

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

WILLIAM B. SEIDEL,

Respondent.

Supreme Court Case
Nos. 69,011 and 69,510

The Florida Bar Case
Nos. 17F86F25 and 17F87F31

FILED

FEB 2 1987

CLERK OF SUPREME COURT

REPORT OF REFEREE

Deputy Clerk

I. SUMMARY OF PROCEEDINGS:

The Florida Bar filed its complaint in Supreme Court Case No. 69,011 on July 8, 1986. The undersigned was duly appointed as referee in said cause by the Chief Justice of the Supreme Court of Florida by order dated July 31, 1986. A status conference was held on September 12, 1986, pretrial motions heard during said status conference, and a final hearing set for November 3, 1986.

Subsequent to the status conference, certain matters which had come to the attention of The Florida Bar resulted in Respondent tendering a Consent Judgment for Unconditional Guilty Plea and Waiver of Probable Cause Finding as to said matters on October 9, 1986. The Florida Bar filed the aforesaid document and a Petition for Approval of Consent Judgment and Motion for Expedited Appointment of Referee with the Supreme Court of Florida on October 21, 1986. This matter was assigned Supreme Court Case No. 69,510 and the undersigned was appointed as referee in this second matter by order of the Chief Justice of the Supreme Court of Florida entered October 23, 1986.

Prior to the final hearing, Respondent was granted a continuance at the request of his counsel upon the representation that Respondent was unavailable due to treatment for alcoholism. The referee was also advised that an overall consent judgment, encompassing both cases, had been entered into by the parties and would be submitted for approval at the final hearing.

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The final hearing, consolidating both cases, was held on December 23, 1986 in order that the referee could be satisfied as to the providency of the plea and the appropriateness of the agreed disciplinary sanction. Upon due deliberation and being satisfied that the disciplinary concept set forth in Respondent's Consent Judgment is appropriate, this referee has determined to approve Respondent's Consent Judgment with minor modifications and recommend its ultimate acceptance by the Supreme Court of Florida.

The following appeared for the respective parties:

On Behalf of The Florida Bar: Richard B. Liss, Esq.

On Behalf of Respondent: Richard L. Seidel, Esq.

II. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH RESPONDENT IS CHARGED:

1. That as to Supreme Court Case No. 69, 011 (Florida Bar Case No. 17F86F45), the following findings of fact are made:

a) Respondent was retained to represent Alex Myro (hereinafter referred to as "Myro") in a criminal proceeding brought in the United States District Court for the Southern District of Florida.

b) A bond reduction was sought and obtained on behalf of Myro.

c) The sum of One Thousand Dollars (\$1,000.00), which represented Myro's ten per cent (10%) cash surety bond, was deposited on behalf of Myro with the Clerk of the United States District Court for the Southern District of Florida.

d) The aforesaid bond was posted by Respondent, or his authorized agent, from funds provided by Jerry Stein (hereinafter referred to as "Stein").

e) Stein provided these funds based upon his understanding that the sum of One Thousand Dollars (\$1,000.00) would be returned to him upon release of Myro's bond.

f) Respondent received a refund of Myro's bond, in the amount of One Thousand Twenty Nine Dollars and Twenty Nine Cents (\$1,029.29), representing principal and interest, from the registry of the court.

g) Respondent failed to remit the aforesaid sum to Stein.

2. That as to Supreme Court Case No. 69,510 (Florida Bar Case No. 17F87F31), the following findings of fact are made:

a) Respondent was charged with driving an automobile while intoxicated.

b) Respondent had notice, during an appearance before the presiding judge on May 15, 1986, that the aforesaid matter would come on for trial on June 2, 1986.

c) The presiding judge, in fact, ordered Respondent to appear for trial on penalty of being held in contempt and jailed if he failed to appear.

d) Respondent failed to appear for trial and as a result thereof a warrant was issued for his arrest.

e) Respondent was arrested on September 22, 1986 for the alleged theft of two (2) sixteen (16) ounce cans of beer and having an open container of alcohol within a vehicle.

III. RECOMMENDATIONS AS TO WHETHER OR NOT RESPONDENT SHOULD BE FOUND GUILTY OF MISCONDUCT JUSTIFYING DISCIPLINARY MEASURES:

1. That as to Supreme Court Case No. 69,011 (Florida Bar Case No. 17F86F45), I recommend that Respondent be found guilty of violating Disciplinary Rule 1-102(A) (6) of the Code of Professional Responsibility and Fla. Bar Integr. Rule, art. XI, Rule 11.02(4) (b).

2. That as to Supreme Court Case No. 69,510 (Florida Bar Case No. 17F87F31), I recommend that Respondent be found guilty of violating Disciplinary Rules 1-102(A) (5) and 1-102(A) (6) of the Code of Professional Responsibility for his failure to appear for trial on the driving while intoxicated charge and that he be found guilty of violating Disciplinary Rule 1-102(A) (6) of the Code of Professional Responsibility and Fla. Bar Integr. Rule, art. XI, Rule 11.02(3) (a) for his arrest on the theft of two (2) cans of beer and open container charges.

IV. STATEMENT AS TO PAST DISCIPLINE AND PERSONAL HISTORY:

Respondent was admitted to The Florida Bar on June 3, 1960 and is Sixty-Two (62) years of age. He has no previous record of any disciplinary sanction being imposed against him in Florida Bar

disciplinary proceedings.

V. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER IN WHICH COSTS SHOULD BE TAXED:

The undersigned finds the following costs were reasonably incurred by The Florida Bar and should be taxed against Respondent pursuant to Rules Regulating The Florida Bar, Chapter 3, Rule 3-7.5(k) (1):

Administrative Costs at Grievance Committee Level	\$150.00
Administrative Costs at Referee Level	\$150.00
Appearance Fee of Court Reporter at Grievance Committee Hearing on May 21, 1986 and Transcript	\$ 96.75
Appearance Fee of Court Reporter and Transcript of December 23, 1986, Final Hearing	\$172.66
Bar Counsel Travel (Status Conference and Final Hearing)	\$ 39.98
<u>TOTAL</u>	\$609.39

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

The undersigned finds that the circumstances presented in mitigation justify recommending that Respondent's Consent Judgments, as modified below, be accepted by the Supreme Court of Florida. The spector of alcoholism has consumed Respondent and was a causative factor of his disciplinary violations. In addition to impairment caused by alcoholism, Respondent's failure to refund Stein's money was occasioned by a good faith belief that he had client authorization for his actions, faulty record keeping, and reimbursement, after a judgment was obtained against him, of the same bond money to a third party.

Respondent should receive a public reprimand from the Supreme Court of Florida with publication in Southern Reporter as the appropriate disciplinary sanction. Respondent should also be placed upon probation for a period of three (3) years under the following terms and conditions:

- a) Respondent shall contact Florida Lawyers Assistance, Inc. and thereafter continuously participate in whatever course of treatment for his alcoholism that is promulgated by that entity.
- b) Respondent shall be precluded from engaging in the

practice of law until such time as Florida Lawyers Assistance, Inc. certifies to The Florida Bar that his alcoholism is under control and no longer impairs his ability to practice law.

c) Should Florida Lawyers Assistance, Inc. subsequently advise The Florida Bar that Respondent is again impaired due to his alcoholism, Respondent agrees to being placed on the inactive list for incapacity not related to misconduct pursuant to the provisions of Rules Regulating The Florida Bar, Chapter 3, Rule 3-7.12 and further agrees that he shall remain on said list and refrain from the practice of law until he is readmitted. Any such readmission shall have, as a condition precedent, recertification from Florida Lawyers Assistance, Inc. that Respondent's alcoholism is under control and will not impair his ability to practice law. The process of voluntarily going on the inactive list shall be repeated each time that Respondent proves unable to control his alcoholism as reported to The Florida Bar by Florida Lawyers Assistance, Inc. and readmission will require the aforesaid recertification from Florida Lawyers Assistance, Inc.

d) That, at such time that Respondent engages in the practice of law, all of his work shall be under the supervision of a member of The Florida Bar who shall be acceptable to The Florida Bar. Such supervision will consist of monitoring Respondent's case load, rendering advice and suggestions to Respondent when necessary, and submitting quarterly reports to the Supreme Court of Florida and The Florida Bar regarding Respondent's handling of his case load.

e) Respondent shall make restitution to Stein in the amount of One Thousand Dollars (\$1,000.00). Said payment shall be at a rate of Fifty Dollars (\$50.00) per month without assessment of interest.

f) A failure to abide by all terms and conditions of probation may also result in termination of probation as provided by Rules Regulating The Florida Bar, Chapter 3, Rule 3-5.1(c).

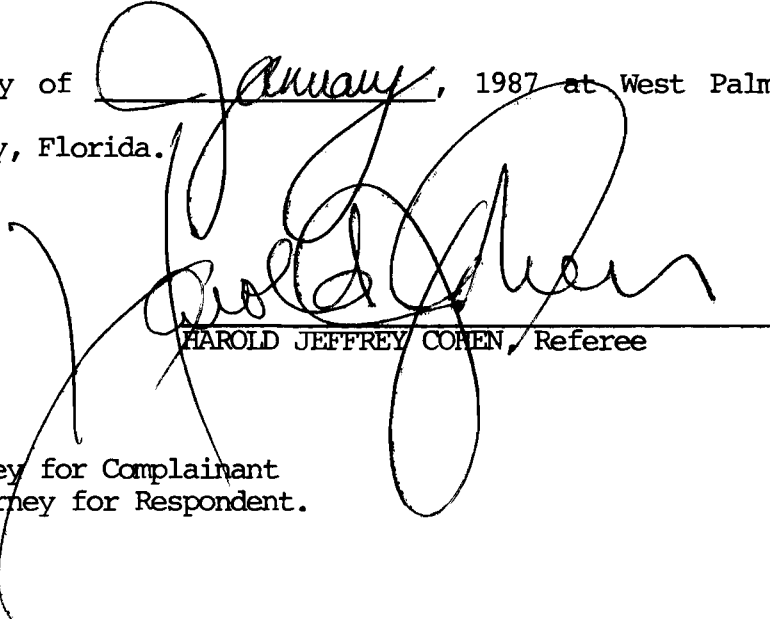
g) Respondent shall have the option of petitioning the Supreme Court of Florida for an earlier termination of probation if

such application is supported by Florida Lawyers Assistance, Inc. Similarly, The Florida Bar shall have the option of petitioning the Supreme Court of Florida for an extension of probation if deemed appropriate.


It is the opinion of the referee that the disciplinary sanction and terms of probation set forth herein serve the purposes of attorney discipline. Respondent will be given the opportunity to rehabilitate himself under the auspices of Florida Lawyers Assistance, Inc. Should he fail in that endeavor, the public shall be protected because Respondent will be precluded from engaging in the practice of law in this jurisdiction. Should he succeed, the public will not be deprived of the services of an experienced practitioner whose major failing was not so much a violation of professional ethics but succumbing to the totally debilitating effects of alcoholism.

Costs of these proceedings should be taxed against Respondent in the amount of Six Hundred Nine Dollars and Thirty Nine Cents (\$609.39) with execution to issue and with interest to accrue at a rate of twelve per cent (12%) on all costs not paid within thirty (30) days of entry of the Supreme Court's Final order in this cause, unless time for payment is extended by the Board of Governors of The Florida Bar.

DATED this 29th day of January, 1987 at West Palm Beach, Palm Beach County, Florida.


HAROLD JEFFREY COHEN, Referee

✓ Copies furnished to:

 Richard B. Liss, Attorney for Complainant
Richard L. Seidel, Attorney for Respondent.