

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

RAYMOND P. HARRIS,

Respondent.

Case No. 70,861
TFB #86-19,424(13B)
(formerly #13B86H95)

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to article XI of the Integration Rule of The Florida Bar, a hearing was held on November 16, 1987. The pleadings, notices, motions, orders, and transcripts, all of which are forwarded to the Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For the Florida Bar, Richard A. Greenberg, Assistant Staff Counsel.

For the Respondent, no appearance.

II. Findings of Fact as to Each Item of Misconduct of Which the Respondent is Charged: After considering all the pleadings and the evidence before me, pertinent portions of which are commented upon below, I find: On January 4, 1985, the day after his father died, Mr. Frederick Kopkau, Jr. contacted respondent seeking a copy of his father's will. Respondent had previously prepared the senior Mr. Kopkau's will. Respondent told Mr. Kopkau that he could not find a copy of the will and that Mr. Kopkau should call him back in a few weeks. Since arrangements needed to be made for the burial of Mr. Kopkau, Sr., Mr. Kopkau retained attorney LeRoy Merkle to represent his interests.

Approximately six weeks after Mr. Kopkau died, there having been no will filed with the probate court, Mr. Merkle filed a Petition for Administration on behalf of Mr. Kopkau and Freda Parsons, Mr. Kopkau's sister. Three weeks after this petition was filed respondent filed a Counter-Petition for Administration on behalf of Beatrice Uschuk, the named personal representative of Mr. Kopkau's estate.

On or about July 15, 1985 the inventory of the estate was due to be filed. Respondent failed to file the inventory on the due date. Also during the month of July, 1985, Mr. Kopkau and his mother, Norma Kopkau, filed claims against the estate. Respondent did not file an objection to these claims until December, 1985.

On November 4, 1985, due to respondent's uncooperative behavior and due to his failure to probate the estate in a timely fashion, Mr. Merkle filed a Petition to Remove the personal representative. This petition was subsequently denied. On

December 4, 1985, respondent finally filed an inventory of the estate. However, the inventory that was filed was incomplete. Specifically, respondent failed to list the decedent's mobile home, the contents of the mobile home and the decedent's automobile in the inventory. The failure of respondent to list the aforementioned items in the inventory caused a delay in accurately assessing the assets of the estate.

During the period of time in which respondent has been representing Mrs. Uschuk an automobile belonging to the decedent was left in a storage facility. Mr. Kopkau and his mother made several attempts to contact respondent to have respondent pay the cost of storing the automobile and the cost of repair so that the automobile could be removed from storage. Respondent failed to respond to the Kopkaus and they were forced to pay the storage fee and repair bill.

Respondent has been uncooperative with the named beneficiaries of Mr. Kopkau's will and has been unresponsive to their requests. As a result of respondent's uncooperative behavior and slow responses, Mr. Merkle filed a Motion to Compel Reimbursement of Expenses and a Motion to Award Attorney Fees and Tax Costs. On November 24, 1986 the Probate Court ordered the personal representative of the estate to pay to Norma Kopkau the sum of \$1,067.10 for expenses incurred by Mrs. Kopkau. The Court also ordered the personal representative to pay to Mr. Merkle the sum of \$591.50 for reduced attorneys fees and costs.

On December 4, 1986 an Order to Show Cause was issued against respondent by Judge Dennis Alvarez of the Probate Court for Hillsborough County due to respondent's failure to file a final accounting or a Petition to Discharge, both of which were due to be filed on May 15, 1986. Respondent did not file a Motion to Extend Time for Final Accounting and Discharge until January 13, 1987, several days after the fifteen days allotted by the Court.

The evidence in this case clearly shows that respondent has been processing the decedent's estate in the Probate Court in a dilatory manner. Respondent's failure to respond to the Bar's Complaint and failure to appear for final hearing in this matter further indicates respondent's lack of responsibility in this matter.

III. Recommendation as to Whether of Not the Respondent Should be Found Guilty: Respondent should be found guilty of violation of Disciplinary Rule 6-101(A) (3) (neglect of a legal matter entrusted to him).

IV. Recommendation as to Disciplinary Measures to be Applied: I recommend that the respondent receive a Public Reprimand.

V. Personal History and Past Disciplinary Record: After finding of guilt and prior to recommending discipline to be recommended pursuant to Rule 11.06(9)(A)(4) I considered no personal history and no prior disciplinary record of respondent.

VI. Statement of Costs and Manner in Which Costs Should be Taxed: I find that the costs of this proceeding should be assessed against the respondent attorney. It is recommended that all such costs and expenses and interest at the statutory rate shall accrue and be payable beginning thirty (30) days after judgment in this case becomes final unless a waiver is granted by the Board of Governors of the Florida Bar. Staff Counsel will provide an affidavit of those costs including transcript

costs. I assess no further costs in this matter since the estate of Frederick Kopkau, Sr. is still open and any costs in that matter should be handled through the appropriate forum.

Dated this 16th day of ^{December}~~November~~, 1987.



WILLIAM L. WALKER
Referee

Copies furnished to:

Raymond P. Harris, Respondent
Richard A. Greenberg, Asst. Staff Counsel
John T. Berry, Staff Counsel