

IN THE SUPREME COURT OF FLORIDA  
(BEFORE A REFEREE)

The Florida Bar,  
Complainant,  
VS.  
Irving B. Gussow,  
Respondent.

FILED  
SID J. HART

JUL 9 1987

CLERK, SUPREME COURT

By \_\_\_\_\_  
Deputy Clerk

CONFIDENTIAL

Case No: 69,645  
69,989

REPORT OF REFEREE

- I. Summary of Proceedings: 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, hearings were held on May 8, 1987. 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 cause.

The following attorneys appeared as counsel for the parties:

For The Florida Bar, Jan K. Wichrowski.

For the Respondent, Dale E. Krout, Jr.

(References to the portion of the transcript supporting these findings shall be followed by the number for the page followed by the number for the line.)

- II. Findings of Fact as to Each Item of Misconduct of which the Respondent is charged in Case No. 69, 645: After considering all the pleadings and evidence before me, pertinent portions of which are commented upon below, I make the following findings of fact:

As to Count I - Case No. 69,645

A. Irving B. Gussow, at all times hereinafter mentioned, was a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of The Supreme Court of Florida.

B. At all times material, Irving B. Gussow resided in Seminole County, Florida, and practiced in both Orange and Seminole Counties, but maintained his record Bar address in Seminole County, Florida. (T-37-8)

C. That Irving B. Gussow was originally retained to handle the Chapter 11 bankruptcy proceedings of Gar-Wood, Inc., in late 1983. A dispute arose between the stockholders and Irving B. Gussow was to represent the interests of four individuals. (T-37-21)

D. Irving B. Gussow was to handle the bankruptcy proceeding for a lump sum and was later given a partial payment of \$250.00 by Mr. Westfall in regard to the dispute which arose between Mr. Lagadyn and the other stockholders and investors. (T-38-9)

E. Irving B. Gussow's contact with his clients was with Ms. Asel and to a lesser extent to Mr. Westfall. Little or no apparent contact was made to Mr. Radloff or with Mr. Hart. (T-38-17)

F. Irving B. Gussow only met with Mr. Radloff one time at Ms. Asel's home in August, 1984, when he met with his clients about the case. During this meeting, interrogatories were signed. His clients had retained certain corporate assets including a number of master molds to make models for desk sets. He informed his clients that the corporate property they possessed should be placed in storage. He also indicated that a hearing would be held in the future on the issues in dispute. (T-39-6)

G. Radloff, Westfall, and Hart claimed they had not received notice of the hearing. However, Mr. Gussow's office file reflects notices were mailed to all of the clients. Mr. Radloff who resides in Homosassa Springs had no contact with Irving B. Gussow, was not notified of the hearing, he claims, and did not appear at the hearing. However,

Radloff was available and wanted to be at the hearing. Ms. Asel received notice of the hearing from Gussow's secretary a few days prior to the hearing. Ms. Asel was also telephoned the day before the proceedings by Gussow who told her that it was not necessary for Mr. Westfall to attend the hearing due to the fact that Mr. Lagadyn the adverse party was not going to appear. Westfall arranged to pick her up and take her to the hearing, which he did. However, Westfall did not attend the hearing as advised. (T-40-3)

H. Ms. Asel was the only client of Gussow's to appear at the hearing. Mr. Lagadyn did appear with counsel. (T-40-10)

I. Mr. Westfall, Mr. Radloff, and Ms. Asel were at all times willing and able to attend the hearing held in early December, 1984. (T-40-18)

J. During the course of the hearing, the value of the master molds became an issue. Gussow failed to rebut the attributed value of \$2,500.00 for each mold by objections, cross examination or rebuttal testimony. The unrebutted figure then became the value assigned to each of the master molds. (T-41-4)

K. At the end of the hearing the judge ordered the materials to be turned over to the adverse party within 20 days of the order which was subsequently entered on December 31, 1984. (T-41-13)

L. Subsequent to the hearing, the clients became aware of the need to turn the property over to the adverse party. On or about December 20, 1984, Mr. Westfall and Ms. Asel met with Gussow to discuss returning the material. Gussow advised them then and over the course of the next several weeks that they should not turn over the property until the adverse counsel had corrected the paperwork. Gussow's clients relied on his advice and did not turn over any corporate assets as ordered.

as a result, the Court entered a final judgment against them for \$419,819.00 on February 19, 1985. (T-42-5)

M. At all times, Gussow's clients were eager and willing to comply with the turnover within the 20 day time period set by the judge. (T-42-13)

N. Gussow admitted that by reason of the foregoing facts admitted to by him as described in paragraphs "A" through "M" above that he had violated the following Disciplinary Rules of the Code of Professional Responsibility of The Florida Bar: 1-102(A)(6) for other misconduct reflecting adversely on his fitness to practice law (T-42-23), and Rule 6-101(A)(2) for inadequate preparation with respect to the early December, 1984, hearing (T-43-5), and Rule 6-101(A)(3) for neglecting a legal matter entrusted to him (T-43-16).

As to Count II - Case No. 69,645

O. The undersigned makes those findings contained in paragraphs "A" through "N" above. (T-44-6)

P. Gussow failed to timely inform his clients that a final judgment was entered against them on February 19, 1985, for \$419,819.00. (T-44-15)

Q. After the judgment was entered against Gussow's clients, Ms. Asel, who had moved to Vero Beach, had several conversations over the next few months with Gussow concerning the return of the materials. Gussow said nothing to her about the final judgment. (T-44-25)

R. Gussow filed a Notice of Appeal on May 1, 1985, without his client's knowledge. However, the order that he was appealing was not finally entered until May 8, 1985. He then failed to refile the Notice of Appeal within the next ten day time limit from the date the order was entered on May 8, 1985, as required by the bankruptcy rules. His later, October 10, 1985, motion for and extension of time to file a brief was also very untimely. The appeal was dismissed with prejudice on jurisdictional grounds by order dated November 12, 1985. (T-45-16)

S. In June or July, 1985, Ms. Asel travelled from Vero Beach to Gussow's office and had him handle a garnishment which had been filed against her. In August, Ms. Asel received a copy of the bankruptcy reorganization plan and again drove to Gussow's office. At that time, she apparently had a conversation with Gussow regarding an appeal. (T-46-2)

T. It appears that Ms. Asel was not fully aware of the judgment against her until the depositions were taken of herself, Mr. Westfall, and Mr. Radloff by opposing counsel on or about October 21, 1985. When Mr. Westfall called in May, Gussow mentioned the matter was being appealed,

but Gussow only advised Mr. Westfall of the monetary judgment against them after his deposition. Gussow also advised Mr. Westfall to attempt to hide his van. Mr. Radloff was not informed by Gussow of the monetary judgment. Mr. Westfall communicated to Mr. Radloff the fact that a monetary judgment had been entered against them. (T-46-18)

U. Gussow admitted that by reason of the foregoing facts admitted to by him as described in paragraphs "O" through "T" above that he had violated the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility: Rule 11.2(3)(a) for conduct contrary to honesty, justice, or good morals, (T-47-1), and Rule 1-102(A)(6) for misconduct reflecting adversely on his fitness to practice law (T-47-18).

III. Recommendation as to whether or not the Respondent should be found guilty in Case No. 69,645: As to each count of the complaint I make the following recommendations as to guilt or innocence:

As to Count I - Case No. 69,645

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility: 1.102(A)(6) for misconduct reflecting adversely on his fitness to practice law; Rule 6-101(A)(2) for inadequate preparation with respect to the early December, 1984, hearing; Rule 6-101(A)(3) for neglecting a legal matter entrusted to him; Rule 7-101(A)(1) for intentionally failing to carry out the lawful objectives of his clients; and Rule 7-101(A)(3) for intentionally causing damage or prejudice to his clients.

As to Count II - Case No. 69,645

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Integration Rule of The Florida Bar, to-wit: 11.02(3)(A) for conduct contrary to honesty, justice, or good morals; and specifically that he be found guilty of violating the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility, to-wit: 1.102(A)(4) for conduct involving fraud, deceit, dishonesty, or misrepresentation with respect to covering up the fact of the final judgment after it was entered for several months; 1.102(A)(6) for misconduct reflecting adversely on his fitness to practice law; and 7-101(A)(3) for intentionally causing prejudice or damage to his clients.

IV. Findings of fact as to each item of misconduct of which the Respondent is charged: After considering all of the pleadings and evidence before me, pertinent portions of which are commented upon below, I made the following findings of fact:

As to Count I - Case No. 69,989

A. Irving B. Gussow was at all times hereinafter mentioned a member of The Florida Bar subject to the jurisdiction and Rules of Discipline of The Supreme Court of Florida. (T-7-23)

B. At all times material, he resided and practiced law in Orange and Seminole Counties, Florida. (T-8-3)

C. In June, 1986, Mr. Ronald W. Thompson became interested in purchasing some property located in Enterprise, Florida. On or about June 11, 1986, Mr. Thompson met with Gussow to discuss legal representation in this transaction. Gussow agreed to represent Mr. Thompson in the real estate purchase from the seller of the property, Mr. Charles French. (T-8-23)

D. On or about June 16, 1986, pursuant to Gussow's instructions, Mr. Thompson brought a cashier's check in the amount of approximately \$26,086.52 towards the real estate purchase to Gussow's office for the real estate purchase. Gussow advised Mr. Thompson that this check would be placed in Gussow's trust account. (T-9-12)

E. Approximately six weeks after Gussow received Mr. Thompson's check, Gussow advised Mr. Thompson that the title search was completed and closing took place.

F. Approximately three weeks later, Mr. Thompson learned from Mr. Charles French, the seller of the property, that Mr. French had not yet received the \$26,086.52 from Gussow's trust account. (T-10-5)

G. Mr. Thompson therefore called Gussow's office and was told by Gussow's secretary that the check had been sent to Mr. French and must have been lost in the mail. On or about August 5, 1986, Mr. Thompson telephoned Gussow's secretary and was told that a stop payment would be placed on the check and a new one issued. That same afternoon, Gussow advised Mr. Thompson that the check would be traced and that Mr. Thompson should see Gussow's secretary the next morning. However, when Mr. Thompson spoke to Gussow's secretary the next morning, the secretary advised Mr. Thompson that she had not been given such instructions. (T-10-22)

H. On or about August 7, 1986, Mr. Thompson went to Gussow's office and was given a replacement check dated July 22, 1986, written on Gussow's Barnett Bank trust account. When Mr. Thompson contacted Barnett Bank, he was advised that there were insufficient funds in Gussow's account to cover the check. (T-11-8)

I. On or about August 27, 1986, Mr. Thompson filed a complaint with the police regarding the situation. On November 14, 1986, an Information was filed against Gussow for first degree theft in connection with the above outlined conduct in the Ninth Judicial Circuit of Florida, Orange County. (T-11-16)

J. The bank records on Gussow's trust account during this period were obtained by Florida Bar subpoena. Review of these records indicates that Gussow deposited the \$26,086.52 check of Mr. Thompson's into his trust account, and immediately drew the account balance down to \$17,266.51. On July 22, 1986, the account balance was \$6,647.88 without any indication of a debit for the check written to Mr. French in the amount of \$25,799.02 concluding the Thompson/French real estate transaction. Approximately 40 checks appeared to be written on this trust account which involved Gussow's personal, office and non-client matters. (T-12-24)

K. That Gussow admitted that by reason of the foregoing facts admitted to by him (paragraphs "A" through "J" above), that he had violated the following Integration Rules of The Florida Bar, Article XI: Rule 11.02(3)(a) for conduct contrary to honesty, justice, or good morals, (T-13-8), and Rule 11.02(4) and accompanying bylaws, for misuse of his trust account, (T-13-23), and Rule 11.02(4)(c) and accompanying bylaws, for violating trust account procedures (T-14-5); and that he had violated the following Disciplinary Rules of the Code of Professional Responsibility of The Florida Bar: 1-102(A)(4) for conduct involving dishonesty, fraud, deceit, or misrepresentation (T-14-18), and Rule 1-102(A)(6) for conduct that adversely reflects on his fitness to practice law (T-14-25), and Rule 9-102(A) for failing to preserve the identity of funds and property of client, in failing to deposit client's funds in one or more identifiable banks, or savings and loan association accounts maintained in the state in which the law office is situated, and the portion of such rule that says no funds belonging to the lawyer or law firm shall be deposited except as prescribed, (T-15-12), and Rule 9-102(B)(3) for failing to maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and for failure to render appropriate accounts to his client regarding them, (T-15-21), and Rule 9.102(B)(4) for failing to promptly pay or deliver to the client as requested by the client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive, (T-16-5).

As to Count II, Case No. 69,989

L. The undersigned makes those findings described in paragraph "A" above. (T-16-9)

M. The undersigned makes those findings described in paragraph "B" above. (T-16-12)

N. In the fall of 1985, Mr. Joel E. Ehrlich became interested in purchasing a restaurant in Brevard County, Florida. Mr. Ehrlich retained Gussow as his attorney to represent him in the property negotiations. (T-16-22)

O. The purchase called for a \$50,000.00 initial payment from Mr. Ehrlich to the seller of the property. Therefore, Mr. Ehrlich delivered a check for \$50,000.00 to Gussow's trust account. (T-17-9)

P. Subsequently, Mr. Ehrlich became dissatisfied with Gussow's efforts on the negotiations and retained other counsel. (T-17-16)

Q. Mr. Ehrlich immediately requested that Gussow return the \$50,000.00 held in Gussow's trust account. However, Gussow became evasive and avoided several requests. (T-17-25)

R. Finally, Gussow turned over to Mr. Ehrlich a blank check drawn on his trust account which Gussow signed. (T-18-7)

S. Mr. Ehrlich then took this blank check to his new law firm. The law firm refused to accept the blank check. (T-18-14)

T. Mr. Ehrlich then requested that Gussow return the \$50,000.00 to him personally. Gussow then advised Mr. Ehrlich that there were not sufficient funds in his trust account to cover the check. Gussow signed a note dated December 24, 1985, stating that he had converted \$50,000.00 of Mr. Ehrlich's trust money for his own use. (T-19-1)

U. That Gussow admitted that by reason of the foregoing facts admitted to by him (paragraphs "L" through "T" above) that he had violated the following rules of the Integration Rule of The Florida Bar, Article XI: Rule 11.02(3)(a) for conduct contrary to honesty, justice, or good morals, (T-19-12), and Rule 11.02(4) and accompanying bylaws, for misuse of his trust account, (T-19-21), and Rule 11.02(4)(c) and accompanying bylaws, for violating trust account procedures, (T-20-3); and that he had violated the following Disciplinary Rules of the Code of Professional Responsibility of The Florida Bar: 1-102(A)(4) for conduct involving dishonesty, fraud, deceit, or misrepresentation, (T-20-16), and Rule 1-102(A)(6) for conduct that adversely reflects on his conduct to practice law, (T-20-23), and Rule 1-102(A) for failing to preserve the identity of funds and property of a client, and failing to deposit client's funds in one or more identifiable banks or savings and loan association accounts maintained in the state in which the law office is situated and requiring that no funds belonging to



the lawyer or law firm shall be deposited except as prescribed, (T-21-10), and Rule 9-102(B)(3) for failing to maintain complete records of all funds, securities, and other properties of the client coming into the possession of the lawyer and render appropriate accounts to his client regarding them, (T-21-19), and Rule 9-102(B)(4) for failing to promptly pay or deliver to the client as requested by the client, funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive, (T-22-3).

As to Count III - Case No. 69,989

V. The undersigned makes those findings described in paragraph "A" above. (T-12-7)

W. The undersigned makes those findings described in paragraph "B" above. (T-12-7)

X. Gussow handled the probate of an estate involving the Gussows and Signers as heirs. Pursuant to the probate, a piece of property belonging to the estate was sold and the proceeds were to be divided pursuant to agreement. (T-22-16)

Y. On or about April 22, 1986, Mr. David M. Gussow, Irving P. Gussow's brother, and his wife, Nancy C. Gussow, received a check for \$750.00 from Gussow's trust account for their share of the money from the sale of the land. Approximately the same date, Dr. and Ms. Susan Signer received a check fro \$750.00 from Gussow's trust account representing their share of the sale proceeds. (T-23-4)

Z. Shortly thereafter, Mr. and Mrs. David Gussow and Dr. and Ms. Signer learned that Gussow's trust account checks had been returned for insufficient funds. Mr. and Mrs. Gussow and Dr. and Ms. Signer telephoned Gussow's office and left messages for Gussow concerning the check problems. However, their calls were not returned. (T-23-15)

AA. Gussow evaded Mr. and Mrs. David Gussow and Dr. and Ms. Signer's requests regarding the checks for several months. On approximately September 24, 1986, after both parties complained to The Florida Bar regarding the matter, Mr. David Gussow and Ms. Susan Signer each received a check for \$750.00 from Gussow's counsel. (T-24-2)

BB. Gussow admitted that, by reason of the foregoing facts admitted to by him as described in paragraphs "V" through "AA" above, he had violated the following rules of the Integration Rule of The Florida Bar, Article XI:

**PAGE(S) MISSING**

Rule 11.02(3)(a) for conduct contrary to honesty, justice, or good morals (T-24-11), and Rule 11.02(4) and accompanying bylaws, for misuse of his trust account, (T-24-20), and Rule 11.02(4)(c) and accompanying bylaws, for violating trust account procedures (T-25-2); and that he had violated the following Disciplinary Rules of the Code of Professional Responsibility of The Florida Bar: 1-102(A)(4) for conduct involving dishonesty, fraud, deceit, or misrepresentation (T-25-15), and Rule 1-102(A)(6) for conduct that adversely reflects on his fitness to practice law (T-25-22), and Rule 9-102(A) for failing to preserve the identity of funds and property of a client and failing to deposit a client's funds in one or more identifiable banks or savings and loan association accounts maintained in the state in which the law office is situated and requiring that no funds belonging to the lawyer or the law firm shall be deposited except as prescribed (T-26-9), and Rule 9-102(B)(3) for failing to maintain complete records of all funds, securities, and other properties of a client coming into the possession of a lawyer and failing to render appropriate accounts to the client regarding them (T-26-18), and Rule 9-102(B)(4) for failing to properly pay or deliver to the client as requested by the client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive (T-27-2).

As to Count IV - Case No. 69,989

CC. The undersigned makes those findings described in paragraphs "A" and "B" above. (T-27-12)

DD. Gussow represented the defendant, Mr. Roger C. Bronk in Orange County, Florida, Circuit Court Case No. 85-407, styled Louis Joliet Bank and Trust Co. v. Roger C. Bronk, et al. (T-28-6)

EE. On or about May 1, 1986, the Honorable Lon S. Cornelius ordered Gussow to transfer certain funds to the Plaintiff, including all monies held by Gussow in trust which were proceeds from the Defendant's bank account, approximately \$8,400.00. (T-28-6)

FF. Gussow failed to comply with this order and subsequent orders of the court. Pleadings were filed seeking to amend or vacate the orders of the court which were summarily denied. Gussow was ordered to deliver the above sum of \$8,400.00, as well as \$712.00 in attorneys fees and costs to attorney Andrea A. Ruff by noon of July 11, 1986. On that date, Gussow contacted the court and received an extension until 5:00 PM that day. (T-29-6) (T-36-13)

GG. Gussow failed to deliver the monies as ordered. On June 12, 1986, a Writ of Bodily Attachment of Gussow was issued by the court for this failure. Thereafter, Gussow was arrested and brought before the court on June 16, 1986. (T-29-15)

HH. After being arrested and brought before the court, Gussow produced a check payable to himself rather than Andrea A. Russ, as ordered, which was approximately \$1,000.00 short of the amount ordered. The court, however, accepted the payment tendered to Ms. Russ and released Gussow. (T-30-16)

II. Gussow paid the \$712.00 charged to him in attorneys fees as sanctions out of his client's funds rather than his own funds. This was inappropriate in that the plaintiff's attorneys' fees were charged to Gussow due his personal actions in refusing to obey orders of the court. (T-31-2)

JJ. Gussow admitted that by reason of the foregoing admissions (paragraphs "CC" through "II" above) that he violated the following rules of the Integration Rule of The Florida Bar, Article XI: Rule 11.02(3)(a) for conduct contrary to honesty, justice, or good morals, (T-31-11), and Rule 11.02(4) and accompanying bylaws, for misuse of his trust account, (T-31-19), and Rule 11.02(4)(c) and accompanying bylaws, for violating trust account procedures, (T-32-1); and that he had violated the following Disciplinary Rules of the Code of Professional Responsibility of The Florida Bar: 1-102(A)(4) for conduct involving dishonesty, fraud, deceit, or misrepresentation, (T-32-14), and Rule 1-102(A)(6) for conduct that adversely reflects on his fitness to practice law, (T-32-20), and Rule 7-106(A) for disregarding a ruling of a tribunal, (T-33-1), and Rule 9-102(A) for failing to preserve the identity of funds and property of a client, in failing to deposit client's funds in one or more identifiable banks or savings and loan associations accounts maintained in the state in which the law office is situated and requiring that no funds belonging to the lawyer or the law firm shall be deposited except as prescribed, (T-33-13), and Rule 9-102(B)(3) for failing to maintain complete records of all funds, securities, and other properties of a client coming into the possession of a lawyer and to render appropriate accounts to his clients regarding them, (T-33-22), and Rule 9-102(B)(4) for failing to promptly pay or deliver to the client as requested by the client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive. (T-34-6)

V. Recommendations as to whether or not the respondent should be found guilty in Case 69,989: As to each count of the complaint I make the following recommendations as to guilt or innocence:

As to Count I - Case No. 69,989

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following rules of the Integration Rule of The Florida Bar, Article XI: Rule 11.02(3)(a) for conduct contrary to honesty, justice, or good morals; 11.02(3)(b) for criminal misconduct; 11.02(4) and accompanying bylaws, for violating trust account procedures; and specifically that he be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility of The Florida Bar, to-wit: 1-102(A)(3) for engaging in illegal conduct involving moral turpitude; 1-102(A)(4) for conduct involving dishonesty, fraud, deceit, or misrepresentation; 1-102(A)(6) for conduct that adversely reflects on his fitness to practice law; 9-102(A) for failing to preserve the identity of funds and property of a client, in failing to deposit client's funds in one or more identifiable banks or savings and loan associations accounts maintained in the state in which the law office is situated; 9-102(B)(3) for failing to maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer, and failing to render appropriate accounts to his clients regarding them; and 9-102(B)(4) for failing to promptly pay or deliver to a client as requested by the client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

As to Count II - Case No. 69,989

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following rules of the Integration Rule of The Florida Bar, Article XI: Rule 11.02(3)(a) for conduct contrary to honesty, justice, or good morals; 11.02(3)(b) for criminal misconduct; 11.02(4) and accompanying bylaws, for misuse of his trust account; 11.02(4)(c) and accompanying bylaws, for violating trust account procedures. Futher, the following Disciplinary Rules of the Code of Professional Responsibility of The Florida Bar: 1-102(A)(4) for conduct involving dishonesty, fraud, deceit, or misrepresentation; 1-102(A)(6) for conduct that adversely reflects on his fitness to practice law; 9-102(A) for failing to preserve the identity of funds and property of a client, in failing to deposit client's funds in one or more identifiable banks or savings and loan

association accounts maintained in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited except as prescribed; 9-102(B)(3) for failing to maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his clients regarding them; and 9-102(B)94) for failing to promptly pay or deliver to the client as requested by the client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

As to Count III - Case No. 69,989

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following Rules of the Integration Rule of The Florida Bar, Rule 11.02(3)(a) for conduct contrary to honesty, justice, or good morals; 11.02(3)(b) for criminal misconduct; 11.02(4) and accompanying bylaws for misuse of his trust account; 11.02(4)(c) and accompanying bylaws for violating trust account procedures. Further, the following Disciplinary Rules of the Code of Professional Responsibility of The Florida Bar: 1-102(A)(3) for engaging in illegal conduct involving moral turpitude; 1-102(A)(4) for conduct involving dishonesty, fraud, deceit, or misrepresentation; 1-102(A)(6) for conduct that adversely reflects on his fitness to practice law; 9-102(A) for failing to preserve the identity of funds and property of a client, in failing to deposit client's funds in one or more identifiable banks or savings and loan associations accounts maintained in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited except as prescribed; 9-102(B)(3) for failing to maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them; and 9-102(B)(4) for failing to promptly pay or deliver to the client as requested by the client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

As to Count IV - Case No. 69,989

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following Rules of the Integration Rule of The Florida Bar, Article XI: Rule 11.02(3)(a) for conduct contrary to honesty, justice, or good morals; 11.02(3)(b) for criminal misconduct;

11.02(4) and accompanying bylaws for misuse of his trust account;  
 11.02(4)(c) and accompanying bylaws for violating trust account procedures.  
 As well as the following Disciplinary Rules of the Code of Professional Responsibility of The Florida Bar: 1-102(A)(3) for engaging in illegal conduct involving moral turpitude; 1-102(A)(4) for conduct involving dishonesty, fraud, deceit, or misrepresentation; 1-102(A)(6) for conduct that adversely reflects on his fitness to practice law; 7-106(A) for disregarding a ruling of a tribunal; 9-102(A) for failing to preserve the identity of funds and property of a client, in failing to deposit client's funds in one or more identifiable banks or savings and loan association accounts maintained in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited except as prescribed; 9-102(B)(3) for failing to maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his clients regarding them; and 9-102(B)(4) for failing to promptly pay or deliver to the client as requested by the client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

VI. Personal History and Past Disciplinary Record: After finding of guilty and prior to recommending discipline to be recommended pursuant to Rule 11.06(9)(a)(4), I considered the following personal history and prior disciplinary record of the Respondent, to-wit: None.

VII. Statement of costs and manner in which costs should be taxed: 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	359.00

B. Referee Level Costs:

1. Administrative Costs	150.00
2. Bar Counsel/Branch Staff Counsel	
Travel Costs	43.92
3. Transcript Costs	321.20
4. Travel & Per Diem for Referee (mileage & meals)	26.60

C. Miscellaneous Costs:

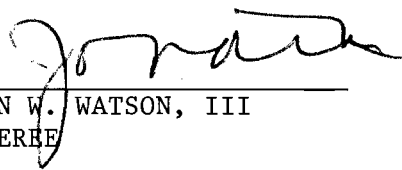
1. Telephone Charges	30.89
2. Other transcripts & copies	314.70
3. Investigators Expenses	945.29
4. Bank Records	744.90

TOTAL ITEMIZED COSTS:	\$3,086.50
-----------------------	------------

It is apparent that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the Respondent, and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final unless a waiver is granted by the Board of Governors of The Florida Bar.

VIII. Recommendations as to Disciplinary measures to be applied: I recommend that the Respondent be disbarred from the practice of law in the State of Florida (pursuant to former Integration Rule, Article XII, Rule 11.10(5) now Rule 3-5.1(f), and not be considered for readmission until the expiration of five years from the date of disbarment, and further not be considered for readmission until restitution to all clients harmed by Respondents misconduct has been paid (including reimbursement of The Florida Bar Client Security Fund) and until payment of all costs in the amount of \$3,086.50 is made, and further shall not be considered for readmission until Respondent shall prove his rehabilitation as provided in Article XII, Rule 11.10(4).

DATED this \_\_\_\_\_ day of JULY, 1987.

  
\_\_\_\_\_  
JOHN W. WATSON, III  
REFEREE

Copies to:

Bar Counsel  
Counsel for Respondent  
Staff Counsel, The Florida Bar, Tallahassee, FL 32301