

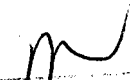
IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,
v.
CRAIG TALESMAN,
Respondent.

Supreme Court Case
No. 70,536

The Florida Bar Case
Nos. 17D87F44, 17D87F45,
17D87F51, 17D87F52, 17D87F53,
17D87F54 and 17D87F57

REPORT OF REFEREE

AUG 11 1987
By 
Deputy Clerk

I. SUMMARY OF PROCEEDINGS:

1. The Florida Bar filed its Complaint and Request for Admissions in this cause on May 13, 1987. The undersigned was duly appointed as Referee by the Chief Justice of the Supreme Court of Florida by order dated May 20, 1987. Respondent did not file any responsive pleadings. Accordingly, The Florida Bar filed a Motion for Judgment on the Pleadings on July 8, 1987 which came on for hearing on August 13, 1987.

The following attorneys appeared for the respective parties:

On behalf of The Florida Bar: Richard B. Liss, Esq.
On behalf of Respondent: No appearance

II. FINDINGS AS TO SUFFICIENCY OF NOTICE AND FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH RESPONDENT IS CHARGED:

After considering all pleadings, documentary evidence and testimony, the undersigned Referee finds:

1. That notwithstanding his status as an attorney under temporary suspension by order of the Supreme Court of Florida, Respondent is, and at all times hereinafter mentioned was, a member of The Florida Bar subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. That copies of the Complaint and Request for Admissions filed by The Florida Bar were mailed to Respondent by certified mail and regular mail to his last known residence, to wit: 2632 N.W. 42nd Street, Boca Raton, Florida 33434 and by certified mail and regular mail to his last known forwarding address, to wit: P.O. Box 6455, Hollywood, Florida 33081.

3. That the aforesaid pleadings sent by certified mail, return receipt requested were returned undelivered by the postal service.

4. That copies of the aforesaid pleadings were then subsequently hand delivered, on or about May 19, 1987, by Staff Investigator James J. Kearney of The Florida Bar to Willard Talesman, father of Respondent, for transmittal to his son.

5. That a copy of the Notice of Hearing on The Florida Bar's Motion for Judgment on the Pleadings was mailed to the Respondent care of Willard Talesman, 3326 Farragut Street, Hollywood, Florida 33021 on July 20, 1987.

6. That a copy of the Notice of Hearing on The Florida Bar's Motion for Judgment on the Pleadings was also hand delivered by Staff Investigator James J. Kearney to Willard Talesman on or about July 28, 1987.

7. That Willard Talesman appeared at the August 13, 1987 hearing pursuant to a witness subpoena issued at the request of The Florida Bar.

8. That Willard Talesman acknowledged receipt of the aforementioned pleadings from Staff Investigator James J. Kearney and testified that he did not know the whereabouts of Respondent, thereby precluding delivery of these pleadings to Respondent.

9. That Willard Talesman did testify that, subsequent to receiving the Bar's complaint in this cause, he had one (1) telephone conversation with Respondent that was initiated by Respondent.

10. That Willard Talesman further testified he discussed with Respondent, during the course of said conversation, certain of the allegations set forth in the Bar's complaint.

11. That by virtue of Respondent's telephone conversation with Willard Talesman, as hereinabove set forth, I find that Respondent had actual notice of these proceedings.

12. That this finding is predicated upon the reasonable inference that, although Willard Talesman was somewhat vague in his testimony concerning what he discussed with Respondent, a father would have advised his son of these proceedings when given an opportunity to do so.

13. That The Florida Bar has complied with all notice requirements set forth in Rules 3-7.10(a) and (b), Rules of Discipline and has gone

far beyond those requirements as reflected in Mr. Kearney's testimony.

14. That Respondent has chosen to absent himself from his law practice by deliberately abandoning same and has also knowingly and willfully chosen to make himself unavailable for these proceedings.

15. That Respondent acted in a calculated and willful manner in converting to his own use and benefit all sums referenced in the Bar's complaint.

16. That The Florida Bar's Motion for Judgment on the Pleadings was granted at the hearing conducted on August 13, 1987. As a consequence thereof, all allegations against Respondent contained in The Florida Bar's Complaint are incorporated by reference as if set forth fully herein and shall constitute the Referee's findings of fact.

17. That, at the conclusion of the August 13, 1987 hearing, a copy of the Bar's proposed Report of Referee was given to Willard Talesman for transmittal to Respondent.

18. That Respondent has failed to submit any comments to the Referee regarding the proposed Report, notwithstanding the Referee's request to Willard Talesman that he convey to his son that any such comments must be submitted not later than August 18, 1987.

III. RECOMMENDATIONS AS TO WHETHER RESPONDENT SHOULD BE FOUND GUILTY:

The undersigned Referee recommends that Respondent be found guilty of all violations of the Code of Professional Responsibility and the Integration Rule of The Florida Bar enumerated in The Florida Bar's complaint, to wit: Disciplinary Rules 1-102(A) (3), 1-102(A) (4), 1-102(A) (6), 7-101(A) (1), 7-101(A) (2), 9-102(B) (1) and 9-102(B) (3) of the Code of Professional Responsibility and article XI, Rules 11.02(2), 11.02(3) (a), 11.02(3) (b) and 11.02(4) of the Integration Rule of The Florida Bar.

IV. STATEMENT AS TO PAST DISCIPLINE:

The official records of The Florida Bar reflect no prior disciplinary history.

V. STATEMENT OF COSTS AND RECOMMENDATIONS AS TO THE MANNER IN WHICH COSTS SHOULD BE TAXED:

The undersigned finds the following costs were reasonably incurred

by The Florida Bar:

Court Reporter Attendance and Transcript, Grievance Committee hearings	\$ 89.25
Administrative Costs at Grievance Committee Level	\$150.00
Investigative Costs	\$681.80
Court Reporter Attendance, Transcript and postage, Referee level proceedings	\$250.95
Administrative Costs at Referee Level ..	\$150.00
TOTAL COSTS.....	\$1,322.00

It is recommended that Respondent be taxed the aforesaid costs pursuant to Rule 3-7.5(k), Rules of Discipline.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:


The undersigned recommends that Respondent be disbarred from the practice of law in this jurisdiction for a period of ten (10) years. Respondent's abandonment of his law practice evidenced a total disregard for the most fundamental obligations a lawyer owes his clients. That act, in conjunction with the specific acts of failure to properly represent clients, dishonesty, fraud, breach of fiduciary duty, misappropriation of funds entrusted for a specific purpose and trust account violations, set forth in the Florida Bar's complaint, leave this Referee no other choice but to make this disciplinary recommendation. Respondent has failed to come forward and offer any legal justification for his conduct so it must be presumed that he knowingly and willfully engaged in the aforesaid course of unethical conduct. The testimony of Willard Talesman has been taken into consideration. While sympathetic to Respondent's personal situation, I find that it does not absolve him of responsibility for the egregious acts of professional misconduct that he committed. I do find those personal circumstances sufficiently compelling, however, to recommend a ten (10) year term of disbarment rather than a longer period of time.

Costs of these proceedings should be taxed against Respondent in the amount of One Thousand Three Hundred Twenty Two Dollars and No Cents (\$1,322.00), with execution to issue and with interest at a rate of twelve per cent (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 Governors of The Florida Bar. In addition, as a condition precedent to readmission to The Florida Bar, Respondent should be required to make restitution to the DiMolfettas in the amount of Forty Thousand Dollars (\$40,000.00); to Talcott Associates, Inc. in the amount of Two Hundred Nine Thousand Dollars (\$209,000.00); to Daniel P. Molloy in the amount of One Thousand One Hundred Ninety Eight Dollars (\$1,198.00); to Trina Molloy in the amount of Three Thousand One Hundred Four Dollars and Forty Cents (\$3,104.40); to Andrea Spergal in the amount of One Hundred Sixty Five Dollars (\$165.00); to Richard Kishner in the amount of Twenty Five Thousand Dollars (\$25,000.00); to Wayne Carson in the amount of Twenty Five Thousand Dollars (\$25,000.00); to Capital Bank and American Diagnostics Centers, Inc. in the amount of One Hundred Sixty One Thousand One Hundred Thirty One Dollars and Ninety Two cents (\$161,131.92.); and to Aida Pomaes in the amount of One Hundred Sixty Dollars and Seventy Nine Cents (\$160.79).

DATED this 25th day of August, 1987, at Miami, Dade County, Florida.

Respectfully submitted,



CATHERINE M. POOLER
Referee

Copies furnished to:
Richard B. Liss, Esq.
Craig Talesman, Esq.
c/o Willard Talesman