

IN THE SUPREME COURT OF FLORIDA

(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

JOEL KAUFFMAN

Respondent.

FILED

OCT 21 1987

CLERK, SUPREME COURT

By

Case No. 700199

(TFB No. 04B84N62)

REPORT OF THE REFEREE

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.5, Rules of Discipline, the following proceedings occurred:

On March 31, 1987, The Florida Bar filed its Complaint in this matter, which was assigned to the undersigned Referee on April 7, 1987. The Complaint, together with all other pleadings filed in this matter, constitute the record in this case and are forwarded to the Supreme Court of Florida, with a copy to Staff counsel of The Florida Bar.

II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

B. Narrative Summary of Case.

A. Respondent represented the husband in an uncontested dissolution of marriage in May, 1982.

B. Pursuant to instruction from the husband, confirmed by the wife, respondent prepared a response and waiver of appearance to be signed by wife and a stipulation for custody of the couple's minor children to be signed by both parties. Both parties advised respondent that wife was giving up custody for financial reasons and that she would want custody if and when she reached greater financial stability. Respondent advised them that custody should not be handled on so indefinite a basis, that the stipulation should put custody with husband and that the parties should work out a modification at the appropriate time.

C. Respondent failed to advise the wife expressly that he was not representing her interest.

D. Either respondent or his secretary gave wife the name of an attorney who by arrangement with respondent would sign the stipulation as wife's attorney. Wife was told she could contact the attorney if she wished. No appointment was made for her, and she never contacted him.

E. A final judgment of divorce was entered on the basis of the stipulation. Wife attended the final hearing.

F. At a later date the wife requested custody of the children from the husband who refused to transfer custody of the children.

G. As a result, it was necessary for the wife to retain counsel and petition for a modification of the final judgment of dissolution.

H. A review of the original pleadings showed the wife as being represented by the lawyer arranged by respondent who never actually saw her.

I. The wife ultimately received custody of the minor children.

J. Respondent was at the time an inexperienced lawyer practicing on a parttime basis. He has since that period of time discontinued the practice in question and has been without subsequent disciplinary problems.

III. RECOMMENDATIONS AS TO GUILT

I recommend that Respondent be found guilty of the following violations of the Code of Professional Responsibility:

Disciplinary Rule 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice).

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined for all matters as set forth in Section II of this Report, as agreed to by Respondent in his Conditional Guilty Plea for Consent Judgment, to wit:

- A. Two years probation, conditioned upon review of Respondent's divorce cases for a six month period by another attorney. Further conditioned upon Respondent's enrollment in continuing legal education courses and seminars on family law.
- B. Payment of costs incurred by The Florida Bar in bringing this action. Such costs to be paid within thirty (30) days of the date of the Supreme Court's order imposing discipline, unless such time is extended by the Board of Governors.

} how many hours of CLE?

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.5(k)(1), Rules of Discipline, I considered the following personal history of Respondent, to wit:

Date admitted to the Bar: November 19, 1975

Prior Discipline: On December 11, 1986, Respondent was suspended for thirty days and thereafter placed on two years conditional probation for violating Disciplinary Rules 1-102(A)(4) (engaging in conduct involving dishonesty, fraud, or misrepresentation), 1-102(A)(6) (engaging in conduct that adversely reflects on fitness to practice law), and 7-101(A)(3) (intentionally prejudicing or damaging a client during a professional relationship) of the Code of Professional Responsibility of The Florida Bar. Respondent also received a private reprimand for other misconduct, the nature of which is unavailable due to the age of the case.

VI. 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

1.	Administrative Costs	\$150.00
2.	Court Reporter's Fees	340.55
3.	Bar Counsel Travel	63.90

B. Referee Level

1.	Administrative Costs	<u>\$150.00</u>
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TOTAL	\$704.45
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It is recommended that such costs be charged to 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.

Dated this 16 day of October, 1987.



R. MICHAEL HUTCHESON, REFEREE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to SID J. WHITE, Clerk of the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32301, and that confidential copies were mailed by regular U. S. Mail to JOHN T. BERRY, Staff Counsel, The Florida Bar, 600 Apalachee Parkway, Tallahassee, Florida 32301; JAMES N. WATSON, JR., Bar Counsel, The Florida Bar, 600 Apalachee Parkway, Tallahassee, Florida 32301; and SAMUEL S. JACOBSON, ESQUIRE, Counsel for Respondent, Suite 2902, Independent Square, Jacksonville, Florida 32202, this 16 day of Oct., 1987.



R. MICHAEL HUTCHESON, REFEREE