IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

MICHAEL J. KNOWLES,

Respondent.

_____/

Case No. 70,114
and 70,907

Complainant's Answer Brief and Initial Brief

On Cross-Petition for Review

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INTRODUCTION

The Florida Bar, Complainant, will be referred to as the "the Bar" or "The Florida Bar". Michael J. Knowles, Respondent, will be referred to as "Mr. Knowles" or "Respondent". The symbol "TR. Mot/Disq." will be used to designate the transcript of the hearing on Respondent's Motion to Disqualify the Referee, held on December 9, 1987. The symbol "TR." will be used to designate the transcript of the final hearing which began on December 11, 1987 and concluded on December 18, 1987. All emphasis has been added.

STATEMENT OF THE CASE AND OF THE FACTS

The Florida Bar filed its complaints on February 25, 1987 and July 24, 1987. The complaints were consolidated on November 5, 1987. A final hearing was conducted before the Honorable Mark Speiser Referee on December 11, 1987 and concluded on December 19, 1987.

The Florida Bar would adopt the Referee's summary of facts contained in the Report of Referee as its statement of the facts. Those findings, together with disciplinary rule violation findings have been included below for the Court's convenience.

FINDINGS OF FACTS AS TO EACH ITEM OF MISCONDUCT OF WHICH THE RESPONDENTS CHARGED

After considering all the pleadings and evidence before me, pertinent portions of which are commented upon below I find:

Case No. 70,114

COUNT I

Respondent in May, 1985 personally opened a charge account with Hopkins-Carter, a Miami marine hardware company. The agreement for credit covered all charges made for his yacht "Thriller" by the Respondent's boat captain Richard Wagner.

Between May 5, 1985 and June 3, 1985, $531.29 of charges were incurred by this account. Following continued unsuccessful efforts by Hopkins-Carter to secure payment of this account, Hopkins-Carter sued the Respondent for this sum. Respondent despite knowledge of the existence and legitimacy of this claim never contacted Hopkin-Carter to work out a payment plan. Respondent does not despute [sic] the amount of the unpaid charges claims he gave Richard Wagner the cash to pay this account. Yet, Respondent who knew of the pendency of this lawsuit never defended himself against this claim

and consequently a final judgment by default was entered against him in the amount of $531.29 plus costs and attorneys fees.

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating Disciplinary Rules 1-102 (a) (4) and 1-102 (a) (6) of the Code of Professional Responsibility and Rule 11.02 (3) (a) of the Integration Rules of the Florida Bar.

COUNT II

Ernestine Ballard who was employed as Respondent's secretary for approximately 8 to 10 weeks was issued two salary checks on or about November 27, 1985 (#2951) and on or about December 6, 1985 (#2969). These checks were drawn on the Respondent's law office account maintained at the Peoples National Bank of Miami. Respondent concedes sums represented by these two checks each in the amount of $229.96 were due to Ms. Ballard. Although he admits signing check #2969, he claims his signature is not on check #2951 and that Karen Saxon, an employee signed his name on that check without his authorization. Respondent however, never reported this to the bank, the police or state attorney.

Ms. Ballard took both of these checks to her neighborhood Winn-Dixie supermarket to cash them. After receiving payment, Ms. Ballard was subsequently notified by Winn-Dixie that both checks were dishonored. Winn-Dixie threatened to take legal action against her because of the dishonored checks. Ms. Ballard advised Respondent on numerous occasions of the existence of the dishonored checks and Winn-Dixie's threatened lawsuit against her. After she left the Respondent's employ, she continued to attempt to contact the Respondent concerning this matter but Respondent never returned her messages.

On or about January 18, 1986, Ms. Ballard filed a complaint with the Florida Bar because of the aggravation and embarrassment these course of events caused her. Ultimately, the Respondent on April 10, 1986 issued a cashiers check to Winn-Dixie in an amount to cover these two dishonored checks to Ms. Ballard.

Although Ms. Ballard is college-educated, Respondent attempts to justify what occurred by pointing out that Ms. Ballard lacked any legal experience and could not cope with the hectic pace of his office. Respondent claims he did Ms. Ballard a favor by hiring her because she was otherwise unemployable. Furthermore, Respondent contends he hired Ms. Ballard under a program which would reimburse him for her salary, which sum and payment he never received. Respondent claims Ms. Ballard suffered no financial loss, but only some embarrassment. During this period, Respondent indicates that his ex-wife had absconded with their child, and that his bank account was drained because he had expended considerable sums in trying to locate them.

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating Disciplinary Rules 1-102 (a) (4) and 1-102 (a) (6) of the Code of Professional Responsibility and Rule 11.02 (3) (a) and (b) of the Integration Rules of the Florida Bar.

COUNT III

On or about March 23, 1985, the Respondent purchased carpet from Miami Rug Co. which was to be installed at his law office. Respondent paid a deposit of $252.53 and had a balance of $400 to be paid following installation of the carpet. The carpet was installed but despite numerous letter [sic] and phone calls made by a representative of Miami Rug to the Respondent, no response was ever forthcoming explaining the Respondent's failure to pay. Respondent never attempted to contact Miami Rug to work out a payment plan. Following a letter Miami Rug sent to Respondent approximately four months following installation indicating the balance due and inquiring whether installation was satisfactory, no complaint or response was furnished by the Respondent. Miami Rug then sued Respondent and a final judgment by default was entered against the Respondent on July 23, 1985 in the amount of $400 plus costs.

Respondent claims at the hearing the carpet was not installed to his satisfaction. When asked why if this were true why did he not defend himself against this lawsuit, he indicated it was not cost effective for him to do so and that it

was his intention all along to pay Miami Rug. As of this date, Miami Rug has not been paid.

Respondent also contends this matter occurred while is ex-wife kidnapped his child and therefore he did not have the opportunity or energy to defend himself.

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating Disciplinary Rules 1-102 (a) (4) and 1-102 (a) (6) of the Code of Professional Responsiblity and Rule 11.02 (3) (a) of the Integration Rules of the Florida Bar.

COUNT IV

Between January and April, 1985 Javan Thompson retained the Respondent to represent him in a paternity and child custody matter. Thompson paid Respondent $1,500. to institute this proceeding and an additional $1,550. subsequent thereto pursuant to a written retainer agreement.

On November 27, 1985 a final hearing was set at 10:00 A.M. before Dade Circuit Judge Greenbaum. Thompson contends that the Respondent never notified him that this matter had been scheduled. After one hour of this hearing had elapsed, Respondent telephoned Thompson at work to advise him that everybody was in Court waiting for him. Thompson could not leave work due to his lack of notice of this hearing and his consequent inability to make prior arrangements to attend. Thompson arranged to meet the Respondent in his office later that day but the Respondent never showed up as he indicated he would. Thompson subsequently had another attorney contact Respondent and Respondent agreed to furnish Thompson with his files so that they could be reviewed and handled by his new lawyer. Thompson again went to Respondent's office, this time to retrieve his files, but was unsuccessful because Respondent was not there. Several more unanswered telephone calls were made by Thompson to the Respondent, but all to no avail Respondent has never turned over these files to Thompson's new attorney.

As a result of this November 27, 1985 hearing

which Thompson had no knowledge of until it was to [sic] late for him to attend, the opposing party received custody of the child, he had to pay her lawyer's fees, he had his salary garnished, his child support was increased and his visitation rights were restricted.

Respondent contends without any corroborating documentation that the final hearing on this cause was not on November 27, 1985 but one month prior to that date (for which Respondent claims Thompson was notified of) and that following that hearing at which testimony was taken, Judge Greenbaum took the matter under advisement and that November 27, 1985 was merely the date the Court to was to [sic] report to the lawyers its final decision.

Respondent further claims that Judge Greenbaum determined Thompson to be the father of the child and that the increase in monthly child support was primarily to cover accrued arrearages. Respondent claims he did in fact secure a determination of custody and visitation rights, but that Thompson was merely frustrated with the results. Respondent contends he never apprised Thompson his wages were going to be garnished because the Judge personally informed him of that fact.

Lastly, Respondent indicated he never surrendered his Thompson files to subsequent lawyer(s) because they never furnished him with written authorization from Thompson to release them.

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating Disciplinary Rules 1-102 (a) (4), 1-102 (a) (6), 6-101 (a) (3) and 9-102 (b) (4) of the Code of Professional Responsibility and Rule 11.02 (3) (a) of the Integration Rules of the Florida Bar.

COUNT V

On or about November 13, 1985 Jeanine Smith retained Respondent to represent her in a divorce matter and she paid him $500 to initiate the proceedings. On March 24, 1986, Smith attended the schedule [sic] final hearing, but the

Respondent did not appear. Smith who took a day off from work without pay to attend, was never notified by the Respondent that he had cancelled the hearing. She only learned of that fact once she called Respondent's office from the courthouse and was apprised by Respondent's secretary of the cancellation.

Smith called Respondent's office over 20 times after this March 24, 1986 hearing but he never returned her calls. On April 11, 1986, the Circuit Court Judge entered an order of default against Smith. On April 21, 1986, Smith sent Respondent by certified mail a letter detailing her plight and frustrations, a copy of which was introduced in evidence as an exhibit. Even after receipt of this letter by Respondent's office, Respondent continued to ignore Smith's request for attention.

Smith who was unaware that a default judgement [sic] had been entered against her subsequently secured another lawyer to represent her who Smith claims was unable to get her files from the Respondent. Consequently her new attorney had to secure a court order to retrieve her files from the Respondent.

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating Disciplinary Rules 2-110 (a) (2), 2-110 (b) (4) and 6-101 (a) (3) of the Code of Professional Responsibility.

Case No. 70,907

COUNT I

In October, 1985 Mary Walton agreed to pay the Respondent $300 to redeem certain bonds held by her that were issued by the Pasco County Water Sewer District. Respondent was to be paid his fee following the redemption of the bonds.

On or about May 5, 1986, Respondent received two checks totally [sic] $2,350 representing the bond proceeds. These checks, made payable to Respondent were deposited in his trust account upon receipt. By letter dated May 5, 1986, Respondent advised Ms. Walton of the foregoing and

indicated that upon clearance of these checks, which he stated would be by the end of the week, he would forward to Ms. Walton a trust account check in the amount of $2,050, the difference representing his agreed upon $300 fee.

On or about May 12, 1986, Respondent issued check #567 drawn on his trust account payable to Ms. Walton in the amount of $2,050. Ms. Walton was then notified by her bank that the foregoing check issued to her by the Respondent had been dishonored. Ms. Walton advised the Respondent of this fact, he told her to redeposit the check which she did at the bank where Respondent maintained his aforementioned trust account where upon she was informed the account was closed. Subsequently, Ms. Walton was told by Respondent's secretary that he would meet her at her home to make good on the bounced check which he never did. Following numerous unsuccessful efforts to contact the Respondent, Ms. Walton went to the Florida Bar in June, 1986. It was not until December 5, 1986, three days after the Florida Bar Grievance Committee hearing that Respondent paid the sum owed Ms. Walton by leaving the money with her sister.

Respondent claims that between June and August, 1986 he attempted to contact Ms. Walton several times to resolve this matter but that she was out of town.

A Florida Bar auditor testified he reviewed the Respondent's trust account in the period of May-June, 1986 and that it revealed that as of May 12, 1986, the date check #567 was purportedly written, there were sufficient funds in the Respondent's account to cover the check. As of the date the check was presented to Respondent's bank for payment June 6, 1986, there were insufficient funds in his account to honor the draft. The auditor however was unable to testify when the Respondent actually mailed the check to Ms. Walton. The cover letter with the check was dated May 9, 1986. The check itself was post-dated to May 12, 1986. Ms. Walton indicates she did not receive the check until Memorial Day (end of May, 1986). The subject check indicates it was deposited by Ms. Walton at her bank on June 2, 1986.

Respondent claims that at the time the check was presented to his bank for payment June 6, 1986

he was in trial in Virginia and that he has withdrawn all the funds from his trust account and placed it in his safe since he thought the IRS was investigating him.

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating Disciplinary Rules 9-102 (b) (4) of the Code of Professional Responsibility and Rule 11.02 (4) of the Integration Rule of the Florida Bar.

COUNT III[1]

In April or May, 1985, Charlie Mae Culpepper retained the Respondent to represent her in a divorce proceeding. A written fee agreement entered between the two provided for a $75 retainer fee and a balance due of $325 all of which was paid.

On April, 1985, Respondent filed a petition for dissolution of marriage on Ms. Culpepper's behalf. The aforementioned petition however omitted any prayer for special equities. Consequently at the February, 1986 final hearing the Circuit Court would only grant the divorce if Ms. Culpepper forfeited her special equities since they had not been properly plead. Following this hearing Respondent informed Ms. Culpepper that her divorce was final but that the property settlement had not been concluded. Ms. Culpepper attempted to contact the Respondent continuously after the February, 1986 hearing both by telephone and in person to no avail to resolve the property settlement. She made several appointments with the Respondent but he never appeared nor notified her to explain his absence.

In July, 1986 Ms. Culpepper contacted the Clerk of Court's office and was informed to her chagrin that she was not yet divorced. She thereafter persisted with no success to contact the Respondent who never notified her that he was no longer representing her or seeking to withdraw as counsel.

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating Disciplinary Rule 6-101 (a) (3) of the Code of Professional Responsibility.

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[1]COUNT II of Complaint No. 70,907 has been deleted. The Referee found Respondent not guilty of the charge and the Bar did not seek to appeal that finding.

SUMMARY OF THE ARGUMENT

Respondent was found guilty of six counts of misconduct ranging from failing to pay for personal services and goods provided to him, issuing checks where funds were insufficient to his former secretary, neglecting cases, ignoring hundreds of client phonecalls and misappropriation. It is the Bar's contention that if any case cries out for disbarment, this is such a case.

POINTS ON APPEAL

POINT I

WHETHER THE REFEREE CORRECTLY REFUSED TO DISQUALIFY HIMSELF?

POINT II

WHETHER THE REFEREE PROVIDED THE RESPONDENT A FULL AND FAIR HEARING?

POINT III

(Complainant's Initial Argument on Cross Petition)

WHETHER DISBARMENT RATHER THAN A THREE YEAR SUSPENSION IS THE APPROPRIATE SANCTION?

ARGUMENT

I

THE REFEREE CORRECTLY REFUSED TO DISQUALIFY HIMSELF

Respondent urges this Court to find that the Referee erred when he refused to disqualify himself. This Court, however, has previously addressed that issue. On December 10, 1987 Respondent filed a Writ of Prohibition based on the Referee's unwillingness to disqualify himself. This Court denied that Petition on January 12, 1988. Therefore, the denial of the writ constitutes a ruling on the merits of the claim and therefore establishes the law of the case. Obanion v. State, 504 So.2d 768 (Fla. 3rd DCA 1986).

It is easy to understand why Respondent's Petition, based on the Referee's refusal to disqualify himself was rejected. A motion to disqualify is sufficient if the facts allege a "well-grounded fear" that the Respondent will not receive a fair trial at the hands of the Referee. Livingston v. State, 441 So.2d 1083 (Fla. 1983). Merely, complying with the technical requirements of a motion to disqualify is simply not enough. Respondent has to show personal bias or prejudice of the Referee. Dragovich v. State, 492 So.2d 350 (Fla. 1986); Mt. Sinai Medical Center v. Brown, 492 So.2d 512 (Fla. 1st DCA 1986).

Respondent claims that in an earlier proceeding the Referee demonstrated prejudice because his ruling was not quick enough, and the Referee was reluctant to accept a stipulation from the parties. Respondent's argument was, and is absurd. A hearing

was held in reference to the issue of whether the Respondent should be reinstated as a result of another matter on January 30, 1987. The Referee issued his order on February 4, 1987 and this Court ruled on February 12, 1987. Surely, the above time span is not even remotely long. (TR. Mot/Disq. 3-4) Moreover, there is not a shred of evidence to suggest that the Referee was unwilling to accept the stipulation of the parties that the Respondent be reinstated.

The irony of Respondent's position is that the Referee did recommend that the Respondent be reinstated. Consequently, the ruling was in the Respondent's favor. In fact, it has been repeatedly held that disqualification of a Judge is not mandated even where the Judge has ruled adversely against a party in the past. Richards v. Kaney, 490 So.2d 1299 (Fla. 5th DCA 1986); Wilson v. Renfroe, 91 So.2d 857 (Fla. 1957).

Respondent further argued in his motion to disqualify that the Referee became privy to confidential information as a result of presiding over the earlier proceeding. This argument was and is likewise, baseless. The proceeding was not confidential.

It was also claimed that the Referee should have been disqualified since he was a Broward County Judge, rather than a Dade County Judge, simply because all participants in the matter either resided in or were employed in Dade County. This argument does not indicate even a subjective reason for Respondent to have a "well-grounded" fear that the Referee would be biased or prejudiced.

Respondent also urged the Referee to disqualify himself because Respondent "anticipated" the Referee would inquire into privileged areas or allow Bar counsel to do so. Rule 1.432 of the Rules of Civil Procedure does not provide for anticipatory prejudice.

The final argument offered by Respondent related to the time allotted by the Referee to try this case. The Referee indicated that he would take as much time as necessary, to conclude the case. (TR. Mot/Disq. 17) Thus, Respondent's contention has no merit.

The foregoing unquestionably demonstrates that this argument is similar in quality to the one raised in Fischer v. Knuck, 497 So.2d 240 (Fla. 1986). There this Court stated:

> Subjective fears were not a basis for petitioner to obtain disqualification of trial judge in dissolution proceeding where they were not reasonably sufficient to justify a well-founded fear of prejudice and, instead, were frivolous and designed to frustrate process by which petitioner suffered an adverse ruling.
>
> Fisher, at 240

II

THE REFEREE PROVIDED THE RESPONDENT A FULL AND FAIR HEARING

The Respondent has the effrontery to suggest that the Referee was prejudiced because "he was accorded less than one hour to present its case" without any support for that statement. The Bar presented ten witnesses and Respondent presented five witnesses.[2] The Respondent placed no objection on the record, nor did he request that the proceedings be continued.

At the conclusion of the Bar's case, Respondent was asked how many witnesses he was planning on presenting. He responded that one witness, Betty Houston was present, five were on the way and that he anticipated some others. (TR. 305) After Ms. Houston testified, the Court asked Mr. Knowles to present his next witness. Respondent stated his witness was on his way. Mr. Knowles contended that the proceedings should be bifurcated until his witnesses appeared. The Bar pointed out that some of its witnesses had been waiting to testify for nearly eight hours. (TR. 323) Certainly, Respondent should have been prepared to present his case and had all witnesses lined up. The Referee allowed Respondent ten minutes. (TR. 323) Subsequent to a short recess, Mr. Knowles then testified on his own behalf. (TR. 335-359, 362-373)

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[2]Respondent presented one witness out of turn. The Florida Bar did not object to that accommodation since the witness is a County Court Judge operating under a rigid schedule (TR. 158)

Furthermore, Respondent made no mention of his perceived prejudice at the closing arguments held one week later. Respondent's failure to place an objection constitutes an absolute waiver of this argument. Marsh v. Sarasota, 97 So.2d 312 (Fla. 2nd DCA 1967).

III

DISBARMENT RATHER THAN A THREE YEAR SUSPENSION IS THE APPROPRIATE SANCTION[3]

It is well established that a Referee's findings in an attorney disciplinary proceeding will be upheld unless clearly erroneous or without evidentiary support. The Florida Bar v. Stalnaker, 485 So.2d 815 (Fla. 1986). Respondent has not alleged error by the Referee, but merely stated that the Referee's findings do not constitute violations of the Code. Surely, a review of the Referee's findings, which have been incorporated in this brief, lead to the inescapable conclusion that the actions, and in most instances, inactions of Respondent constitute violations of the Code sufficient to warrant disbarment.

In The Florida Bar v. Newman, 513 So.2d 656 (Fla. 1987), this Court held that the cumulative nature of the attorney's failure to properly and diligently pursue legal matters in his care, together with misappropriation warrant disbarment. In the case sub judice Respondent did not diligently pursue the case of Javan Thompson, which involved a paternity and child custody matter. An important hearing was held where Respondent failed to notify Mr. Thompson to attend. Respondent telephoned Thompson an hour after the hearing had begun to advise him to appear. (TR. 198) Thompson was unable to leave his workplace as a result of

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[3]This argument will address the final two points of Respondent's Initial Brief, in that they did not contain anything other than an argument heading. It will additionally constitute complainant's sole argument on its cross petition.

Respondent's failure to give Thompson prior notice. (TR. 202) Serious ramifications resulted. Thompson had to pay adverse attorney's fees, the opposing party received custody, his salary was garnished, his child support was increased and his visitation rights were restricted. (TR. 206-207) Respondent did not bother to advise Thompson that any of the foregoing had resulted. Knowles' failure to have his client present and failure to advise his client of the outcome of the hearing evidences an unmistakable lack of diligence.

The same lack of diligence was demonstrated in the Smith matter, involving a divorce. Ms. Smith appeared at a final hearing on March 24, 1986, having taken a day off from her job. Respondent, however, had failed to advise Ms. Smith that the hearing was cancelled. (TR. 162) Subsequently, Ms. Smith telephoned Respondent at least twenty times in the following month to discuss her case. In that Respondent failed to return any of her calls, Ms. Smith wrote to the trial judge. (TR. 165) As a result of Respondent's refusal to communicate with Ms. Smith, she retained another attorney. (TR. 168) This attorney attempted to obtain her files from Mr. Knowles, to no avail. (TR. 169) A default judgment was entered against Ms. Smith, which Respondent failed to advise her of. (TR. 170)

Another matter where Respondent demonstrated an utter lack of diligence occurred in reference to Charlie Mae Culpepper. Mr. Knowles represented Ms. Culpepper in a divorce proceeding. After Respondent submitted a petition for dissolution, the Court

advised Respondent that a divorce would be granted only if Ms. Culpepper forfeited her special equities, since they had not been properly pled. (TR. 136) Ms. Culpepper testified that Respondent informed her that her divorce was final, but that the property settlement was pending. Ms. Culpepper attempted to contact the Respondent for five months to resolve the property aspect of her case. Ms. Culpepper made several appointments with Respondent. Respondent, however, always failed to appear. (TR. 98) Only after Ms. Culpepper personally contacted the Clerk of the Court did she discover that she was not divorced (TR. 99).

In the Mary Walton matter, the Bar proved, through the testimony of Ms. Walton and the Bar's auditor, that Mr. Knowles received monies on behalf of Ms. Walton and used those monies. (TR. 239-240) Respondent did not return the sums until seven months after receipt and after a Florida Bar grievance committee hearing was held. (TR. 239-240) The Walton matter represents a clear case of misappropriation. The foregoing parade of horrors indicating a failure to diligently pursue clients' matters together with the misappropriation regarding Walton, warrant disbarment, according to the Newman, supra case.

This Court has also held that cumulative misconduct of a similar nature warrants more severe discipline, than might dissimilar conduct. The Florida Bar v. Bern, 425 So.2d 526 (Fla. 1982) The Thompson, Smith and Culpepper matters certainly involve similar misconduct. Respondent neglected matters and failed to communicate with clients, oft times pursued him relentlessly.

In The Florida Bar v. Whitney, 237 So.2d 745 (Fla. 1970) disbarment was deemed appropriate where over an extended period of time Respondent disregarded basic concepts of honesty and reliability and flagrantly violated the trust reposed in him by his clients. Such certainly was the case between Mr. Knowles and the above mentioned clients. In The Florida Bar v. Segal, 462 So.2d 214 (Fla. 1985) the attorney was disbarred for failing to represent his client's interest in three cases, while retaining their fees. In The Florida Bar v. Peterman, 306 So.2d 484 (Fla. 1975) Peterman was suspended for three years since he withdrew from employment without returning fees, refused to keep clients informed of the progress of their cases and refused to answer clients' telephone calls.

Disbarment is an appropriate sanction for Mr. Knowles' actions in the Walton case alone. This Court has repeatedly ordered disbarment where a misappropriation occurs. The Florida Bar v. Walbert, 446 So.2d 1071 (Fla. 1984). Furthermore, it has been held that despite an ultimate return of monies, where misappropriation has occurred disbarment is appropriate. The Florida Bar v. Breed, 378 So.2d 783 (Fla. 1980).

This Court ordered attorney Mayo suspended for one year because he issued a check for services rendered to him, which was returned for insufficient funds. The Florida Bar v. Mayo, 439 So.2d 888 (Fla. 1983). Respondent issued bad checks to Ernestine Ballard and Mary Walton. The Court recently disbarred an attorney who bounced two checks from his operating account and

neglected a case. The Florida Bar v. Weiss, 516 So.2d 947 (Fla. 1988).

Last, an attorney may be disciplined for matters involving his personal life. The Florida Bar v. Adams, 435 So.2d 818 (Fla. 1984). The Florida Bar v. J. B. Hooper, 507 So.2d 1078 (Fla. 1987) In one of the matters before this Court, Respondent incurred charges for his personal yacht. Those charges were unpaid. The Marine hardware company ultimately sued Respondent and obtained a final judgment by default against him. (TR. 19-20) Another count involved Respondent's failure to pay for carpeting for his law office. The carpet company also obtained a default judgment against Respondent. (TR. 85-86)

The foregoing instances involving, neglect, failure to communicate, refusal to return files, misappropriation and an utter disregard for anyone, clearly warrant disbarment, rather than a three year suspension.

CONCLUSION

Based upon the foregoing reasons and citations of authority, The Florida Bar respectfully submits that the Referee erroneously imposed a three year suspension, and would urge this court to disbar the Respondent.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven copies of the above and foregoing Complainant's Answer Brief and Initial Brief on Cross-Petition for Review was sent Federal Express to Sid J. White, Clerk, Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32399-1927 and that a true and correct copy was mailed to Respondent, Michael J. Knowles, at his record Bar address 335 N.W. 54th Street, Miami, Florida 33127 on this 21st day of July, 1988.

RANDI KLAYMAN LAZARUS
Bar Counsel