

FILED
SID L. WHITE
JUN 17 1987

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

CLERK, SUPREME COURT

THE FLORIDA BAR,)
Complainant,)
v.)
JOSEPH H. WEIL,)
Respondent.)

~~CONFIDENTIAL~~
Deputy Clerk
The Florida Bar File
No. 11K85119
Supreme Court Case
No. 69,527

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS: Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct disciplinary proceedings as provided for by Rule 3-7.5 of the Rules Regulating The Florida Bar, review of a consent judgment for discipline was undertaken. All of the pleadings, notices, motions, orders, transcripts and exhibits are forwarded with this report and the foregoing constitutes the record of this case.

The following attorneys appeared as counsel for the parties:

On behalf of The Florida Bar: Randi Klayman Lazarus
On behalf of the Respondent: Albert L. Weintraub

Respondent submitted an Unconditional Guilty Plea and Consent Judgment for Discipline ("Consent Judgment") which provides for the following:

- a) A Public Reprimand to be administered by the Board of Governors.
- b) Taxation of costs of this disciplinary proceeding assessed against Respondent, with execution to issue with interest at a rate of 12% to accrue on all costs not paid within thirty (30) days of entry of the Supreme Court's final order, unless the time for payment is extended by the Board of Governors.

In response, Complainant filed a Petition for Approval of Consent Judgment for Discipline which reflects the position of The Florida Bar, as approved by the Designated Reviewer of the Eleventh Judicial Circuit Grievance Committee "K", that Respondent's plea be accepted.

II. FINDINGS OF FACT: In this consent judgment, Respondent admits certain factual matters which I hereby accept and adopt as the findings of fact in this cause, to wit:

(a) That the Respondent was retained to represent Mr. and Mrs. Lutecki in 1982 to handle a claim for property damage to their condominium.

(b) That the Respondent did not pursue their claim and allowed the statute of limitations to run.

(c) That the Respondent received a public reprimand in 1979.

III. RECOMMENDATIONS AS TO GUILT: In his Consent Judgment, Respondent admits that he engaged in unethical conduct. Based upon Respondent's admissions, I recommend that Respondent be found guilty of violating Disciplinary Rule 6-101(a) (3) (a lawyer shall not neglect a legal matter entrusted to him), Disciplinary Rule 7-101(a) (1) (a lawyer shall not intentionally fail to seek the lawful objectives of his client through reasonably available means permitted by law and the disciplinary rules), Disciplinary Rule 7-101(a) (2) (a lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services and Disciplinary Rule 7-101(a) (3) (a lawyer shall not intentionally prejudice or damage his client during the course of the professional relationship) of the Code of Professional Responsibility.

IV. MITIGATING FACTORS: In recommending discipline, I considered the following facts offered by Respondent in mitigation:

(a) That Respondent has made complete restitution to the Luteckis for the property damage in their condominium in the sum of \$12,500.00

(b) That Respondent has been a civil servant for many years. He is currently the City Attorney for Sweetwater and has served other municipalities over the years.

(c) That Respondent has expressed deep regret for his actions.

V. RECOMMENDATION AS TO DISCIPLINARY MEASURES

TO BE APPLIED:

- a) A Public Reprimand to be administered by the Board of Governors.
- b) Taxation of costs of this disciplinary proceeding assessed against Respondent, with execution to issue with interest at a rate of 12% to accrue on all costs not paid within thirty (30) days of entry of the Supreme Court's final order, unless the time for payment is extended by the Board of Governors.

VI. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER IN

WHICH COSTS SHOULD BE TAXED: I find that the following were reasonably incurred by The Florida Bar as costs in these proceedings and should be assessed against Respondent:

| | <u>Amount</u> |
|---|---------------|
| <u>Administrative Costs:</u> | |
| Grievance Committee Level | \$ 150.00 |
| Court Reporter | 146.00 |
| | 296.00 |
| <u>Administrative Costs:</u> | 150.00 |
| Court Reporter Appearance | |
| Final Hearing 5/22/87 | 45.00 |
| | |
| Bar Counsel travel costs for Final Hearing | 11.80 |
| | |
| Postage | 3.87 |
| | |
| Courier Service | 9.50 |
| | |
| TOTAL | \$ 516.17 |

It is recommended that the foregoing costs be assessed against Respondent. It is further recommended that execution issue with interest at a rate of twelve percent (12%) to accrue on all costs not paid within 30 days of entry of the Supreme Court's final order, unless time for payment is extended by the Board of Governors of The Florida Bar.

Dated this 12th day of June, 1987.


D. DANIEL M. FUTCH
Referee

Copies furnished to:
Randy Klayman Lazarus, Bar Counsel
Albert Weintraub, Attorney for Respondent