

Supreme Court of Florida

No. 70,775

THE FLORIDA BAR, Complainant,

vs.

GEORGE F. HERO, Respondent.

[October 15, 1987]

PER CURIAM.

This disciplinary proceeding is before the Court for consideration of the guilty plea and consent judgment submitted by respondent, George F. Hero, with the approval of The Florida Bar.

In his plea, respondent admitted his failure to comply with the applicable rules governing trust accounts. These violations included commingling his own funds with funds entrusted to him by clients; failing to maintain proper records reflecting the date, source, and reason for all receipts and disbursements of trust funds; failure to make monthly trust account reconciliations; improper use of trust fund moneys; and failure to promptly pay or deliver to a client funds which the client is entitled to receive.

As a result of the above violations, respondent's trust account was improperly maintained and partial distribution of trust account funds left a negative balance on deposit. Although none of respondent's trust account checks were dishonored, if checks had been issued to cover all of

respondent's trust account obligations, some checks would have been dishonored.

Respondent submitted the following factors in mitigation:

(a) respondent is a sole practitioner and has a part-time secretary; (b) respondent fully cooperated with The Florida Bar's investigation audit, including furnishing all bank records without the issuance of a subpoena; (c) following The Florida Bar's audit, respondent initiated action to correct the deficiencies in his trust accounting procedures and now follows the required procedures; (d) respondent has no record of any prior disciplinary action; and (e) respondent derived no personal benefit from his actions in connection with advancing funds. We agree with the following disciplinary measures: (a) public reprimand to be published in the Southern Reporter upon entry of the final order of discipline by the Supreme Court of Florida; (b) two years' probation during which time respondent is required to submit quarterly reports from a certified public accountant reflecting that his trust account is being maintained in compliance with former rule 11.02(4)(C) of the Integration Rule of The Florida Bar; (c) taxation of costs of the audit and these disciplinary proceedings assessed against respondent, with execution to issue with interest at a rate of twelve per cent to accrue on all costs not paid within thirty days of entry of the Supreme Court's final order unless the time for payment is extended by the Board of Governors. We accept the guilty plea and approve the consent judgment on discipline. We hereby reprimand respondent George F. Hero and place him on probation for two years under the above-stated conditions. The costs of this proceeding and audit are assessed against respondent. Judgment is entered against George F. Hero for \$3,308.27, for which sum let execution issue.

It is so ordered.

McDONALD, C.J., and OVERTON, EHRlich, SHAW, BARKETT, GRIMES and KOGAN, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Original Proceeding - The Florida Bar

John F. Harkness, Jr., Executive Director and John T. Berry,
Staff Counsel, Tallahassee, Florida; and Patricia S. Etkin,
Bar Counsel, Miami, Florida,

for Complainant

Richard H. M. Swann, Coral Gables, Florida,

for Respondent