

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

PAUL JACKSON BRYAN, a/k/a JACKSON BRYAN

Respondent.

CONFIDENTIAL

Case No. 07B86C03

69,009

REPORT OF REFEREE

From the testimony and evidence presented herein, the Referee finds the following:

Paul Jackson Bryan, a/k/a Jackson Bryan, Respondent, at all times material herein was a member of the Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

On July 8, 1986, the Florida Bar filed its Complaint against Respondent wherein it alleged that Respondent violated Article XI, Rule 11.02 (3)(a) of the Florida Bar's Integration Rule for conduct contrary to honesty, justice, or good morals and the following disciplinary rules of the Florida Bar's Code of Professional Responsibility: 1-102(A)(3) for engaging in illegal conduct involving moral turpitude, 1-102(A)(4) for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation and, 1-102(A)(6) for engaging in other conduct that reflects adversely on his fitness to practice law.

Respondent did not file a Response to the Complaint and at the hearing herein denied the alleged violations.

On or about September 4, 1986, Plaintiff filed Request for Admissions which were served on the Respondent Paul Jackson Bryan, a/k/a Jackson Bryan. A Status Conference was held by the Referee on September 24, 1986, and at said Status Conference, Respondent was directed to file his Response to the Request for Admissions on or before October

16, 1986. Respondent has failed and refused to file said Response and as a result, the Referee deems the following facts admitted:

That on or about October 27, 1983, Paul Jackson Bryan, a/k/a Jackson Bryan applied in writing for a Master Card in the name of W. H. Bryan, a person other than himself through the Barnett Bank of Jacksonville, Florida. Master Card #5413-1916-2112-6231 was issued on November 9, 1983, with an expiration dated of November, 1984.

From approximately November 9, 1983 through at least May 8, 1984, Respondent utilized the illegally obtained Master Card issued to W. H. Bryan within Putnam County to obtain money, goods, services or other things of value in excess of \$100 with the intent to defraud the Barnett Bank. The unpaid balance on the account when matters were discovered and the card revoked, totalled approximately \$859.32. The fraudulent use of the credit card violated Section 817.61 of the Florida Statutes and constituted a third degree felony since the amount of money, goods or services exceeded \$100.00 within a six month period.

On or about October 27, 1983, Respondent applied in writing for a Visa credit card in the name of W. H. Bryan, a person other than himself, through the Barnett Bank of Jacksonville, Florida. Visa Card #4312-014-100-171 was issued to W. H. Bryan on November 9, 1983 with an expiration date of November, 1984.

From approximately November 9, 1983 through at least May 8, 1984, Respondent used the illegally obtained Visa Card issued to W. H. Bryan to obtain money, goods, services or other things of value in an amount of more than \$100 with the intent to defraud the Barnett Bank. At the time matters were discovered and the card revoked, Respondent had an unpaid balance on the account of approximately \$908.00. The fraudulent use of the Visa card, violated Section 817.61 of the Florida Statutes and constituted a third degree felony

since the amount of money, goods, services or other things of value exceeded \$100.00 within a six month period.

Respondent knew that when he applied in writing for both cards through the Barnett Bank of Jacksonville, Florida on October 27, 1983 that he was doing so in the name of a person other than himself and that he was attempting to procure, and did procure credit cards by the use of a false statement. He also knew that when he used both illegally procured credit cards that such use was done with an intent to defraud the Barnett Bank of Jacksonville, Florida in that he was unable to obtain credit cards in his own name.

Respondent was charged in a four count information in the Circuit Court for the Seventh Judicial Circuit in and for Putnam County of two counts of using a false statement to procure a credit card in violation of Section 817.59 of the Florida Statutes and two counts of fraudulent use of a credit card in violation of Section 817.61 of the Florida Statutes. The information charged the Respondent with two counts of third degree felonies and two counts of first degree misdemeanors. Respondent entered a plea of nolo contendere to one count of fraudulent use of a credit card in violation of Section 817.61 of the Florida Statutes, a third degree felony and was adjudicated guilty, placed on three years probation and ordered to make restitution of \$859.32 to Master Card and \$908.00 to Visa.

In spite of, Respondent's denial of fraudulent intent, the testimony, including that of Respondent shows that the applications were received at his address for the Master Card and Visa credit card from Barnett Bank in the name of W. H. Bryan, his deceased father. That having no other means to obtain credit, Respondent applied for the cards and signed the name of W. H. Bryan to the applications. Respondent also testified as other witnesses, that the cards were in fact used by Respondent to obtain money, goods and other things of value.

The evidence, even when considered separate from the Admissions, clearly shows that Respondent violated the Florida Bar's Integration Rule and the Florida Bar's Code of Profession Responsibility. Therefore, the Referee recommends that Respondent be found guilty of violating Article XI, Rule 11.02 (3)(a) of the Florida Bar's Integration rule for conduct contrary to honesty, justice, or good morals; the Florida Bar's Code of Professional Responsibility: 1-102 (A)(3) for engaging in illegal conduct involving moral turpitude, the Florida Bar's Code of Professional Responsibility 1-101 (A)(4) for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation and the Florida Bar's Code of Professional Responsibility 1-102 (A)(6) for engaging in other conduct that reflects adversely on Respondent's fitness to practice law.

RECOMMENDATIONS AS TO DISCIPLINARY MEASURES TO BE APPLIED:

The Respondent is 63 years old, a graduate of the University of Florida and Harvard Law School. He was admitted to the Florida Bar in 1951 and is presently in ill-health suffering from Parkinson's Disease. In 1981, the Respondent was found guilty by the Supreme Court of violations of Article XI, Disciplinary Rules 11.02 (3)(a) and (4) and 9-102 (B)(3) and (4), Code of Professional Responsibility on a two count complaint charging him with engaging in conduct involving moral turpitude, dishonesty, fraud, deceit and misrepresentation; failure to maintain complete records of all funds and other properties of clients coming into his possession and failure to render appropriate accounts to his clients regarding them; failure to pay or deliver upon demand to a client a requested by the client's funds and other property in his possession which the client was entitled to receive; and comingling personal money with trust funds and drawing upon trust accounts for the payments of personal bills and expenses of his law

practice. As to Count two of the Complaint, the Respondent was found to have violated Article XI, Rules 11-2 (3)(a) and 4 (C) of the Integration Rules and Disciplinary Rules 1-102 (A)(4) and 9-102 (B)(3) and that he: failed to maintain complete records of all funds and other properties of the client coming into his possession and failed to render appropriate accounts to his client regarding them; failure to maintain prescribed minimum trust accounting records and fail to follow minimum trust accounting procedure; engaging in conduct involving moral turpitude, dishonesty, fraud, deceit and misrepresentation; and failure to pay or deliver upon demand to a client funds and other personal property in his possession which the client was entitled to receive.

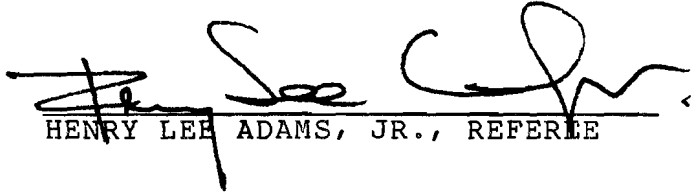
For these violations, the Supreme Court suspended Respondent for a period of six (6) months with readmission conditioned upon proof of rehabilitation. (See Florida Bar vs. Bryan, 396 So2d 165).

In 1983, Respondent was before the Supreme Court again. The Court found Respondent guilty of seven counts of misconduct. The allegations of the Florida Bar's complaint was that Respondent neglected a legal matter and in Counts 2-6, Respondent was charged with appropriating funds from five separate estates for his personal use. In Count seven, Respondent was charged with not maintaining adequate trust records. Respondent was found guilty by the Court and suspended for three years conditioned upon proof of rehabilitation. (See the Florida Bar vs. Bryan 432 So2d 49)

At the time of the conduct alleged herein, Respondent was either still under suspension or had not submitted proof of rehabilitation. The Referee sympathizes with Respondent's present plight given his age and physical condition. However, the Respondent's past two experiences before the Bar and the fact that this conduct occurred prior to reinstatement leads the Referee to the conclusion that Respondent has no respect whatsoever for the Disciplinary

Rules of the Florida Bar. Therefore, Disbarment is recommended.

DATED at Jacksonville, Duval County, Florida, this 30th day of December, 1986.


HENRY LEE ADAMS, JR., REFEREE

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