

Supreme Court of Florida

Nos. 69,645 & 69,989

THE FLORIDA BAR, Complainant,

vs.

IRVING B. GUSSOW, Respondent.

[January 28, 1988]

PER CURIAM

This case is a Florida Bar disciplinary proceeding and is before the Court for consideration of a referee's report on two consolidated complaints of The Florida Bar. The referee found respondent Irving B. Gussow guilty on numerous counts of professional misconduct and recommends that he be disbarred. The respondent has not filed a petition for review of the referee's report.

In case no. 69,645, the referee recommended on one count that respondent be found guilty of neglect of legal matters entrusted to him, handling a legal matter without adequate preparation, failure to seek the lawful objectives of his clients, and causing damage or prejudice to his clients. On a second count the referee recommended that respondent be found guilty of conduct involving dishonesty and fraud towards his clients, conduct adversely reflecting on fitness to practice law, and causing damage or prejudice to his clients.

In case no. 69,989, there were four counts of misconduct alleged in the Bar's complaint. On count one the referee found that respondent converted trust funds to his own use. The referee recommended that respondent be found guilty of conduct

involving dishonesty, conduct involving the commission of a crime, misuse of a trust account, failure to follow required trust accounting procedures, conduct adversely reflecting on fitness to practice law, intermingling personal and trust funds, and failure to promptly deliver the property of a client.

On count two the referee found that respondent converted entrusted funds to his own use. The referee recommended that respondent be found guilty of dishonest conduct, violation of trust accounting and record keeping rules, conduct adversely reflecting on fitness to practice law, failure to preserve the funds of a client, and failure to deliver the property of a client.

On the third count the referee found that respondent distributed the proceeds of an estate's sale of property by means of checks that were returned for insufficient funds. The referee recommended that respondent be found guilty of dishonest and criminal conduct, violation of trust accounting rules, conduct adversely reflecting on fitness to practice law, failure to preserve the property of a client, and failure to deliver the property of a client.

On count four the referee found that respondent had failed or refused to pay over funds held in trust when ordered to do so by a court of the State of Florida until he was arrested and forcibly brought before the court. The referee recommended that respondent be found guilty of dishonest and criminal conduct, misuse of his trust account, violating trust accounting rules, disregarding the ruling of a tribunal, conduct adversely reflecting on fitness to practice law, failing to preserve the funds of a client, and failing to deliver the funds of a client.

Each of the foregoing failures and violations has reference to one or more provisions of the former Florida Bar Integration Rule and Bylaws or the former Code of Professional Responsibility. The referee recommended that respondent be disbarred; that, pursuant to rule 3-5.1(f) of the rules

regulating The Florida Bar, he not be permitted to apply for readmission for a period of five years; that he not be considered for readmission until he has made restitution to all parties harmed by his misconduct; and that he not be considered for readmission until he has paid the costs of these proceedings. We approve the findings and recommendations of the referee.

Respondent Irving B. Gussow is hereby disbarred. Since he is already suspended, this disbarment shall take effect immediately.

The costs of these proceedings are assessed against the respondent. Judgment is entered against Irving B. Gussow in the amount of \$3,086.50.

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. THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THIS DISBARMENT.

Two Consolidated Cases:

Original Proceeding - The Florida Bar

John F. Harkness, Jr., Executive Director and John T. Berry,
Staff Counsel, Tallahassee, Florida; and David G. McGunegle,
Bar Counsel and Jan K. Wichrowski, Co-Bar Counsel, Orlando,
Florida,

for Complainant

Dale E. Krout, Jr., Naples, Florida,

for Respondent