

Supreme Court of Florida

No. 69,529

THE FLORIDA BAR, Complainant,

vs.

DAVID M. ANDERSON, Respondent.

[November 19, 1987]

PER CURIAM.

This disciplinary proceeding is before the Court for consideration of the report of the referee. Neither party seeks review of the referee's report.

The referee found that the respondent attorney executed a promissory note in the amount of \$10,000 payable to a client. The client testified that the note was signed for a loan he made to the respondent. The client assigned the note to another. Respondent failed to make timely payments as agreed and the holder of the note retained an attorney and brought an action on the note against respondent. Respondent answered raising several defenses including a defense that the note had been paid. After receiving a subpoena for a deposition, he withdrew and waived the defenses. The referee found that the defenses were without foundation and should not have been raised.

The referee recommended that respondent be found guilty of violating the former Florida Bar Integration Rule, article

XI, rule 11.02(3)(a)(an act contrary to honesty, justice or good morals) and the former Code of Professional Responsibility, Disciplinary Rule 7-102(A)(1)(knowingly asserting a position merely to harass or maliciously injure another); and Disciplinary Rule 7-102(A)(2)(knowingly advancing a position that is unwarranted under existing law). The referee recommended that respondent be given a public reprimand.

We approve the report of the referee. We hereby reprimand attorney David M. Anderson for professional misconduct.

The costs of this proceeding are assessed against the respondent. Judgment is entered against David M. Anderson in the amount of \$2,596.03, for which sum let execution issue.

It is so ordered.

MCDONALD, C.J., and OVERTON, EHRLICH, SHAW, BARKETT, GRIMES and KOGAN, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Original Proceeding - The Florida Bar

John F. Harkness, Jr., Executive Director, John T. Berry, Staff Counsel and James N. Watson, Jr., Bar Counsel, Tallahassee, Florida,

for Complainant

John A. Weiss, Tallahassee, Florida,

for Respondent