

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

MARTHA S. SIEGEL,

Respondent.

CONFIDENTIAL

TFB NO. 12A85H75  
CASE NO. 68,956

FILED  
SID J. WHITE

FEB 16 1987

CLERK, SUPREME COURT  
By \_\_\_\_\_  
Deputy Clerk

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, a final hearing was held on December 19, 1986. The enclosed pleadings, orders, transcripts and exhibits are forwarded to The Supreme Court of Florida with this report, and constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar THOMAS E. DEBERG

For The Respondent CECELIA BONIFAY;  
DAVID BECKERMAN

II. Findings of Fact as to Each Item of Misconduct With Which the Respondent is Charged: After a hearing on the matter before me I find the following:

On October 7, 1983, respondent and Laurence A. Canter, her law partner, executed a mortgage and security agreement on property they were purchasing for use as their law office. The agreement required that no secondary financing on that real estate would be obtained without the express consent of the lender, Southeast Bank, N.A., an F.D.I.C. bank.

On or before October 7, 1983, respondent and Canter had agreed with Robert F. Bluck, the seller, to secondary financing in lieu of a cash downpayment. On October 7, they signed a mortgage agreement with Mr. Bluck for \$50,000.00 on the subject real estate, and as consideration for the mortgage, executed a promissory note for \$50,000.00. Southeast Bank, N.A., was not informed of the mortgage agreement between respondent, Canter and Bluck, nor was the mortgage ever recorded.

The contract to purchase from Robert F. Bluck specified a deposit of \$20,000.00, new mortgage of \$150,000.00, and a balance of \$30,000.00 to close. On a personal financial statement, dated August 4, 1983 and submitted in support of the application for the \$150,000.00 loan, respondent and Canter misrepresented that they had made a \$20,000.00 downpayment on the subject property. Based on representations made by respondent and Canter to Southeast Bank, N.A., the bank's mortgage loan report listed the equity of Siegel and Canter in the real estate as \$50,000.00 and the source of equity as cash.

On June 30, 1984, respondent and Canter submitted additional documents to Southeast Bank in support of an application for a \$45,000.00 loan to be secured by a second mortgage on the subject real estate. On a balance sheet dated June 30, 1984, respondent and Canter listed the mortgage to Southeast Bank, N.A. as a liability, but did not disclose the mortgage to Bluck.

On a personal financial statement dated July 1, 1984, respondent and Canter listed the mortgage balance on the first mortgage with the bank, but did not disclose the unrecorded mortgage with Bluck. Loan officers at the bank again believed respondent and Canter to have \$50,000.00 cash equity in the property, and were unaware of the debt to Robert F. Bluck.

On August 10, 1984, respondent and Canter submitted to the bank a sworn affidavit representing that they were aware of no facts by reason of which the title to, or possession of, the subject property or any part of it or any personal property on it might be disputed or questioned.

At the time of both loans in question, Southeast Bank, N.A. was insured under the Federal Deposit Insurance Act.

II. Recommendation as to Whether or Not the Respondent Should Be Found Guilty: I recommend that the respondent be found guilty of violating the following sections of the Code of Professional Responsibility: Florida Bar Integration Rule, article XI, Rule 11.02(3)(A) (Conduct contrary to honesty); DR 1-102(A)(4) (Conduct involving dishonesty or misrepresentation); DR 1-102(A)(3) (Illegal conduct).

III. Recommendation as to Disciplinary Measures to be Applied: I recommend that the respondent receive a public reprimand, and be suspended from the practice of law for (two weeks). The suspension of respondent and of her law partner Laurence A. Canter, based on the same conduct, need not run concurrently. I further order that respondent be assessed her share of the costs of these proceedings.

IV: Personal History and Past Disciplinary Record: After finding of guilt 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:

(1) Age: 44

(2) Date Admitted to Bar: May 26, 1981

(3) Areas of Designation: None

(4) Mitigating Factors: No prior history of discipline. Respondent has been very active in both civic and Bar affairs and has contributed greatly to the community.

(5) Aggravating Factors: The fraud was deliberate and intentional.

V. Statement of Costs and Manner in Which Costs Should Be Taxed: I find the following costs were reasonably incurred by The Florida Bar.

Grievance Committee Level Costs	
Administrative Costs	\$ 150.00
Transcript Costs	215.00
Appearance Fees	55.00
Investigator Costs	966.56
Staff Counsel Expenses	12.99

Staff Counsel Expenses	54.21
Referee Level Costs	
Administrative Costs	150.00
Court Reporter Appearance	<u>26.25</u>
TOTAL AMOUNT DUE TO DATE:	\$1,630.01

It is apparent that other costs may be incurred if further proceedings occur. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the respondent and be payable within 30 days after judgment in this case becomes final, along with interest at the statutory rate which shall accrue and be payable beginning 30 days after final judgment in this case, unless a waiver is granted by The Board of Governors of The Florida Bar.

Dated this 20 day of Jan, 1987.

  
HONORABLE R. WALLACE PACK

Copies furnished to:

Cecelia Bonifay and David Beckerman, Counsel for Respondent  
Thomas E. DeBerg, Bar Counsel  
John T. Berry, Staff Counsel, Tallahassee