

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR

Complainant

vs.

PAUL BLOCK

Respondent

CONFIDENTIAL

SUPREME COURT CASE  
68,799

THE FLORIDA BAR CASE  
11A 85M21

FILED  
OCT 27 1986  
CLERK SUPREME COURT  
By: *jl*  
Deputy Clerk

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

1. By Formal Report dated January 14, 1986, Grievance Committee "A" of the Eleventh Judicial Circuit entered a finding of Probable Cause against Respondent in the above-captioned matter. The Grievance Committee also favorably recommended that Respondent be afforded the opportunity to submit a conditional guilty plea for Consent Judgment for a Public Reprimand and a structured three-year period of supervised probation. On or about March 25, 1986, Respondent, by and through counsel, tendered his Conditional Guilty Plea for Consent Judgment, same incorporating the terms and conditions mandated by the Grievance Committee. The Conditional Guilty Plea was subsequently reviewed and duly approved by Michael Nachwalter, Esq., Designated Reviewer, on behalf of the Board of Governors of The Florida Bar.

2. On or about May 21, 1986, The Florida Bar filed its Petition to Approve Conditional Guilty Plea for Consent Judgment with the Supreme Court of Florida. On or about June 24, 1986, the Honorable Ben Overton, acting Chief Justice of the Supreme Court of Florida, ordered the appointment of the undersigned Circuit Judge to serve as Referee in the instant cause. The Grievance Committee Report and the Consent Judgment are appended to the Record as original exhibits to The Florida Bar's Petition.

3. The following attorneys appeared as Counsel for the parties:

On Behalf of The Florida Bar:      Randi Klayman Lazarus  
The Florida Bar  
444 Brickell Avenue Suite 211  
Miami, Florida, 33131  
Telephone: 377 4445  
TFB 306929

On Behalf of Respondent:     Herbert Stettin, Esquire  
  One S.E. Third Avenue  
  Miami, Florida, 33131  
  Telephone: 305-358-5690  
  TFB: 078021

II. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH  
RESPONDENT IS CHARGED: After considering all the pleadings,

documentary evidence, and earlier-entered testimony, the undersigned Referee finds:

IN GENERAL

4. That Respondent, PAUL BLOCK, is and all times hereinafter mentioned, was a member of The Florida Bar subject to the jurisdiction and Disciplinary Rules of The Supreme Court of Florida.

5. That all times material to the investigation and prosecution of the various allegations giving rise to the complaint sub judice, The Florida Bar has diligently pursued its obligations and ethical responsibilities to contact the Respondent and to provide him with notice of all proceedings, pleadings, hearings, and the like.

6. That at all times material to the hearing of this cause, both The Florida Bar and Respondent have been afforded ample opportunity to argue their respective positions, and to present any and all matters bearing directly or indirectly on the instant proceedings. Further, both parties have affirmatively waived their right to appear before the Referee, instead requesting that the Referee review the earlier-filed transcript of proceedings before the Grievance Committee and all documentary matters incident thereto. The transcript of proceedings before the Grievance Committee is appended to the Record as an original exhibit to The Florida Bar's Petition to Approve Conditional Guilty Plea for Consent Judgment.

BACKGROUND

7. On or about October 8, 1984, Mr. A. L. Broudy filed a grievance complaint PAUL G. BLOCK, Esq. alleging that Respondent caused to be issued his trust account check in the amount of NINETEEN THOUSAND NINE HUNDRED FOUR DOLLARS AND THREE CENTS (\$19,904.03), which same being subsequently dishonored upon first presentment due to insufficient funds on account.

8. Based upon the Bar's initial investigation of this grievance, it was learned that Mr. and Mrs. Broudy (upon the recommendation of their real estate broker) retained Respondent to represent them incident to the sale of a condominium located

in Dade County, Florida. A closing was originally scheduled for August 15, 1984; however, the closing was later postponed and rescheduled for September 1, 1984.

9. Mr. and Mrs. Broudy did not actually attend the closing which did, in fact, occur on the rescheduled date. It further appears that Respondent, as attorney for the sellers, took receipt of a cashier's check in the amount of TWENTY THOUSAND DOLLARS(\$20,000.). Mr. Broudy had earlier instructed Respondent to deposit these proceeds into their money market account at a local bank once the subject funds had cleared Respondent's trust account. Notwithstanding and contrary to Mr. Broudy's instructions, Respondent failed to deposit the cashier's check until on or about September 25, 1984. Several days thereafter, Mr. Broudy instructed his account executive at the Barnett Bank to wire transfer the closing proceeds then on deposit to his bank in California. Shortly thereafter, Mr. Broudy was advised that Mr. Block's trust account check was dishonored as a result of insufficient funds on account. This state of affairs effectively negated the earlier wire transfer and caused Mr. and Mrs. Broudy to file the instant grievance complaint.

10. Upon learning that his trust account check had been dishonored, Respondent immediately deposited sufficient funds to his trust account to permit the subject check to clear on second presentment. However, Mr. Broudy insisted that the funds be wired to his California bank via a cashier's check; this was accomplished on or about October 5, 1984.

11. Based upon the foregoing, Staff Counsel conferred with the then Chairperson of Grievance Committee "A" of the Eleventh Judicial Circuit, at which time it was determined that the Branch Staff Auditor would conduct a complete audit of Mr. Block's trust account. Subpoenas duces tecum were executed and served upon Respondent and his banks; the subpoenas called for the production of all deposit slips, checks, statements, and any and all other related items pertaining to his trust account.

#### TRUST ACCOUNT AUDIT

12. At the Committee's request the Branch Staff Auditor conducted a detailed audit of Mr. Block's trust account. The original scope of the audit covered the period January 1, 1983 to September 30, 1984; however, it was later agreed by and between the Grievance Committee and Staff Counsel, and later so directed, to expand the scope of the examination to include all trust account transactions and records through and including December 31, 1984.

13. By Report of Audit dated February 25, 1985, the Branch Staff Auditor

advised the Committee that his examination had demonstrated that Respondent was not in substantial compliance with the trust accounting requirements mandated by article XI, Rule 11.02 (4) in toto, and the Bylaws adopted incident thereto. Although a copy of the Report of Audit is attached to and incorporated in this filing as Exhibit "1", the results of same may be summarized as follows:

- (a) Respondent failed to perform quarterly trust account reconciliations during the three-year period covered by the audit. His failure effectively precluded him from determining, with any degree of certainty, the precise amount of total trust liabilities and therefore, the precise amount of funds which he was obligated to maintain on deposit in his trust account on behalf of his various clients.
- (b) Respondent failed to properly annotate his client ledger cards contemporaneous with each individual trust accounting transaction, oftentimes grouping several entries into a single posting. This procedure effectively thwarted Respondent's responsibility to ascertain at any given time, and with any degree of precision, individual and collective trust liabilities and obligations.
- (c) Respondent failed to enter in a chronological manner numerous postings to his client ledger cards and to his receipt and disbursement journals. Further, he erroneously entered postings to ledger cards which were unrelated to trust account activities. The net effect of these errors and omissions was to further mire the true status of Respondent's trust liabilities.
- (d) Respondent failed to withdraw earned fees from his trust account on a case by case basis; rather, he withdrew earned fees by lump sum check (s) without properly annotating client ledger cards. In addition, there were numerous transfers from and to the regular operating account, and proceeds of personal loans were deposited to the trust account. There was no accounting prepared to reflect the charges and credits to Respondent for all such items.

14. Further, Respondent often deposited funds that he claimed were personal (be they of purely personal or business purpose) into his trust account, periodically withdrawing same to satisfy various personal obligations. In those instances, Respondent would use all funds (be they trust funds or business) in an indiscriminate and interchangeable manner.

15. During the affected period of the audit, an examination of Respondent's trust account revealed negative balances on account (overdrafts) for each of three separate months.

16. For every month during the affected period of the audit, Respondent's total trust liabilities always exceeded the amount of money available on deposit in his trust account. At first inspection, it appeared that the shortage varied from

an adjusted high of SEVENTY SIX THOUSAND NINE HUNDRED FIFTEEN DOLLARS AND TWENTY-FOUR CENTS (\$76,915.24) (January, 1983) to an adjusted low of SEVENTEEN THOUSAND NINE HUNDRED FIFTY SIX DOLLARS AND SIXTY SEVEN CENTS (\$17,556.67)(September, 1984). However, upon further examination, the following factors directly contributed to the actual reduction of shortages during the over-all affected period of the scope of the audit:

- (a) During the affected period of time, Respondent deposited to his trust account the total proceeds, Respondent satisfied various personal obligations and the remainder of EIGHTEEN THOUSAND FIFTY SEVEN DOLLARS AND NINETY FIVE CENTS(\$18,057.95) of these personal funds were later applied to reduce the over-all trust liability shortage.
- (b) On or about September 26, 1984, Respondent deposited SEVEN THOUSAND DOLLARS (\$7,000.) of personal funds into his trust account, said deposit effectively further reducing the over-all trust liability shortage.
- (c) During the period January 1, 1983 to September 30, 1984, Respondent had accumulated earned fees in the amount of FORTY THOUSAND TWO HUNDRED SEVENTY DOLLARS AND FIFTY CENTS (\$40,270.50), the same having never been posted to individual ledger cards and having never been withdrawn from the trust account. Confirmation letters to clients established this position, thereby serving to further reduce the over-all trust liability shortage.
- (d) As of December 31, 1984, Respondent's trust account reflected total trust liabilities in the amount of NINETEEN THOUSAND FOUR HUNDRED FORTY DOLLARS AND FIVE CENTS (\$19,440.05); a reconciled bank balance of FOUR HUNDRED TWENTY TWO DOLLARS AND THIRTY CENTS (\$422.30); an over-all shortage against trust and liabilities in the aggregate amount of NINETEEN THOUSAND SEVENTEEN DOLLARS AND SEVENTY FIVE CENTS (\$19,017.75).
- (e) As a result of the foregoing analysis, on or about June 5, 1985, Respondent deposited the sum of TWENTY THOUSAND DOLLARS (\$20,000), thereby effectively reconciling total funds on account with total trust liabilities.

### III. THE GRIEVANCE COMMITTEE HEARING

17. In addition to the foregoing investigation and audit, on or about September 19, 1985, Grievance Committee "A" of the Eleventh Judicial Circuit convened an evidentiary hearing for the purpose of reviewing the Report of Audit, entertaining matters in defense, mitigation and extenuation, and determining whether the record evidence supported a finding of Probable Cause to pursue further disciplinary proceedings.

18. It should be noted that at all times Respondent offered his full and good faith cooperation to The Florida Bar's investigation of this complaint.

At the on-set of the evidentiary hearing, Respondent through his counsel, admitted to all of the substantive findings and noted violations referenced in the Report of Audit.

19. During the time of his undergraduate and law training, Respondent served an approximate six year tour of duty in the Army National Guard; he was promoted to Non-Commissioned Officer status and eventually received an honorable discharge at the conclusion of his military service.

20. Respondent, age 44, was originally admitted to the New Jersey Bar during or about 1968. During the initial three years of his licensure, Respondent served as a prosecutor for Bergen County, New Jersey. During or about 1970, Respondent made application and was admitted to The Florida Bar; since February 1971, Respondent has been domiciled in the State of Florida and has been engaged in a continuous Florida practice.

21. Initially, Respondent was primarily engaged by a lending institution for whom he performed numerous mortgage closings and other related legal transactions. During this same period of time, Respondent became associated with a small law office, again, practicing primarily in the area of real estate transactions.

22. During or about late 1975, Respondent entered the sole practice of law, which status continues to date. Respondent's practice primarily involves real estate related matters; in addition, he handles some civil litigation, a small amount of personal injury work, and a fair share of probate and corporate representation.

23. Respondent was married during or about 1963; three children, age 16, 15 and 10, were born of the marriage. During or about late 1983, Respondent's wife initiated dissolution proceedings, the same finalized during or about September, 1984.

24. Respondent testified that his marriage suffered significant deterioration during or about the latter part of 1982. Indeed, the relations between he and his former wife became sufficiently strained to cause a physical separation during early 1983. Although his wife was represented by expert legal counsel, Respondent testified that he was not represented by counsel during the scope of the dissolution.

25. Respondent further testified that the marital separation and dissolution caused him great anxiety and depression for a period in excess of twenty (20) months. Indeed, Respondent secured the professional services of a licensed psychiatrist. As a result of his emotional condition, the evidence suggests that

Respondent's practice suffered both professionally and financially.

26. It appears that as the dissolution proceedings intensified, Respondent was less able to attend to his law practice, particularly with regard to the financial administration of same. Although he employed a legal secretary (who also performed as a bookkeeper and office manager), Respondent apparently had neither the inclination nor emotional stamina to properly supervise her. Although Respondent delegated many of the trust accounting responsibilities to his secretary, he continuously failed in his professional obligation to monitor her efforts in this regard.

27. Although Respondent's trust account was not immediately amenable to full audit (as substantial reconstruction of trust activity was required as a result of Respondent's failure to maintain proper records), Respondent did provide the Branch Staff Auditor with his full cooperation during the pendency of the audit. Upon completion of the audit, the Branch Staff Auditor advised Respondent that his account reflected a shortage in the approximate amount of NINETEEN THOUSAND DOLLARS (\$19, 000.); upon learning of the shortage, Respondent properly effected a loan from a business partner and deposited the proceeds to his trust account. As of the date of the Grievance Committee hearing, Respondent had repaid approximately 40% of this loan.

28. Since the date of the Report of Audit, Respondent has opened a new trust account, the same reflecting reconciled trust liabilities against trust funds on deposit. Although his real estate practice involves substantial, day-to-day trust account activity, Respondent is now closely monitoring all transactions pertaining to trust funds. Further, Respondent has engaged the continuous periodic services of a certified public accountant who audits and reconciles Respondent's trust account on a monthly basis. In addition, the accountant has initiated a system which Respondent has religiously adopted intra-office procedures whereby detailed and complete records are maintained reflecting all trust fund receipts and disbursements, to include retention of all backup material, the annotation of client ledger cards, and the reconciliation of monthly bank statements.

29. Respondent is currently a member of the South Florida Real Estate Property Council, a civic organization comprised primarily of real estate attorneys who lecture and provide other educational services to the general public. Respondent is also the advisor to his son's youth group which is co-sponsored by B'Nai B'rith and Palmetto Senior High School. The Committee also notes with favor that Respondent timely and voluntarily honored all court orders pertaining to his dissolution of marriage and has never been cited for any arrearages relating

to the substantial child support obligations. Further, in his fifteen (15) years of membership in The Florida Bar, Respondent has never been the subject of any prior discipline or other adverse action.

30. In addition to the taking of Respondent's testimony and the review of all documentary evidence, the Grievance Committee entertained the testimony of six additional witnesses, to include:

- (a) Judge Harold Featherstone, who testified that Respondent had appeared before him many times during his thirteen-year tenure on the bench. Judge Featherstone advised the Committee that he knew Respondent to be a well-qualified attorney, always providing his clients with professional legal representation. Judge Featherstone presently serves in the Probate Division where, of course, fiduciary considerations are always at issue. The judge advised the Committee that he has never had reason to question Mr. Block's integrity, nor has he ever heard any derogatory information which would adversely reflect on Respondent's character, integrity or honesty.
- (b) Ruby Swezy, a licensed real estate broker and investor who has practiced in the local community for approximately thirty (30) years. Mrs. Swezy, the sister of Chief Justice Joseph Boyd, testified that during the past approximately ten (10) years, Respondent has represented many of her clients in various real estate transactions; moreover, Respondent has also personally represented Mrs. Swezy in other legal transactions.  
  
Mrs. Swezy advised the Committee that in light of her past experiences with Respondent, to include also Respondent's representation of the City of Hialeah Board of Realtors, she believes Mr. Block's reputation for honesty and integrity to be very good. Ms. Swezy testified that Mr. Block was well regarded throughout the City of Hialeah and that he had an impeccable reputation. Ms. Swezy the former President of the City Council of Hialeah, also testified that she believed Respondent was also highly-regarded by the entire city government infra-structure. When advised as to the specifics of the instant complaint against Mr. Block, Ms. Swezy advised the Committee that notwithstanding the allegations, she would continue to use Respondent as her attorney.
- (c) William Lehman, Jr., a respected local businessman actively engaged in the retail sale of automobiles for the past eighteen years. Mr. Lehman has known Respondent for the past twelve years; although Respondent provided Mr. Lehman with occasional legal representation, they are best known to one another on a social basis. Nevertheless, Mr. Lehman expressed satisfaction over the past legal services rendered by Respondent. Based upon the totality of their interactions, Mr. Lehman testified that he he believed Respondent to be an extremely honest person who had always demonstrated a great deal of integrity in all of their dealings.
- (d) Marvin Stein, a certified public accountant licensed to practice in the State of Florida for the past approximately twenty-seven years. Mr. Stein had represented



Respondent, on a limited basis for the past ten or more years. At the request of Respondent's counsel, Mr. Stein conducted an independent audit of Respondent's newly established trust account. Based upon his review of same, Mr. Stein advised the Committee that it was his professional opinion that the account was reconciled and that it was maintained in substantial compliance with the trust accounting requirements mandated by the Integration Rule of The Florida Bar, to include the maintenance of receipt and ledger journals, client ledger cards, monthly trust account and bank reconciliations, and the retention of all cancelled checks and other accounting work product related papers.

Mr. Stein further testified that he believed Respondent to be a competent attorney and a person of high integrity. Mr. Stein further testified that he had maintained both a personal and social relationship with Mr. Block during or about the period of his dissolution of marriage action. Mr. Stein was of the belief that the dissolution proceedings effected both a financial and emotional toll upon Respondent. In addition to becoming withdrawn and less communicative, Mr. Stein advised the Committee that based upon his annual reviews incident to the filing of federal income tax returns, he observed that Mr. Block's gross revenues were adversely affected during the period of the dissolution proceedings, as follows:

1982	\$ 113,500
1983	110,108
1984	69,678

- (e) David R. Weissman, Esquire, a member in good standing of The Florida Bar since 1971 and a past member and Vice-Chairman of a Dade County Grievance Committee. Beginning during or about 1983, Mr. Weissman shared office space with Respondent. Based upon his almost daily interaction with Respondent, Mr. Weissman advised the Committee that he believed Respondent both to be a competent attorney (particularly in the area of real estate transactions) and an honest person possessed of good morals and high integrity. Mr. Weissman corroborated the earlier testimony of other witnesses by advising the Committee that during the affected period of the dissolution proceedings, Respondent became very withdrawn, preoccupied and emotionally spent. Although the witness did not maintain any professional affiliation with Respondent, he believed that the then current levels of Respondent's emotional distress were sufficiently great as to impact upon his judgment and competency.
- (f) Dr. Howard Katzman, a respected vascular surgeon who has known Mr. Block both professionally and socially for a period in excess of 14 years. Respondent presently represents Dr. Katzman and his professional association; Respondent's major responsibilities include the administration of the association's pension plan, overseeing and providing legal representation with regard to the purchase of home mortgages and other investments, and otherwise overseeing and managing an extensive real estate portfolio. Dr. Katzman advised the Committee that he and Respondent are in personal contact at least once every month. At present, the subject pension and profit sharing plan involves funds and other property involving funds valued at approximately SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000). In addition, Respondent is responsible

for managing and providing legal assistance with regard to Dr. Katzman's personal investments totalling approximately TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000). Dr. Katzman further testified that Respondent has always proven to be an excellent attorney and a person to whom he could always confide and receive legal opinions upon which he could rely. Dr. Katzman advised the Committee that during the period of Respondent's dissolution, he knew Respondent to have become extremely withdrawn, depressed, and difficult to approach on a personal basis. However, Dr. Katzman was of the opinion that, at all times, Respondent was nevertheless able to provide him with consistently sound legal advice.

#### IV. RECOMMENDATIONS AS TO WHETHER OR NOT RESPONDENT SHOULD BE FOUND GUILTY.

31. Having carefully reviewed all documentary evidence, to include the report of audit, the transcript of the Grievance Committee hearing, the Grievance Committee Report and Respondent's Conditional Guilty Plea for Consent Judgment, I specifically find, by clear and convincing evidence, that Respondent, PAUL G. BLOCK, was not in substantial compliance with the trust accounting requirements mandated by article XI, Rule 11.02 (4) of the Integration Rule of The Florida Bar and the applicable bylaws thereto, and Disciplinary Rule 9-102 of the Code of Professional Responsibility, and specifically, to wit:

- (a) Use of clients' trust funds for purposes other than the specific purposes for which entrusted to him, in violation of Rule 11.02 (4), first sentence.
- (b) Lack of trust account balance reconciliations: quarterly, through June 30, 1984 (Bylaws Section 11.02 (4)(c), paragraph 4.11 and monthly, after June 30, 1984 (Bylaws Section 11.02 (4)(c), paragraph 3.2 (iii)).
- (c) Lack of adequate identification of all trust deposits and checks - Bylaws Section 11.02 (4) (c), paragraph 2.b. and c. (Section 11.02 (4)(c), paragraph 2.b (ii) and e. after June 30, 1984 ).
- (d) Ledger cards did not reflect, in many instances, the correct individual accountings - Bylaws Section 11.02 (4)(c), paragraph 2.d (paragraph 2.f after 6-30-84)).
- (e) Lack of cash receipts and disbursements journal after June 30, 1984 - Bylaws Section 11.02 (4)(c), paragraph 2.e.
- (f) Lack of compliance with Bylaws Section 11.02 (4)(c), paragraph 3.d. (after June 30, 1984).
- (g) Co-mingling of trust funds and lawyer's funds, in violation of Disciplinary Rule 9-102 (a).

#### V. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

32. In light of the foregoing, the undersigned Referee hereby recommends that the Supreme Court of Florida finally approve Respondent's Conditional Guilty Plea for Consent Judgment, as tendered, wherein the Supreme Court shall impose upon Respondent a public reprimand, the same further conditioned upon the imposition of a three-year period of probation incorporating the following

terms, safeguards and sanctions:

- (a) That for a three-year probationary period, Respondent shall be required to engage the professional services of a certified public accountant to prepare monthly reconciliations of both his trust account and his trust account bank statement;
- b) That during this period of time, Respondent will be charged with the responsibility of providing same to Staff Counsel of The Florida Bar (or his designee) within thirty days of the close of each month; all such reconciliations shall be certified by the certified public accountant as to both accuracy and validity;
- c) That absent good cause shown (as determined solely and exclusively by Grievance Committee "B" of the Eleventh Judicial Circuit), should Respondent fail to timely provide Staff Counsel (or his designee) the above-described reconciliations, upon filing of an appropriate pleading with the Supreme Court of Florida by this Grievance Committee, Respondent shall be deemed to have consented to the entry of an Order by the Supreme Court of Florida effecting his immediate suspension from the practice of law until such time as he shall be deemed by competent authority to have remedied his contemptuous conduct;
- d) That should it be demonstrated by competent evidence that Respondent is not in substantial compliance with the trust accounting requirements mandated by the Integration Rule of The Florida Bar and the applicable disciplinary rules of the Code of Professional Responsibility, then after notice and hearing before the Grievance Committee, and upon the Committee's filing an appropriate pleading with the Supreme Court of Florida, Respondent shall be deemed to have consented to the entry of an Order by the Supreme Court effecting his immediate suspension from the practice of law for a period of not less than one year; provided, however, that nothing in this provision shall estop The Florida Bar from later petitioning the Supreme Court of Florida and requesting the imposition of a more severe form of discipline; and
- e) That Respondent shall bear all expenses and costs incurred by The Florida Bar as a result of the instant investigation and disciplinary proceedings. In light of the Respondent's present financial situation, the Respondent shall be permitted to retire these costs through the establishment of a periodic payment schedule, the terms of which to be negotiated by and between Respondent's counsel and the Director of Lawyer Regulation. Lawful interest shall accrue on any unpaid balance after thirty days of the rendition of a Final Order by the Supreme Court of Florida approving this plea.

## VI. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD:

33. These matters were found and discussed by me previously in this report.

## VII. MITIGATION:

34. At all times, Respondent has demonstrated remorse and genuine contrition. Although it is obvious to the undersigned Referee that the proceedings were emotionally draining on the Respondent, the Referee also believes these proceedings have in a very real sense revitalized Respondent's ethical and humanistic obligations. Although it is regrettable that Respondent did not (or perhaps could not) come to grips with his problem at an earlier point in time, the Referee notes with approval the Respondent maintained his sense of dignity and self-worth. He has accepted responsibility for his wrong-doing and has never attempted to shift the blame to others. The Referee believes the Respondent is a man of moral and ethical substance and is capable of making an immediate positive contribution to his profession and his community.

35. The Referee is mindful of his grave charge and responsibility. The Referee has approached this investigation with deliberate regard for the protection of the public and the professional future of a person who has heretofore been recognized as an upstanding citizen in the local community and a most capable member of The Florida Bar.

36. The recommendations which follow are based upon the Referee's considered judgment. They are also based upon the Referee's clear understanding of the threshold factors which both The Florida Bar and the Supreme Court of Florida have traditionally considered regarding the imposition of discipline against an attorney, to wit:

- (a) First, the judgment must be fair to society, both in terms of protecting the public from unethical conduct and at the same time not denying the public the services of a qualified lawyer as a result of undue harshness;
- (b) Second, the judgment must be fair to the Respondent, being sufficient to punish a breach of ethics and at the same time encourage reformation and rehabilitation.
- (c) Third, the judgment must be severe enough to deter others who might be prone or tempted to become involved in like violations.

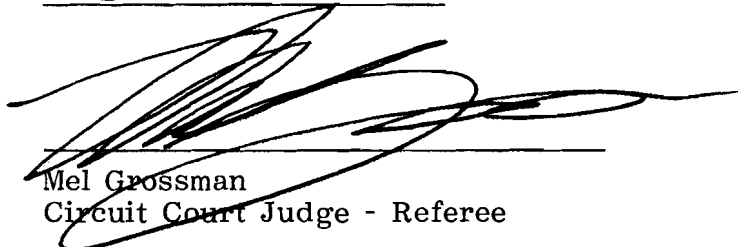
VIII. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED:

37. The undersigned Referee finds the following costs were reasonably incurred by The Florida Bar, to wit:

Administrative Costs at Grievance Committee Level Pursuant to article XI, Rule 11.06 (9)(a)(5) of the Integration Rule of The Florida Bar	\$150.00
Administrative Costs at Referee Level Pursuant to article XI, Rule 11.06 (9)(a)(5) of the Integration Rule of The Florida Bar	150.00
Auditing Costs	4,256.62
Court Reporter Costs	417.65
Photocopying Costs	67.50
<b>TOTAL ITEMIZED COSTS</b>	<b>\$5,041.77</b>

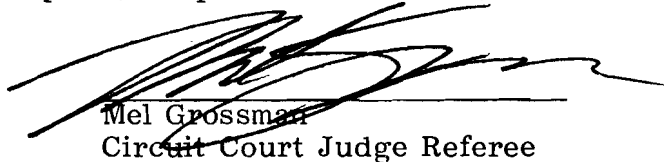
It is recommended that Respondent shall bear all costs and expenses incident to these proceedings. In light of Respondent's present financial situation, it is further recommended that Respondent be permitted to retire these costs through the establishment of a periodic payment schedule, the specific terms of which to be negotiated by and between Respondent's counsel and the Director of Lawyer Regulation of The Florida Bar, subject to the imposition of interest at the rate of 12% per annum for the balance of all costs not retired with thirty (30) days of the entry of any Final Order by the Supreme Court.

DATED THIS 21<sup>st</sup> DAY OF October 1986.

  
Mel Grossman  
Circuit Court Judge - Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original Report of Referee and the Record in record in this matter have been forwarded to the Clerk of the Supreme Court, and that true and correct copies of the Report of Referee have been provided to Randi Klayman Lazarus, Esquire, The Florida Bar, 444 Brickell Avenue, Miami, Florida and Herbert Stettin, Esquire, Respondent's Counsel, One S. E. Third Avenue, Miami, Florida.

  
Mel Grossman  
Circuit Court Judge Referee