4-3

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

R. DOUGLAS MACPHERSON,

Respondent.

_____/

Case Nos. 70,448, 71,504
TFB Nos. 86-19,531(13C)
87-25,850(13C)

THE FLORIDA BAR'S INITIAL BRIEF

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SYMBOLS AND REFERENCES

In this Brief, the appellant, The Florida Bar, will be referred to as "The Florida Bar" or "The Bar". The appellee, R. DOUGLAS MACHPERSON, will be referred to as "the respondent". "C" will denote the Complaint. "RC" will denote the Response to Complaint. "AC" will denote the Amended Complaint. "RA" will denote Complainant's Request for Admissions. "RCR" will denote Response to Complainant's Request for Admissions. "TR 1" will denote the transcript of the hearing on January 25, 1988. "TR" will denote the transcript of the Final Hearing on February 3, 1988. "RR" will denote the Report of Referee.

STATEMENT OF THE FACTS AND OF THE CASE

Case No. 70,448: Count I

On August 21, 1984 respondent was retained by John Robbins, Esq. of Maryland to handle a collection action on behalf of Mr. Robbins' client, Farmers Bank of Mardela Springs. Respondent filed a complaint and on November 26, 1984 a final judgment was entered in favor of Farmers Bank. A deposition in aid of execution was held on December 20, 1984. Respondent failed to advise Mr. Robbins of the outcome of the deposition, even after Mr. Robbins requested a status report from him on June 27, 1985. The Respondent further failed to respond to a letter dated October 12, 1985, and in fact has never provided the information to Mr. Robbins. (RA 70,448, paragraph 13; RCR 70,448, paragraph 13). The referee recommended that respondent be found guilty of violating DR 1-102(A)(6) (engaging in conduct that adversely reflects on his fitness to practice law); and DR 6-101(A)(3) (neglect of a legal matter). (RR at 1).

Case No. 70,448: Count IV

In 1984, Dr. Stephen Shanklin retained the respondent to represent him in an administrative suit brought against him by the Department of Health and Rehabilitative Services

(HRS) for allegedly overcharging Medicaid patients. A fee of $1,000.00 was paid to the law firm of Few and Ayala, where respondent was employed. Respondent successfully defended Dr. Shanklin, but HRS subsequently filed new charges based on the alleged overcharging. Dr. Shanklin mailed respondent a copy of a letter he received from HRS indicating its intention to make assessments against him. Dr. Shanklin had thirty (30) days within which to object to the new charges brought by HRS. Dr. Shanklin asked the respondent to represent him on the new charges. Dr. Shanklin testified that as best he could remember, respondent told him that respondent would take care of the matter. (TR, p.186, L.17-25; TR, p.187, L.1-11). Prior to the expiration of the thirty (30) days, Dr. Shanklin attempted, without success, to contact the respondent on a number of occasions to remind him of the thirty (30) day response time. (TR, p.187, L.22-25; TR, p.188, L.1-7). The respondent failed to object within thirty (30) days to the new charges brought by HRS and, as a result, Dr. Shanklin was required to reimburse to HRS $3,100.00 for alleged overcharging Medicaid patients. (TR, p.187, L.11-12; TR, p.188, L.14-18).

In 1985 Dr. Shanklin retained the respondent to file a lawsuit against Majik Market. Respondent filed the lawsuit. Subsequently, Dr. Shanklin attempted to contact

the respondent by phone and by letter to determine the status of the case, but was unable to contact the respondent. (TR, p.189, L.17-25; TR, p.190, L.1-17). Dr. Shanklin eventually became dissatisfied with the respondent's representation and requested the return of his file. The respondent did not return the file to Dr. Shanklin until the day of the final hearing held on February 3, 1988. (TR, p.196, L.3-6.).

The referee recommended that the respondent be found guilty of violating DR 1-102(A)(6) (engaging in conduct that adversely reflects on his fitness to practice law); DR 6-101(A)(3) (neglect of a legal matter); and DR 7-101(A)(2) (a lawyer shall not intentionally fail to carry out a contract of employment entered into with a client). (RR at 1,2).

Case No. 70,448: Count V

Respondent represented Lora Jo Holt in an action for dissolution of marriage. A final hearing was set for January 13, 1986, and respondent received notice thereof on September 23, 1985. Respondent failed to notify his client of the date of the final hearing, and neither the respondent nor his client appeared for the final hearing on January 13. Judge Taylor found respondent to be in contempt of court for

his failure to attend the final hearing in spite of the approximately four (4) months notice. Although the final hearing proceeded in the absence of respondent and his client, the trial Judge did not enter an order and subsequently permitted the parties to settle the case by stipulation. (AC 70,448, paragraphs 50-55; RA 70,448, paragraphs 57-63; and RCR 70,448, paragraphs 49-57).

The referee recommended that respondent be found guilty of violating DR 1-102(A)(6) (engaging in conduct that adversely reflects on his fitness to practice law). (RR at 2).

Case No. 70,448: Count VI

In June, 1985 Nick Scairato retained the law firm of Few and Ayala to institute a civil lawsuit on behalf of Multi-Flow Dispensers. Respondent assumed responsibility for Mr. Scairato's case. On July 24, 1985, respondent filed suit, but shortly thereafter he left the law firm of Few and Ayala and opened his own law office. Respondent continued the representation of Mr. Scairato and Multi-Flow Dispensers. In September 1985, respondent filed four (4) additional lawsuits on behalf of Mr. Scairato and Multi-Flow Dispensers. Subsequent to September 1985, Mr. Scairato attempted on numerous occasions to contact the respondent by phone, and by letter, to determine the status of his

lawsuits. The respondent failed to respond to Mr. Scairato's phone calls and letters. (TR, p.25, L.19-25; TR, p.26, L.1-25). Frustrated by his inability to contact respondent regarding the status of the lawsuits, Mr. Scairato retained attorney E. L. Garrabrants to assume responsibility for his cases. Respondent failed to cooperate with Mr. Garrabrants in regards to substitution of counsel. (RCR 70,448, paragraph 66).

The referee recommended that the respondent be found guilty of violating DR 6-101(A)(3) (neglect of a legal matter). (RR at 2).

Case No. 70,448: Count VIII

In November 1985, respondent was retained by Anthony West, on behalf of a corporation controlled by Mr. West, to file a collection action for $1,700.00. Mr. West paid respondent $300.00 for attorney's fees and costs. After retaining the respondent in November 1985, Mr. West moved to Deerfield, Michigan. After moving to Michigan, Mr. West called the respondent's office on at least two occasions and left messages providing his new phone number and address. (TR, p.9, L.6-10). The respondent failed to return Mr. West's phone calls. (TR, p.9, L.18-20). In addition, Mr. West sent the respondent two letters requesting the status of his lawsuit, the return of original documents, and a

refund of $300.00 if no work was done. (TR, p.9, L.21-25; TR, p.10, L.1-25; TR, p.11, L.1-25; TR, p.12, L.1-4). The respondent failed to respond to Mr. West's letters. In fact, from November 1985 until the final hearing in the instant case in February 1988, the respondent had no contact with his client.

The referee recommended that respondent be found guilty of violating DR 6-101(A)(3) (neglect of a legal matter). (RR at 2).

Case No. 71,504: Count I

In August, 1984 respondent was retained by James Massaro, d/b/a Massaro Plumbing Company, to file three mechanics liens and to file suit if the three liens were not satisfied. The liens were not satisfied, and consequently respondent filed suit to foreclose. Due to a defect in service upon the defendant, respondent took a voluntary dismissal of two of the mechanics liens. Mr. Massaro became dissatisfied with respondent's services and retained new counsel to handle the mechanics liens. An employee of Mr. Massaro informed respondent that he was being discharged and that Mr. Massaro wanted the files returned to him. Respondent informed Mr. Massaro that he would return the file only upon receipt of monies owed for court costs. (C 71,504, paragraphs 2-10; C 71,504, paragraphs 2-10).

The files were returned to Mr. Massaro after approximately ten (10) months. (TR, p.218, L.18-25; TR, p.219, L.1-7).

The referee recommended that respondent be found guilty of violating DR 1-102(A)(6) (engaging in conduct that adversely reflects on his fitness to practice law); and DR 6-101(A)(3) (neglect of a legal matter). (RR at 2).

Case No. 71,504: Count II

On or about February 11, 1986, respondent agreed to represent Guy and Arlene Fritz in a civil suit, on a contingency fee basis. Although respondent was paid $90.00 for costs and cashed his client's check, he failed to file an action on behalf of the Fritz and incurred no costs related to their claim. Respondent abandoned his law practice without performing the services which the Fritz hired him to perform. (C 71,504, paragraphs 15-22; RC 71,504, paragraphs 15-22).

The referee recommended that respondent be found guilty of violating DR 1-102(A)(6) (engaging in conduct that adversely reflects on his fitness to practice law); DR 6-101(A)(3) (neglect of a legal matter); DR 7-101(A)(2) (intentionally failing to carry out a contract of employment entered into with a client). (RR at 2).

Case No. 71,504: Count IV

In August, 1984 Sylvia Adams retained respondent to file a petition for guardianship of her 25 year old son. The petition was filed and Ms. Adams was designated as guardian. In September 1986, Ms. Adams received an order from the Court to either file a 1985 annual report or appear in Court. Ms. Adams requested instructions from Respondent's office pertaining to the filing of the annual report. She received a letter from respondent saying he would file the annual report for a fee of $150.00. On or about November 3, 1986, Ms. Adams sent respondent a check for the $150.00, which check was cashed by Respondent. Respondent failed to file the 1985 annual report, and thereafter Ms. Adams received a contempt notice. Following receipt of the notice, she attempted daily for a period of approximately two weeks to contact respondent to determine the progress of the annual report, but received no response to her calls. Respondent abandoned his law practice without performing the services which Ms. Adams paid him to perform. (RCR 71,504, paragraphs 34-35; RA 71,504, paragraphs 34-45). Respondent at no time prior to the final hearing before the referee provided Ms. Adams with her case file, nor did he return to her any of the fee which was unearned. (TR, p.234, L.11-18). When he abandoned his practice and then left the Brandon area, he did not provide Ms. Adams with his address.

(TR, p.234, L.2-10).

The referee recommended that the respondent be found guilty of violating DR 1-102(A)(6) (conduct that adversely reflects on his fitness to practice law); and DR 6-101(A)(3) (neglect of a legal matter). (RR at 2).

Case No 71,504: Count V

On or about February 12, 1986, respondent was paid a $200.00 retainer by Delta Kitchens, Inc. to represent them in an action to collect $8,000.00. He met with the owner of Delta Kitchens in August 1986 to discuss the progress on the collection of the debt. Following that meeting, Delta Kitchens, Inc. personnel did not see or hear from respondent, and were not able to contact him. Consequently Delta Kitchens, Inc. was unable to obtain documents in respondent's possession which pertained to the collection action. Respondent did not return the documents to Delta Kitchens, and in fact abandoned his law practice without performing the services which he was retained to perform. (RCR 71,504, paragraphs 47-54; RA 71,504, paragraphs 47-54). On the date of the final hearing, respondent still had papers related to the matter. He indicated that he would return them in the future. (TR, p.247, L.15-24). Further, the respondent did not refund any money to the complainant, but he did indicate that he would do so. (TR, p.248, L.3-7).

The referee recommended that the respondent be found guilty of violating DR 1-102(A)(6) (engaging in conduct that adversely reflects on his fitness to practice law); and DR 6-101(A)(3) (neglect of a legal matter). (RR at 2).

Case No. 71,504: Count VII

On or about February 14, 1986, respondent was retained by Caroline O'Quinn to institute probate proceedings in regards to her mother's estate, to establish a guardianship, and to file for a homestead exemption on behalf of the beneficiary of the estate. (TR, p.41, L.8-25; TR, p.42, L.1-24). Respondent was paid $252.00 towards attorney's fees and court costs. He failed to institute probate proceedings on behalf of Ms. O'Quinn. (RCR 71,504, paragraphs 73,74; RA 71,504, paragraphs 73,74). Respondent failed to obtain a homestead exemption on behalf of the beneficiary of the estate. (TR, p.43, L.15-7). Respondent abandoned his law practice without performing the services Ms. O'Quinn paid him to perform, and because of his failure Ms. O'Quinn had to obtain new counsel. (RCR 71,504, paragraphs 76-77; RA 71,504, paragraphs 76-77).

The referee recommended that the respondent be found guilty of violating DR 1-102(A)(6) (engaging in conduct that adversely reflects on his fitness to practice law); and

DR 6-101(A)(3) (neglect of a legal matter). (RR at 2).

Case No. 71,504: Count VIII

On or about March 28, 1986, respondent was retained by Mr. and Mrs. Esparza to institute a lawsuit against Inland Title Co. He was retained on a contingency fee basis, and also paid $100.00. Respondent failed to institute suit against Inland Title Company on behalf of the Esparzas, but did cash their check for $100.00. The Esparzas made numerous attempts to contact the respondent to determine the status of their lawsuit, but were unsuccessful. They left numerous messages at respondent's office, but received no reply. After being retained by the Esparzas, respondent moved out of his law office without leaving a forwarding address, and in addition moved out of his resident, leaving it vacant. The respondent abandoned his law practice. No notice was provided to the Esparzas that the respondent was closing his practice. (RCR 71,504, paragraphs 80-85, 87-90; RA 71,504, paragraphs 80-85, 87-90).

Respondent had original documents belonging to the Esparzas in his possession, which he had still not returned to the Esparzas at the time of the final hearing in the disciplinary matter. (TR, p.271, L.22-25; TR, p.272, L.1-11).

The referee recommended that respondent be found guilty of violating DR 1-102(A)(6) (engaging in conduct that adversely reflects on his fitness to practice law); and DR 6-101(A)(3) (neglect of a legal matter). (RR at 2).

Case No. 71,504: Count IX

In about March 1983, respondent was retained by Deborah Holley and her siblings to institute probate proceedings in regards to Ms. Holley's mother's estate.
Ms. Holley paid respondent a $200.00 fee. She did not pay what had been estimated as $80.00 for eventual court costs to probate the estate. (RCR 71,504, paragraphs 93-96; RA 71,504, paragraphs 93-96). Respondent moved from the address at which Deborah Holley had first contacted him, but provided her with a post office box address and requested that inquiries be sent there. Subsequently, the respondnet again changed his address. (TR, p.212, L.5-25; TR, p.213, L.1-4). When the respondent totally abandoned his practice and left the area, he did not provide Ms. Holley with his new address, although he had an open file on her case. (TR, p.213, L.5-18).

The referee recommended that respondent be found guilty of violating DR 1-102(A)(6) (engaging in conduct that adversely reflects on his fitness to practice law); and DR

6-101(A)(3) (neglect of a legal matter). (RR at 2).

After the final hearing on Case Nos. 70,448 and 71,504, held on February 3, 1988, the referee found the respondent guilty of misconduct in twelve (12) cases. The referee recommended that the respondent be disciplined as follows:

1. That respondent be publicly reprimanded:
2. That respondent be suspended from the practice of law for a period of six (6) months and until reimbursement is made to those clients entitled thereto and all costs are paid. Further, since the respondent is presently suspended for non-payment of Bar dues, that the disciplinary suspension not take effect until the present suspension for non-payment of dues is lifted. Further, that should the total suspension be for more than three (3) years, that the respondent be required to take and successfully pass The Florida Bar Examination; and
3. That thereafter, respondent be placed on probation for one (1) year under the supervision of a member of the grievance committee of the circuit in which respondent

practices, with quarterly reports of case-load status made to that supervisor. (RR at 3).

The Florida Bar Board of Governors reviewed the Report of Referee and voted to seek disbarment in this matter.

SUMMARY OF ARGUMENT

The respondent abandoned his law practice without providing for representation of active clients, and without returning files and monies to which his clients were entitled. He demonstrated a callous disregard for his clients and his professional responsibilities.

The referee's recommendation of a Public Reprimand and a Six (6) Month Suspension is not a sufficient disciplinary measure for such blatant disregard for clients. Furthermore, the recommended discipline neither achieves the purpose for which disciplinary sanctions are ordered by this Court nor is the recommendation consistent with current case law and The Standards for Imposing Lawyer Sanctions.

Even if some of the respondent's conduct is traceable to his discharge from a salaried position and his being stretched financially due to entering private practice, his persistent disregard for his responsibilities extended throughout the disciplinary proceedings. It can not be explained away nor justified. The respondent clearly demonstrated that he is unfit to practice law and is an embarrassment to the legal community.

Therefore, The Florida Bar respectfully requests that this Court disapprove the referee's recommendation of a

Public Reprimand and Six (6) Month suspension, and order the respondent disbarred from the practice of law in the State of Florida.

ARGUMENT

ISSUE: WHETHER A PUBLIC REPRIMAND AND A SIX (6) MONTH SUSPENSION IS A SUFFICIENT DISCIPLINARY SANCTION FOR AN ATTORNEY WHO ABANDONS HIS LAW PRACTICE AND EXHIBITS A CALLOUS DISREGARD FOR HIS ACTIVE CLIENTS.

In The Florida Bar v. Montgomery, 412 So.2nd 346 (Fla. 1982), this Court held that neglect of an entrusted legal matter and abandonment of law practice without giving notice to clients warranted disbarment. In Montgomery, the respondent's failure to cooperate with the Bar, his failure to appear at the final hearing, and his failure to take adequate measures to protect his clients' interests upon abandonment of his practice, as well as his failure to pay Bar dues since 1979, were all considered aggravating factors. Montgomery was found guilty of violating DR 1-102(A)(1) (violating a disciplinary rule), DR 1-102(A)(6) (conduct adversely reflecting on his fitness to practice law), DR 6-101(A)(2) (inadequate preparation of a legal matter), DR 6-101(A)(3) (neglect of a legal matter), DR 7-101(A)(1)(failure to seek the lawful objectives of his client), DR 7-101(A)(2) (failure to carry out a contract of employment), and DR 7-101(A)(3) (prejudicing or damaging a client during the course of a professional relationship). Id. at 347.

In the instant case, the respondent timely answered The Bar's complaint in Case No. 70,448, but failed to answer the complaint in Case No. 71,504 until the date initially scheduled for the final hearing. In addition, he failed to respond to The Bar's Request for Admissions until the date scheduled for final hearing, which was after Motions to Deem Matters Admitted had been granted. (R, Orders in Case Numbers 70,448 and 71,504, dated January 21, 1988; TR 1, p.3, L.14-24). The referee elected to set aside his Order deeming matters admitted to allow the respondent to address the charges against him, and continued the final hearing. (TR 1, p.23, L.14-25; TR 1, p.24, L.1-10). Additionally, respondent failed to appear at grievance committee proceedings in those cases enumerated in Case No. 71,504. While respondent did appear at grievance committee proceedings to address allegations within Case No. 70,448, and while he did cooperate and participate on rare occasions at other levels of the proceedings, his overall failure to cooperate must be considered an aggravating factor. As was the case in Montgomery, respondent in the instant case abandoned his law practice without taking steps to protect his clients' interests, and failed in several instances to return monies to which his clients were entitled. (TR, p.234, L.2-18). Respondent also failed to pay his Bar dues

from October 1987 through the time of the final hearing. (RR at 3). In assessing the respondent's overall attitude towards his clients and the proceedings, one must note that even after the grievance committee found probable cause against him, even after complaints were filed with The Supreme Court, and up to the time of the final hearing, respondent had not returned files to several clients in spite of his being aware that they were requesting them. This callous disregard for clients demonstrates an underlying attitude which warrants, and in fact dictates, disbarment. The Public Reprimand and the Six (6) Month Suspension recommended by the referee is clearly insufficient.

In The Florida Bar v. Mavrides, 442 So.2d 220 (Fla. 1983), the Supreme Court found the respondent guilty of eight (8) instances of violating the Code of Professional Responsibility. The Court noted that while none of Mavrides' derelictions, standing alone, would require disbarment, the cumulative demonstration of his acts showed that he was unfit to practice law. Id. at 220. Although it can be argued that in the instant case no single instance of neglect, nor the abandonment of any single case, warrants disbarment, the significant number of cases involved and the duration and persistence of the neglect clearly warrants

disbarment. Respondent was found guilty of neglect in twelve (12) cases, and also was found guilty of violating rules related to his fitness to practice law and to intentionally failing to carry out a contract of employment. (RR at 1,2). The admissions and uncontested facts also clearly demonstrate his blatant disregard for his clients' rights and his own professional responsibilities. Respondent made no effort to rectify the negative impact of his conduct on his clients and on their perception of the legal profession. Given the totality of his actions, a Public Reprimand and Six (6) Month Suspension is a token penalty at best and should not be sustained.

Under The Florida Standards for Imposing Lawyer Sanctions (hereinafter referred to as The Standards), approved by the Florida Bar Board of Governors in November, 1986, Standard 4.1, "Failure to Preserve the Client's Property", disbarment is appropriate when a lawyer intentionally or knowingly converts client property, regardless of an injury or potential injury. The respondent retained client files, and to a lesser extent monies belonging to clients. This conduct considered in conjunction with the respondent's blatant disregard for his clients' desires even to the point of not communicating with them, constitutes a violation of Standard 4.1.

Under Standard 4.4, "Lack of Diligence", disbarment is appropriate when a lawyer engages in a pattern of neglect with respect to client matters and/or abandons his practice and causes serious or potentially serious injury to a client. In the instant case, although no serious injury was proven, the evidence did demonstrate that there were several instances of misconduct which created a potential for such injury.

In Case No. 71,504, Count IV, respondent represented to Sylvia Adams that he would file an annual report, and his failure to do so caused Ms. Adams to receive a contempt notice. (RCR 71,504, paragraph 34-35; RA 71,504, paragraphs 34-35).

In Case No. 71,504, Count VII, respondent failed to obtain a homestead exemption on behalf of a beneficiary although he had contracted to do so. (TR, p.41, L.8-25; TR, p.42, L.1-24).

In Case No. 70,448, Count IV, respondent failed to object within 30 days to charges by HRS against his client that the client had been overcharging Medicaid patients, or in the alternative to clearly advise his client that he was not going to handle the matter. As a result of respondent's conduct, the physician in question was required to reimburse HRS the sum of $3,100.00 and has on his permanent record

that he was overbilling patients. (TR. p.187, L.11-12; TR, 188, L.14-18).

In Case No. 70,448, Count V, respondent failed to notify his client of the date of a final hearing in a dissolution matter, and consequently neither the respondent nor his client appeared for the final hearing. Respondent was found in contempt of court for his failure to attend the hearing. Fortunately for respondent's client, the trial judge elected not to enter the final order and permitted the parties to settle the case by stipulation. (AC 70,488, paragraphs 50-55; RA 70,488, paragraphs 57-63).

Those factors included under Standard 9.22, "Aggravation", which are present in the instant case include a pattern of misconduct, multiple offenses, indifference to making restitution, and a bad faith obstruction of the disciplinary process. Further, the respondent clearly demonstrated indifference to making restitution, and indifference to providing clients with their files after he abandoned his practice.

The referee noted the cavalier manner in which the respondent seemed to treat the charges against him (TR 1, p.23, L.14-18), and found that the respondent had been recalcitrant (TR 1, p.21, L.2-6). The referee further indicated that the respondent's negligence in walking in on

the day of the final hearing with things that should have been done a long time ago was reprehensible. (TR 1, p.19, L.17-25). The respondent received correspondence from the Florida Bar, while fully aware that there were proceedings against him, and didn't open it and read it until just before the final hearing initially scheduled for January 25, 1988. (TR 1, p.16, L.9-25; TR 1, p.17, L.1-25; TR 1, p.18, L.1-17).

The referee found as a mitigating factor in this case that much of the respondent's misconduct was traceable to his discharge from a salaried position at a time when he was stretched to the limit financially and extend into the private practice of law without adequate capitalization. This factor is insufficient to reduce a disbarable offense to a Public Reprimand and Six (6) Month Suspension. It also does not explain away the prolonged and continuing disregard for his clients' rights.

A Public Reprimand and Six (6) Month Suspension in this case fails to achieve the purpose for which disciplinary sanctions are ordered by this Court. It is not fair to society, it is not sufficient to punish the breach of ethics by respondent, and it is not a severe enough sanction to deter others who might be prone or tempted to become involved in like violations. See The Florida Bar v. Paules,

233 So.2d 130 (Fla. 1970).

Based on the foregoing, The Florida Bar respectfully requests that this Court disapprove the referee's recommended discipline of a Public Reprimand and a Six (6) Month Suspension, and disbar respondent from the practice of law in this State.

CONCLUSION

The issue before this Court is whether or not a Public Reprimand and a Six (6) Month Suspension is an appropriate disciplinary sanction for an attorney who neglects client matters in at least twelve (12) separate cases and who abandons his law practice without protecting his clients' interests.

It is The Bar's position that a Public Reprimand and a Six (6) Month Suspension is not sufficient for respondent's misconduct in this case. The respondent not only neglected his clients and abandoned his law practice, but in addition he was diliatory, if not obstructive, during the disciplinary proceedings.

The only appropriate sanction for the respondent's misconduct is disbarment.

WHEREFORE, The Florida Bar respectfully requests that this Honorable Court disapprove the referee's recommended discipline and in lieu thereof disbar the respondent, R. DOUGLAS MACPHERSON, from the practice of law in this State.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing FLORIDA BAR'S INITIAL BRIEF has been furnished by Certified Mail, No. P 785 613 491, to R. DOUGLAS MACPHERSON, at his record bar address of 301-C Parsons Avenue, Brandon, Florida 33511; and by Certified Mail, No. P. 785 613 492, to R. DOUGLAS MACPHERSON, at Post Office Box 201, Eclectic, Alabama 36024; and by Regular U.S. Mail to John T. Berry, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida, 32399-2300, this 9th day of July, 1988.

BONNIE L. MAHON

THOMAS E. DEBERG