

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

The Florida Bar,  
Complainant,  
v.

SHANA B. SIMONS,  
Respondent.

CASE NO. 70,802

The Florida Bar Case No. 87-26,555 (17A)  
(Formerly Case No. 17A87F04)

FILED  
SEP 18 1987  
CLERK OF THE SUPREME COURT  
BY [Signature]  
Deputy Clerk

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to The Rules of Discipline of The Florida Bar, the following occurred:

The following attorneys appeared as counsel for the parties:  
For The Florida Bar: Jacquelyn P. Needelman  
For the Respondent: No appearance on behalf of Respondent

On September 14, 1987, The Florida Bar submitted its Motion for Judgment on the Pleadings. Said Motion was granted by this Referee. I specifically found that The Florida Bar has effected service upon the Respondent and provided notice pursuant to Rules 3-7.10(b) and (c) of The Rules of Discipline as The Florida Bar mailed certified copies of its Complaint and Request for Admissions to the Respondent at her last known official record Bar address. The Respondent has failed to advise The Florida Bar of her present address or whereabouts in violation of Rule 3-7.10(b) of the Rules of Discipline.

II. Findings of Fact as to Each Item of Misconduct of Which the Respondent is Charged: After considering all the pleadings and The Florida Bar's Motion for Judgment on the Pleadings and the Order granting same, I find:

As to Count I

1. On or about April 8, 1983, Respondent applied for and obtained a loan, loan number 003 617 20 2679 034129, from Southeast Bank, N. A., Miami Banking Center, for the purchase of a new 1983 Toyota Cressida, ID #JT2MX63E5D0015387.

2. In consideration of the loan, Southeast Bank, N. A., disbursed the proceeds to the automobile dealer who in turn was to deliver the title to plaintiff for notation of its security interest and

filing with the Division of Motor Vehicles, Department of Highway Safety and Motor Vehicles, State of Florida, Tallahassee, Florida.

3. Immediately after executing the loan documents, Respondent traveled to Southeast Bank's Tamarac Banking Center and negotiated a new loan for the purpose of paying off loan No. 003 617 20 2679 034129, the Respondent convincing the loan officer at the Tamarac Banking Center that she desired to do business with the local Tamarac branch rather than the branch in Miami.

4. Southeast's Tamarac Banking Center issued a check payable to Southeast Bank, N. A., in the amount necessary to pay off loan No. 003 617 20 2679 034129 with instructions that when the title was received from the dealer it should be forwarded to the Tamarac Banking Center.

5. Respondent obtained from Southeast Bank, N. A. the note on loan No. 003 617 20 2679 034129 marked "paid" and took it to the automobile dealer and represented to the dealer that she had paid Southeast Bank, N. A.'s note in full, and that the title should be released directly to her.

6. The automobile dealer issued the title to Respondent free and clear of any encumbrances in favor of Southeast Bank.

7. Respondent subsequently defaulted on the new loan issued to her by the Tamarac Branch of Southeast Bank, N. A.

8. In or about 1983, Respondent made false representations in loan applications that she submitted to Southeast Bank, N. A.

9. The acts and practices of Respondent in connection with the re-writing of the automobile loan, and the obtaining of free and clear title from the automobile dealer and subsequent defaulting on the loan constitutes theft as that term is defined in Section 812.014, Fla. Stat. (1983).

As to Count II

10. Commencing on or about December 16, 1983, and continuing through April 1, 1984, in Broward County, Florida, Respondent unlawfully and knowingly obtained or endeavored to obtain the property of Barnett Bank of South Florida, N. A., a corporation authorized to transact business in the State of Florida, to wit: money, of the value of one hundred dollars (\$100) or more, with the intent to permanently or

temporarily deprive said corporation of a right to the property or a benefit thereof, or to appropriate the property to her own use or the use of any person not entitled thereto, contrary to Fla. Stat. Sections 812.014(1) (a) and (1) (b), and Fla. Stat. Section 812.014(2) (b), (1983).

11. Commencing on or about November 7, 1983 and continuing through January 31, 1984, in Broward County, Florida, Respondent did then and there unlawfully and knowingly obtain or endeavor to obtain the property of First Federal Savings and Loan Association of Osceola County, a corporation authorized to transact business in the State of Florida, to wit: money, of the value of one hundred dollars (\$100) or more, with the intent to permanently or temporarily deprive said corporation of a right to the property or a benefit thereof, or to appropriate the property to her own use or the use of any person not entitled thereto, contrary to Fla. Stat. Sections 812.014(1) (a) and (1) (b) and Fla. Stat. Section 812.014(2) (b), (1983).

12. On or about December 16, 1983, in Broward County, Florida, Respondent did then and there unlawfully make or cause to be made, either directly or indirectly, a false statement as to a material fact in writing, to wit: that Morris Korland was making an application for a Barnett Visa Premium Card when in fact Morris Korland was dead, knowing it to be false and with intent that it be relied on respecting the identity or financial condition of Morris Korland, for the purpose of procuring the issuance of a Barnett Visa Premium credit card, contrary to Fla. Stat. Sections 817.59 and 817.67(1), (1983).

13. On or about November 7, 1983, in Broward County, Florida, Respondent did then and there unlawfully make or cause to be made, either directly or indirectly, a false statement as to a material fact in writing, to wit: that Morris Korland was making an application for a Visa Card when in fact Morris Korland was dead, knowing it to be false and with intent that it be relied on respecting the identity or financial condition of Morris Korland, for the purpose of procuring the issuance of a Visa credit card, contrary to Fla. Stat. Sections 817.59 and 817.67(1), (1983).

14. Beginning on or about March 25, 1985 and continuing through June 26, 1985, in Broward County, Florida, Respondent did then and there

unlawfully and knowingly obtain or endeavor to obtain the property of Travelers Insurance Company, to wit: money, of the value of twenty thousand dollars (\$20,000) or more, with the intent to either temporarily or permanently deprive Travelers Insurance Company of a right to the property or a benefit therefrom or to appropriate the property to her own use or to the use of any person not entitled thereto, contrary to Sections 812.014(1) (a) and (1) (b) and (2) (a) of the Florida Statutes.

15. On or about March 26, 1985, in Broward County, Florida, Respondent did then and there unlawfully and with the intent to injure, defraud, or deceive Travelers Insurance Company, present or cause to be presented a written or oral statement as part of, or in support of, a claim of payment or other benefit pursuant to an insurance policy to wit: did present or cause to be presented a fraudulent Notice of Loss to Travelers Insurance Company, knowing that such statement contained false, incomplete, or misleading information concerning a fact or thing material to such claim, to wit: false allegations of the theft of household goods and furnishings, contrary to Fla. Stat. Section 817.234(1) (a) 1.

16. On or about April 5, 1985, in Broward County, Florida, Respondent did then and there unlawfully and with the intent to injure, defraud, or deceive Travelers Insurance Company, present or cause to be presented a written or oral statement as part of, or in support of, a claim of payment or other benefit pursuant to an insurance policy, to wit: did present or cause to be presented a fraudulent Proof of Loss to Travelers Insurance Company, knowing that such statement contained false, incomplete, or misleading information concerning a fact or thing material to such claim, to wit: false allegations of the theft of household goods and furnishings.

17. On or about May 30, 1985, in Broward County, Florida, Respondent did then and there unlawfully and with the intent to injure, defraud or deceive Travelers Insurance Company, prepare to make a written or oral statement, to wit: did make fraudulent statements in a sworn statement, that was intended to be presented to Travelers Insurance Company in connection with, or in support of, a claim for

payment or other benefits pursuant to an insurance policy issued by Travelers Insurance Company to SHANA BECKY HARRIS A/K/A SHANA HARRIS A/K/A SHEILA B. KRAMER A/K/A SHEILA B. SIMONS and to Theodore Davidson, the insureds, knowing that such statement contained false, incomplete or misleading information concerning a fact or things material to such claim, to wit: false allegations of the theft of household goods and furnishings, contrary to Fla. Stat. Section 817.234(1) (a) (2).

18. On or about March 25, 1985, in Broward County, Florida, Respondent did knowingly and unlawfully, willfully impart, convey or cause to be conveyed, or impart false information to a law enforcement officer, to wit: Officer Kenneth Goobeck of the Coral Springs Police Department concerning the alleged commission of any crime under the laws of Florida, to wit: did give a false report of the theft of her household goods and furnishings knowing such information or report to be false, in that no such crime had actually been committed, contrary to Fla. Stat. Sections 817.49, 775.082 and 775.083.

19. Criminal felony charges were filed against the Respondent by the Broward County State Attorney's Office concerning the matters stated in paragraphs twelve (12) through twenty (20) of The Florida Bar's Complaint.

20. Respondent failed to appear for trial in the criminal matter on October 7, 1985, and a capias was issued for her arrest.

21. Respondent has been a fugitive since October 7, 1985, to the present regarding the criminal charges.

III. Recommendation as to whether or Not the Respondent Should be Found Guilty: As to each count of the Complaint I make the following recommendations as to guilt or innocence:

As to Count I

I recommend that the Respondent be found guilty and specifically that she be found guilty of the following violations: Florida Bar Integration Rule, article XI, Rules 11.02(3) (a) and (b), and Disciplinary Rules 1-102(A) (1), 1-102(A) (3), 1-102(A) (4), 1-102(A) (5) and 1-102(A) (6) of the Code of Professional Responsibility.

As to Count II

I recommend that the Respondent be found guilty and specifically that she be found guilty of the following violations: Florida Bar

Integration Rule, article XI, Rules 11.02(3) (a) and (b), and Disciplinary Rules 1-102(A) (1), 1-102(A) (3), 1-102(A) (4), 1-102(A) (5), and 1-102(A) (6) of the Code of Professional Responsibility.

IV. Recommendation as to Disciplinary Measures to be Applied: I recommend that the Respondent be disbarred from the practice of law for a period of twenty (20) years based upon the authority of The Florida Bar v. Cooper, 429 So.2d 1 (Fla. 1983). In Cooper, the Respondent was involved in several fraud schemes as was the instant Respondent. This Referee finds the Respondent's misconduct to have been so cumulative and severe that she should be disbarred without the right to apply for readmission for a period of twenty (20) years.

PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

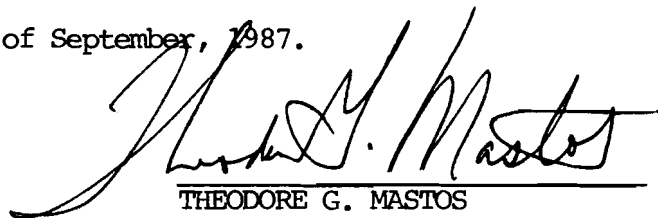
Age: 37  
Date Admitted to The Florida Bar: June 1976  
Prior Disciplinary Record: None

VI. Statement of Costs and Manner in Which Cost Should be Taxed: I find the following costs were reasonably incurred by The Florida Bar:

Administrative Costs at Grievance Committee and Referee Levels	\$300.00
Witness Fees	29.37
Court Reporter Costs	<u>144.75</u>
TOTAL ITEMIZED COSTS	\$474.12

It is apparent that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the Respondent.

Dated this 16<sup>th</sup> day of September, 1987.

  
THEODORE G. MASTOS  
Referee

Copies furnished to:

Jacquelyn P. Needelman, Bar Counsel  
Shana B. Simons, Respondent  
P. O. Box 25277, Tamarac, FL 33320

Shana B. Simons, In care of Bernard Korland  
3881 N. W. 84th Ave., Sunrise, FL 33351