and exhibits are forwarded with this report and the foregoing constitutes the record of this case.

The following attorneys appeared as counsel for the parties:

On Behalf of The Florida Bar: Patricia S. Etkin
On Behalf of the Respondent: pro se

Respondent submitted a Stipulation as to Probable Cause, Unconditional Guilty Plea and a Consent Judgment for Discipline ("Consent Judgment") which provided for a public reprimand with two (2) years' probation during which time Respondent would submit quarterly reports from a Certified Public Accountant reflecting that his trust account was being maintained in compliance with Integration Rule 11.02(4)(c) and pay costs of the proceedings and audit.

In response, Complainant filed a Petition for Approval of Consent Judgment for Discipline which reflects the position of The Florida Bar, as approved by the Designated Reviewer of the Eleventh Judicial Circuit Grievance Committee "J", that Respondent's plea be accepted based upon the imposition of the following disciplinary terms:

(a) public reprimand to be published in the Southern Reporter upon entry of the final order of discipline by the Supreme Court of Florida;

(b) two (2) years' probation during which time Respondent is required to submit quarterly reports from a Certified Public Accountant reflecting that his trust account is being maintained in compliance with Rule 11.02(4)(c) of the Integration Rule of The Florida Bar;

(c) taxation of costs of the proceedings assessed against Respondent, with execution to issue with interest at a rate of 12% to accrue on all costs not paid within thirty (30) days of entry of the Supreme Court's final order, unless the time for payment is extended by the Board of Governors.

Having reviewed the record of these proceedings, I find that Respondent's plea and the recommendation of The Florida Bar as to terms of discipline are both fair to the Respondent and in the best interests of the public. Accordingly, Respondent's Conditional Guilty Plea for Consent Judgment and the terms of discipline recommended by The Florida Bar are accepted and hereby adopted as the recommendations of this Referee in this matter.

II. FINDINGS OF FACT: In his consent judgment, Respondent admits certain factual matters, which I hereby accept and adopt as the findings of fact in this cause to wit:

(1) During the period August 1982 through September 1985, Respondent issued at least four (4) checks from his office account and one (1) check from his trust account, payable to the Clerk, Circuit Court, which were dishonored.

(2) As a result of the foregoing, an examination and analysis of Respondent's trust and office accounts were conducted for the period August 1982 through September 1985 (hereinafter referred to as "audit").

(3) The audit revealed that Respondent's handling of his trust account was not in compliance with the minimum trust accounting procedures required pursuant to Rule 11.02(4), Integration Rule of The Florida Bar and its Bylaws, as described below.

(4) Respondent commingled his own funds with funds in his trust account.

(5) Respondent issued checks against uncollected funds.

(6) Respondent failed to make quarterly and/or monthly trust account reconciliations.

(7) Respondent failed to keep an accurate running balance in his check-stub book.

(8) Respondent failed to maintain proper ledger cards or similar equivalent records clearly reflecting the date, amount, source and reason for all receipts and disbursement of trust funds.

(9) Respondent's poor recordkeeping resulted in the return of Respondent's checks by the bank.

III. RECOMMENDATION AS TO GUILT: In his consent judgment, Respondent admits that his trust accounting recordkeeping procedures were not in accordance with the minimum requirements. Based upon Respondent's admissions, I recommend that Respondent be found guilty of violating article XI, Rule 11.02(4) of the Integration Rule of The Florida Bar, Bylaws under the Integration Rule, article XI, Section 11.02(4)(c) and Disciplinary Rule 9-102(A) of the Code of Professional Responsibility.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

In recommending discipline, I considered the following facts offered by Respondent in mitigation:

(1) In 1983 a final judgment was obtained against Respondent arising from a malpractice claim. During or about the same period, Respondent's wife became seriously ill, requiring hospitalization and surgery. These medical expenses made it difficult for Respondent to satisfy the judgment.

(2) As a result, Respondent's law office bank account was garnished and his office furniture and books were the subject of a writ of execution.

(3) Because of his inability to meet these obligations Respondent filed for bankruptcy.

(4) Respondent engaged in commingling and poor recordkeeping, but did not misappropriate any client funds.

(5) Respondent promptly redeemed all dishonored checks upon notice of their return by the bank.

(6) Respondent fully cooperated with the Bar's investigation and audit, including furnishing all bank records without the issuance of a subpoena.

(7) Following the Bar audit, Respondent took action to correct the deficiencies in his trust accounting procedures and now follows the required procedures.

(8) Respondent has no record of any prior disciplinary action.

Accordingly, I accept Respondent's Conditional Guilty Plea for Consent Judgment and recommend the imposition of the following disciplinary terms:

(a) public reprimand to be published in the Southern Reporter upon entry of the final order of discipline by the Supreme Court of Florida;

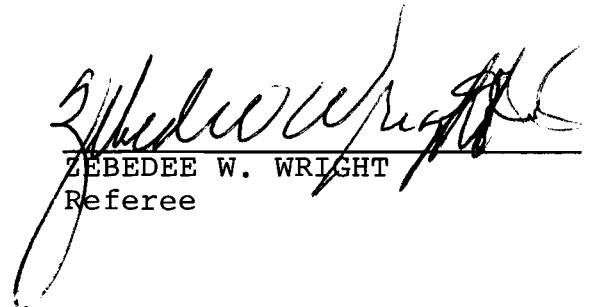
(b) two (2) years' probation during which time Respondent is required to submit quarterly reports from a Certified Public Accountant reflecting that his trust account is being maintained in compliance with Rule 11.02(4)(c) of the Integration Rule of The Florida Bar.

V. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER IN WHICH COSTS SHOULD BE TAXED: I find that the following were reasonably incurred by The Florida Bar as costs in these proceedings and should be assessed against Respondent:

	<u>Amount</u>
Administrative Costs:	
Referee Level	\$ 150.00
Cost of Audit: Investigation	<u>871.19</u>
TOTAL	\$1,021.19

It is recommended that the foregoing costs be assessed against Respondent. It is further recommended that execution issue with interest at a rate of twelve percent (12%) to accrue on all costs not paid within 30 days of entry of the Supreme Court's final order, unless the time for payment is extended by the Board of Governors of The Florida Bar.

Dated this 15 day of June, 1986.


ZEBEDEE W. WRIGHT
Referee

Copies furnished to:

Patricia S. Etkin, Esq.
Blas E. Padrino, Esq.