

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED

SID J. WHITE

FEB 27 1989

CLERK, SUPREME COURT

By _____

THE FLORIDA BAR

Complainant,

Supreme Court Case
No. 69,957

v.

PETER S. HERRICK,

Respondent.

REPORT OF REFEREE
(Corrected)

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 of Discipline, a final hearing was held on April 29, 1987. 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: Patricia S. Etkin

On Behalf of the Respondent: Pro se

11. SPECIFIC FINDING OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH THE RESPONDENT IS CHARGED: After considering the transcripts, pleadings, and evidence before me, I find:

Findings as to Count I

1. On or about July 26, 1985 Respondent mailed a letter to Phillip and Barbara Reichenthal (hereinafter referred to as "Reinchenthals") concerning the customs seizure of a vessel.

2. Respondent initiated the aforementioned contact with the Reichenthals upon learning that the Reichenthals had an interest in a particular vessel that had been seized by customs.

3. Respondent's letter was unsolicited.

4. Respondent's letter was sent to the Reichenthals as prospective clients for the purpose of obtaining professional employment.

5. The face of the envelope containing Respondent's letter was not marked "Advertisement".

6. Respondent's letter was not marked "Advertisement" at the top of the page.

Findings as to Count II

1. Respondent's letter states that his firm "specializes in customs law relating to vessel seizures".

2. The statement contained in Respondent's letter referred to in Paragraph 2, above, constitutes a representation that Respondent and/or his firm are specialists, having competence or experience in a particular area of law.

Findings as to Count III

1. Customs law is not recognized by The Florida Bar as a certified area of legal practice pursuant to the Florida Certification Plan as set forth in Article XXI of the Integration Rule and Article XIX of the Bylaws of The Florida Bar.

2. Customs law is not recognized by The Florida Bar as a designated area of legal practice pursuant to the Florida Certification Plan as set forth in Article XXI of the Integration Rule and Article XIX of the Bylaws of The Florida Bar.

3. Respondent is not certified or designated in customs law or any other area of legal practice.

4. The representation contained in Respondent's letter concerning specializing in customs law relating to vessel seizures is improper in that it holds Respondent out publicly as practicing in an area of law which is not recognized by either the Florida Certification Plan or the Florida Designation Plan.

111. RECOMMENDATION AS TO WHETHER RESPONDENT SHOULD BE FOUND

GUILTY: I recommend that Respondent be found guilty of all the violations of the Code of Professional Responsibility charged in the Bar's Complaint and, specifically, that he be found guilty of violating the following:

1. As to Count I, I recommend that Respondent be found guilty of violating Disciplinary Rule 2-104(B)(1)(a) of the Code of Professional Responsibility.

2. As to Count 11, I recommend that Respondent be found

guilty of violating Disciplinary Rule 2-105 of the Code of Professional Responsibility.

3. As to Count 111, I recommend that Respondent be found guilty of violating Disciplinary Rule 2-105 of the Code of Professional Responsibility.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURE TO BE APPLIED:

I recommend that Respondent receive a public reprimand and that he be required to appear before the undersigned referee for the administration of the reprimand.

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

WHICH COSTS SHOULD BE TAXED: I find that following costs were reasonably incurred by The Florida Bar:

| | | |
|------------------------------------|-------|---------------|
| Administrative Costs | | |
| Rule 3-7.5(k), Rules of Discipline | | |
| Grievance Level | \$ | 150.00 |
| Referee Level | | 150.00 |
| Court Reporter: | | |
| Grievance Committee Hearing | | 178.85 |
| Hearing Before Referee | | 215.61 |
| | TOTAL | <u>694.46</u> |

It is recommended that the costs of these proceedings, in the amount of Six Hundred Ninety Four Dollars and Forty Six Cents (**\$694.46**) be taxed against Respondent. It is further recommended that execution issue with interest at the rate of twelve percent (12%) to accrue on all costs not paid within thirty (30) days of entry of the Supreme Court's final order in this cause, unless time for payment is extended by the Board of Governor's of The Florida Bar.

Dated this 22nd day of February, 1989 at Fort Lauderdale, Broward County, Florida.


LAWRENCE L. KORDA, Referee

Copies furnished to:
Patricia S. Etkin, Bar Counsel
Peter S. Herrick, Respondent