

IN THE SUPREME COURT OF FLORIDA

(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No: 71,019

v.

SANDRA ALLEN,

Respondent.

FILED
SID 11 71

AUG 1 1988

CLERK OF COURT
By _____
Deputy Clerk

REPORT OF REFEREE

I. Summary of Proceeding: 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 and Rule 3-7.5 Rules of Discipline, a final hearing was held on May 16, 1988. Hearing on Respondent's objection to costs was held on July 6, 1988. The enclosed pleadings, orders, transcripts and exhibits are forwarded to the Supreme Court of Florida with this report, and constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Thomas E. DeBerg
Assistant Staff Counsel

For the Respondent: John A. Weiss, Esquire

II. Findings of Fact as to Each Item of Misconduct of Which the Respondent is Charged: After considering all the pleadings, the statement of the case by The Florida Bar, and the Consent Judgment offered on the date of the final hearing, based on the following stipulated facts and evidence presented I find the respondent has violated The Florida Bar Code of Professional Responsibility: On or about October 11, 1984, respondent assisted Frank L. Williams with preparing an application for an alcoholic beverage license. The application form was notarized by the respondent and subsequently submitted to The Division of Alcoholic Beverages and Tobacco as part of the application process to obtain a liquor license. On the same date, for a consideration of \$10.00, Frank L. Williams granted to respondent's husband the first right to purchase 100% of the stock in Soози of Ft. Myers, Inc. during a ninety day (90) period following a date three years from the commencement and opening of the corporation's business for retail sales with Mr. Williams' new quota liquor license. The option to purchase was notarized by respondent. Respondent acted as the attorney for Frank L. Williams in submitting the application for the liquor license and in other matters related to the initial organization of Soози's.

Respondent also participated in the financial affairs of Soozie. On October 11, 1984 Frank L. Williams and respondent entered into an agreement whereby the respondent was given a Power of Attorney to act thereafter for Frank L. Williams in the operation and management of Soozie. Respondent assisted in the incorporation of Soozie of Ft. Myers, doing so on or about October 19, 1984.

The liquor license of Soozie's was used to purchase alcoholic beverages which were subsequently transferred to premises other than Soozie for sale and consumption thereon. In addition, liquor was transported from Soozie to other clubs in vehicles not having the proper liquor stickers affixed. To a minor extent, money from the Soozie account was used to pay costs and expenses not related to the management, operation or expenses of Soozie. The parties stipulated that respondent did not adequately monitor the operation of Soozie to enable her to advise Frank L. Williams of improprieties occurring there. Respondent also advised all employees of Soozie not to provide any individuals with information on the operation and management of any of her businesses, including Soozie.

The Florida Bar dropped its allegation that a five thousand (\$5,000) dollar amount paid as option money related to Soozie of Ft. Myers had been misrepresented to Frank L. Williams as a security deposit.

III. Recommendation as to Whether or Not the Respondent Should be Found Guilty: I recommend that the Consent Judgment entered into by the parties be accepted, and that in accord with that Consent Judgment the respondent be found guilty of the following violations of the code of Professional Responsibility: Disciplinary Rule 1-102(A)(6) (Conduct adversely reflecting on one's fitness to practice); DR 5-101(A) (Accepting employment without full disclosure of a conflict of interest); DR 5-104(A) (Entering a business transaction with a client without full disclosure); DR 5-105(A) (Accepting employment when the exercise of independent judgment is likely to be adversely affected); Integration Rule 11.02(3) (a) (Conduct contrary to honesty, justice, or good morals).

IV. Recommendation as to Disciplinary Measures to be Applied: In accord with the Consent Judgment entered into by the parties, I recommend that Sandra E. Allen be disciplined by public reprimand and that costs in the amount of \$1,616.30 be assessed against her.

V. Personal History and Past Disciplinary Record: The following personal history and prior disciplinary record is relevant to the recommended discipline:

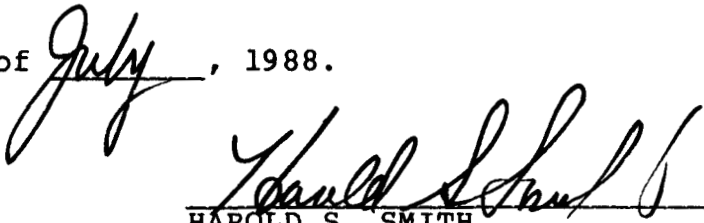
- (1) Age: 46
- (2) Date Admitted to Bar: December 17, 1976
- (3) Prior Disciplinary Record: None
- (4) Mitigating Factors: There is no clear evidence that the respondent had actual knowledge of the improprieties occurring at Soozie of Ft. Myers at the time that they occurred.

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

A. Grievance Committee Level:	
1. Administrative Costs	\$150.00
2. Staff Counsel Expenses	51.99
3. Court Reporter Costs	43.07
B. Referee Level:	
1. Administrative Costs	150.00
2. Staff Counsel Expenses	478.62
3. Branch Counsel Expenses	322.89
4. Court Reporter Expenses (Depo)	289.30
5. Court Reporter Expenses (Final)	67.40
6. Staff Investigator (W. Kreighbaum)	63.03
TOTAL	\$ 1,616.30

Of these costs, I recommend that Respondent be assessed \$1,616.30. In making this recommendation, I have considered the specific language of Rule 3-7.5(k)(5) and the holding of the Supreme Court of Florida in The Florida Bar v Gold, 13 FLW 368 (Fla. 1988). I am of the opinion that 104 1/2 hours investigation time is excessive and unreasonable.

Dated this 15 day of July, 1988.



HAROLD S. SMITH
Circuit Judge (Retired)
Referee