

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

~~69,503~~
69,053

THE FLORIDA BAR,

Complainant,

PUBLIC

vs.

CASE NO. 69,053 (07B86C06)
and 69,054 (07B86C20)

WOODROW E. HARPER,

Respondent.

FILED

SID J. WHITE

JAN 16 1987

CLERK, SUPREME COURT

By _____
Deputy Clerk

REPORT OF REFEREE

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 hearing was held on December 2nd, 1986. 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

For The Respondent Rudolph J. Inman

To Facilitate this matter, the referee has combined both of the above cases into a single report.

After considering all the pleadings and evidence before me, pertinent portions of which are commented upon below, I find:

As to Case No. 69,053

1. The Respondent, at the hearing held on December 2nd, 1986 in the St. Johns County Courthouse, St. Augustine, Florida, admitted the allegations contained in the Complaint and testified as to his background and the circumstances surrounding his representation of Ralph Davis in his dispute with AAA Auto Truck Service in St. Augustine relative to repairs and unauthorized storage charges. The Complaint substantially sets forth the facts brought out during the direct and cross examination of the Respondent.

2. The Respondent agreed to represent Ralph Davis but did nothing on Mr. Davis' case, even though the matter required immediate

attention and action, for a period of six (6) weeks. The Respondent deliberately misrepresented to Mr. Davis on several occasions the status of his case and advised Mr. Davis that suit had been filed when in truth and fact the Respondent had done nothing except take his retainer.

RECOMMENDATIONS

As to Case No. 69,053:

I recommend that the Respondent be found guilty of violating Disciplinary Rule 1-102(A)(4), for conduct involving deceit and misrepresentation and Disciplinary Rule 6-101(A)(3), for neglecting a legal matter.

PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

After having recommended that the Respondent be found guilty and prior to recommending discipline pursuant to Rule 11.06(9)(a)(4), I considered the following personal history and prior disciplinary record of the Respondent, to-wit: Age 43; Graduated with a J.D. Degree from Florida State University in 1978 and admitted to The Florida Bar in May of 1980; Respondent is a former pilot who flew for TWA and after graduating from law school flew for two (2) years in Saudi Arabia. He is married, separated and has a 10 year old step-son; Prior Disciplinary convictions and Disciplinary measures imposed thereon - NONE.

DISCIPLINARY MEASURES

I recommend that the Respondent be suspended for a period of three (3) months with automatic reinstatement at the end of the period of suspension as provided in Rule 11.10(4).

As to Case No. 69,054:

1. The Respondent entered a plea of guilty to the Complaint. The referee finds that the Respondent has failed to maintain the minimum semblance of record keeping in his trust account or to comply with the minimum rules of trust accounting. Respondent has mishandled trust account monies and written checks on his trust account when there were not sufficient funds therein to cover said checks. The most serious breach was that the Respondent, on several occasions, used substantial sums of money for his own personal use which were

drawn on his trust account.

RECOMMENDATIONS

I recommend that the Respondent be found guilty of violating the following Rules of Article XI of the Integration Rule of The Florida Bar .. Rule 11.02(4) for misusing trust monies for his own personal use and benefit, Rule 11.02(4)(c) for improper trust account record keeping and mismanagement. Respondent also violated the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility .. Rule 1-102(A)(4) for conduct involving fraud, dishonesty, deceit, and for knowingly utilizing trust funds for his own personal purposes; Rule 9-102(A) for co-mingling funds; Rule 9-102(B)(3) for inadequate trust account record keeping; and Rule 9-102(B)(4) for misusing funds for his own personal use and failing to tender trust funds upon demand.

DISCIPLINARY MEASURES

I recommend that Respondent be suspended for a period of three (3) months with automatic reinstatement at the end of said period of suspension as provided in Rule 11.10(4). Said suspension to run concurrent with the suspension in Case No. 69,053 and in addition thereto, that he be placed on probation for a period of two (2) years with supervision and semi-annual audit of his trust account with the audit to be filed with the Clerk of the Supreme Court and a copy to Staff Counsel of The Florida Bar.

COSTS

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	\$ 129.70
3. Bar Counsel/Branch Staff Counsel Travel Costs	\$ 17.25
4. Investigator's Expenses	\$ 1,588.24

B. Referee Level Costs:

1. Administrative Costs	\$ 150.00
2. Transcript Costs	\$ 189.95
3. Bar Counsel/Branch Staff Counsel Travel Costs	\$ 33.71
4. Investigator's Expenses	\$ 75.00

TOTAL ITEMIZED COSTS: \$ 2,333.85

DATED this 14 day of January, 1987.


GILES P. LEWIS
Referee

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