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SID J. WHITE

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

MAR 14 1988

CLERK, SUPREME COURT

By

Case No. 85-13,159
[TFB Case No. 85-13,159 (11L)]

THE FLORIDA BAR,

Complainant,

v.

BURTON R. LEVEY,

Respondent.

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Integration Rule and The Rules Regulating The Florida Bar, a hearing was held on March 1, 1988. 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 in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar - David G. McGunegle and
Louis Thaler as co-bar counsel

For The Respondent - Paul M. Rashkind and
Edward A. Carhart as co-counsel

II. Findings of Fact as to Each Item of Misconduct of which the Respondent is charged: The respondent has tendered a Conditional Guilty Plea which is attached as Exhibit 1 and a statement of Agreed Facts which is attached as Exhibit 2. It states:

1. The respondent, Burton R. Levey, is and at all time hereinafter mentioned, was, a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida. He has had an active legal practice in Miami, Florida, since 1955 and has never previously been subject to discipline.

2. At all times material, respondent resided and practiced law in Dade County, Florida. Respondent has practiced in many areas of the law, but has concentrated his practice in the areas of real estate, commercial law and banking. In the course of his practice, he has established and served as legal counsel for many legitimate foreign and domestic corporations for law-abiding clients.

3. In the early 1970's, Philip Keidaish became a client of BRL. Mr. Keidaish had a number of legitimate business enterprises and gave the appearance to the public that his considerable wealth derived from these legitimate enterprises. BRL represented Mr. Keidaish in a variety of real estate and commercial transactions which purported to be legitimate and lawful. BRL also assisted Mr. Keidaish in obtaining approval from the federal government to own and sell machine guns. Although a complete investigation of Mr. Keidaish was conducted by the federal government during the mid-1970's, it was not discovered that his wealth in fact derived from criminal activity. Not until June, 1980, was Mr. Keidaish ever accused of earning his income in criminal endeavors.

4. There is no credible evidence upon which to base a conclusion that BRL ever knew that Philip Keidaish earned his wealth in crime until Mr. Keidaish was indicted for drug smuggling activities in June, 1980.

5. By June, 1980, BRL had been replaced by other lawyers in much of Mr. Keidaish's legal affairs and he took no part in the defense of the June, 1980, indictment. Yet he did continue to monitor and handle some of the affairs and properties of the corporations he had previously established including some property transactions. He also received modest legal fees for these services through December 30, 1981, when he withdrew from further legal representation of Mr. Keidaish.

6. In retrospect, BRL now believes that he should have known that his legal representation of Mr. Keidaish from June, 1980, through December, 1981, may have helped conceal from law enforcement authorities the full extent of Mr. Keidaish's past crimes.

7. On April 18, 1985, Burton R. Levey entered into a No Contest "plea of convenience" to an Information charging him with Compounding a Felony, in violation of Section 843.14, Florida Statutes. The Circuit Court of the Eleventh Judicial Circuit of Florida, the Honorable Ralph Person

presiding, accepted the plea under the terms of a written Plea Negotiation Agreement approved by the State of Florida and BRL, and withheld adjudication of guilt. The Information charged BRL with Compounding a Felony between June 1, 1980, and December 30, 1981, in that "Burton R. Levey continued to provide legal services to his client Philip Keidaish and accept legal fees from him, at a time when he should have known that said legal service might conceal the past crimes of Philip Keidaish from law enforcement authorities..." Throughout the proceedings, BRL continued to maintain his innocence, entering the plea only as a matter of convenience. Judge Person withheld adjudication and sentence and placed BRL on a period of five years probation. His period of probation was terminated early due to his excellence as a probationer. All evidence of his arrest and plea have been expunged in accordance with Florida law.

8. BRL volunteered to cooperate with The Florida Bar in its investigation of this matter and voluntarily consented to be interviewed fully by The Florida Bar staff. At no time has he refused to be cooperative and his cooperation assisted The Florida Bar staff in gaining a full understanding of the circumstances under scrutiny in this grievance proceeding.

9. In 1977 respondent, Leonard L. Levenstein, Bernarr C. Cowan and William S. Rubenstein formed a professional association known as Levey, Levenstein, Cowan & Rubenstein (hereinafter referred to as LLCR). The respondent and Mr. Levenstein held equal 32% shares in the association whereas the other had lesser amounts. The latter left the firm in 1979. The professional association split up in 1980 when Mr. Levenstein left. Bernarr Cowan was a prior partner of the respondent as well as his next door neighbor and very close friend. Mr. Cowan died in September, 1983.

10. Shortly after formation of LLCR, Mr. Keidaish introduced members of the Delisi family to the law firm. The law firm handled various legal affairs for Messrs. Keidaish and Delisi with respondent primarily handling those of the former and Mr. Levenstein and other firm members the particular legal problems of the latter.

11. In early April, 1979, the Delisi family became implicated in marijuana smuggling due to the interception of inbound drugs in Polk County on property belonging to Philip Keidaish. Members of the Delisi family were subsequently indicted by the Statewide Grand Jury following this incident

and also a separate incident when a smuggling aircraft was intercepted on January 22, 1980, in Hardee County and seized by law enforcement officials. Members of the family and their confederates were either convicted or pled guilty to various crimes emanating from their smuggling activities.

12. On several occasions in 1978 and 1979, Mr. Levenstein personally took some \$1,200,000 total in Delisi funds offshore to the Bahamas in order to launder these monies which were generated from sales of drugs. He was accompanied by Bernarr Cowan on two trips but never by respondent. Mr. Levenstein was allowed to resign permanently from the Bar by the Supreme Court of Florida in March, 1984, for his activities. Other than Mr. Levenstein's assertions, there is no evidence respondent was aware of or participated in "laundering" activities. Both The Florida Bar and respondent agree that the credibility of Mr. Levenstein is suspect.

13. Respondent does admit his actions or inactions in continuing to represent Mr. Keidaish after his indictment, could have helped conceal past illegal conduct on the part of Mr. Keidaish. Respondent admits he has violated the following Disciplinary Rule(s) of the Code of Professional Responsibility then in effect: 2-110(B)(2) for failing to withdraw as required under the circumstances after his client was indicted, constituting a violation of 1-102(A)(6), same misconduct reflecting adversely on his fitness to practice law.

III. Recommendations as to whether or not the respondent should be found guilty: I recommend the respondent be found guilty of violating the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility in accordance with the Conditional Guilty Plea:

1-102(A)(6) for any other misconduct reflecting adversely on his fitness to practice law; and 2-110(B)(2) for failing to withdraw from employment as required under the circumstances after his client was indicted.

IV. Recommendation as to Disciplinary measures to be applied:

I recommend the respondent's Conditional Guilty Plea be accepted and that he receive a public reprimand to be administered by a personal appearance before the Board of Governors of The Florida Bar pursuant to Rule 3-5.1(d).

V. Personal History and Past Disciplinary Record: After the finding of guilty and prior to recommending discipline to be

recommended pursuant to Rule 3-7.5(k)(4), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Age: 57

Date admitted to Bar: September 19, 1955

Prior Disciplinary convictions and disciplinary measures imposed therein: None.

Family: Respondent has grown children.


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

A. Grievance Committee Level Costs	
1. Administrative Costs	\$ 150.00
2. Transcript Costs	\$ 4,499.27
3. Bar Counsel/Branch Staff Counsel Travel Costs	\$ 1,819.00
4. Investigator's Expenses	\$15,416.83

TOTAL ITEMIZED COSTS: \$21,885.10

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

Dated this 11th day of March, 1988.



Gene Fischer
Referee

Copies to:

Mr. David G. McGunegle, Bar Counsel
Mr. Louis Thaler, Co-Bar counsel
Mr. Paul M. Rashkind, Counsel for Respondent
Mr. Edward A. Carhart, Co-Counsel for Respondent
Mr. John T. Berry, Staff Counsel, The Florida Bar,
Tallahassee, Florida 32301