

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

FILED  
SID J. WHITE

FEB 3 1988

THE FLORIDA BAR,

Complainant,

CASE NO. 71,142

CLERK, SUPREME COURT

By \_\_\_\_\_  
Deputy Clerk

v.

The Florida Bar Case  
No. 87-27,054(17E)

EUGENE T. GILLIS,

Respondent.

\_\_\_\_\_ /

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to The Florida Bar Integration Rule, article XI, a hearing was held on January 8, 1988 on The Florida Bar's Motion for Summary Judgment. Notice forwarded to the Respondent via certified mail was returned as being unclaimed. However, the affidavit of Lawrence Coutre, a staff investigator for The Florida Bar, was introduced at the January 8, 1988 hearing which evidenced that Respondent was personally served with notice of the hearings set for January 1988.

The following attorneys appeared as counsel for the parties:

For The Florida Bar - Jacquelyn P. Needelman

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 evidence before me, pertinent portions of which are commented upon below, I find:

As to Count I

1. 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 notwithstanding his suspended status for non-payment of dues.

2. Respondent was retained by [REDACTED] and her now deceased husband to pursue a claim for injuries she had suffered as a result of an accident while a customer at Sunrise Radiator Repair on or about April 20, 1984.

3. A satisfactory settlement was effected by Respondent on behalf of Mrs. [REDACTED] and her husband in the amount of Five Hundred Dollars and No Cents (\$500.00).

4. Respondent directed a letter to Mrs. [REDACTED] on or about June 29, 1984 wherein he proposed taking a fee of One Hundred Fifty Dollars and No Cents (\$150.00) from the settlement proceeds. Mrs. [REDACTED] and her husband agreed to the aforesaid proposal.

5. Mrs. [REDACTED] and her husband had previously endorsed the settlement draft and executed a Full and Final Release on or about June 28, 1984.

6. Respondent deposited the settlement draft into his account and the [REDACTED]'s settlement funds ultimately cleared Respondent's account.

7. Respondent exercised dominion and control over the [REDACTED]'s settlement funds and failed to remit the net settlement proceeds to Mrs. [REDACTED] and her husband.

8. Letters of inquiry, sent by certified mail, were directed to Respondent by his clients on or about October 7, 1984 and December 12, 1984.

9. Respondent failed to respond to the aforesaid letters.

10. After allowing the matter to languish due to her husband's illness and death, Mrs. [REDACTED] retained the services of Ira R. Shapiro, Esquire, to ascertain what had happened to her settlement proceeds.

11. Mr. Shapiro directed letters to Respondent on or about September 19, 1986 and October 6, 1986 making demand for return of Mrs. [REDACTED]'s net settlement proceeds.

12. Respondent again failed to respond to the aforesaid letters.

13. Mrs. [REDACTED] then filed a grievance with The Florida Bar on or about December 13, 1986.

14. Respondent failed to respond to the Bar's inquiries.

15. A grievance committee hearing was scheduled for May 27, 1987 and Respondent was duly noticed for this grievance committee hearing.

16. Respondent was also personally served with a witness subpoena to compel his attendance at the grievance committee hearing and to compel production of his trust account records as they relate to this transaction.

17. Respondent failed to honor the subpoena and instead directed a letter to Bar Counsel setting forth his position and reasons for not attending the grievance committee hearing.

18. I find that the Respondent misappropriated the [redacted]'s ~~\$250.00~~ <sup>\$350.00</sup>

III. Recommendation as to Whether or Not the Respondent Should be Found

Guilty: As to 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 he be found guilty of the following violations of the Integration Rules of The Florida Bar and Disciplinary Rules of the Code of Professional Responsibility, to wit:

Disciplinary Rules 1-102(A) (1), 1-102(A) (3), 1-102(A) (4), 9-102(A) (1), 9-102(B) (3), 9-102(B) (4) and Florida Bar Integration Rule, article XI, Rules 11.02(2), 11.02(3) (a), 11.02(3) (b) and 11.02(4).

IV. Recommendation as to Disciplinary Measures to be Applied: I

recommend that the Respondent be disbarred from the practice of law in Florida and that Respondent make restitution to Mrs. [redacted] in the amount <sup>PLUS INTEREST FROM JUNE 28, 1984.</sup>

of \$350.00. My recommendation is based upon the facts in this cause and the authority of The Florida Bar v. Bond, 460 So.2d 375 (Fla. 1984) and The Florida Bar v. Rodman, 474, So.2d 1176 (Fla. 1985).

V. Personal History and Past Disciplinary Record:

Age: 50

Date admitted to Bar: January 22, 1979

Prior disciplinary convictions: None

VI. Statement of Costs and Manner in Which Costs Should be Taxed: I


find the following costs were reasonably incurred by The Florida Bar:

Administrative Costs at grievance committee level	\$150.00
Witness Fees	16.00
Court Reporter Costs	189.16
Administrative Costs at Referee level	<u>150.00</u>

TOTAL ITEMIZED COSTS \$505.16

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 21 day of Jan. 1988.

  
Referee

Jmm  
1/22/88

Copies furnished to:

Jacquelyn P. Needelman, Bar Counsel  
John T. Berry, Staff Counsel  
Eugene T. Gillis, Respondent