IN THE SUPREME COURT OF FLORIDA

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THE FLORIDA BAR,

Complainant,

Supreme Court Case No. 71,479

v.

LANCE E. EISENBERG,

Respondent.

THE FLORIDA BAR'S ANSWER BRIEF

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SYMBOLS AND REFERENCES

In this Brief, Complainant, The Florida Bar will be referred to as "The Florida Bar". The Respondent, Lance E. Eisenberg, will be referred to as "Respondent". "T" will refer to the transcript of the Final Hearing held before the Referee on September 20, 1988. The Report of Referee dated November 29, 1988 shall be known as "RR". The Criminal Information will be referred to as "CI".

STATEMENT OF THE CASE

On or about September 9, 1986, the Respondent pled guilty to and was convicted of conspiracy to defraud The United States and departments and agencies thereof in violation of Title **XVIII,** U.S. Code, Sec. 371 and of using a facility in interstate and foreign commerce in an illegal act in violation of Title **XVIII,** U.S. Code, Sec. 1952(a)(1)(3) (RR 1-2). These violations are federal felonies which involve Respondent's conspiring with individuals for the purpose of concealing the existence, source, disposition and ownership of the proceeds derived, and assets acquired from the illegal importation by Respondent's associates of controlled substances understood by Respondent to be marijuana. These federal felonies were committed by Respondent while he was acting in the capacity of an attorney (RR-2).

The Respondent was sentenced to two years on Count **I** and five years on Count **11.** However, the sentence imposed on Count **II** was suspended until further order of the Court, and the defendant was placed on probation for a period of five years to commence upon completion of the sentence imposed in Count I. In addition, the Respondent was ordered to pay a fine in the amount of $10,000 on each Count, making a total fine of $20,000. As a special condition of probation, it was ordered and adjudged that Respondent was to surrender his license to practice law and

that he was not to reapply for professional license as an attorney nor was he permitted to engage in any way in or with the profession or practice of law (RR-2).

On July 24, 1987, The Florida Bar filed a Notice of Determination of Guilt resulting in Respondent being automatically suspended as of September 3, 1987 (RR-2). On November 19, 1987, a Complaint and Request for Admissions was filed pursuant to Rule 3-7.2(i) of the Rules Regulating the Florida Bar. On December 18, 1987, the Chief Justice of The Supreme Court of Florida appointed Judge Robert W. Tyson, Jr. as referee in said case. On February 3, 1988, Respondent answered the Complaint and Request for Admissions. On February 24, 1988, The Florida Bar filed an Amendment to Complaint (T 5-6).

On September 20, 1988, a final hearing was held concerning the above-mentioned case at Broward County Florida and the Report of Referee was mailed to this Court on or about November 29, 1988. The referee found Respondent guilty of Article XI, Rules 11.02(3)(a)(b), Integration Rule of The Florida Bar (Commission of an act contrary to honesty, justice, and good morals and commission of a crime) and Disciplinary Rules 1-102(A)(1) (violating a disciplinary rule), DR 1-102(A)(3) (Engaging in illegal conduct involving moral turpitude), DR 1-102(A)(4) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation) and DR 1-102(A)(6) (Engaging in any other conduct that adversely reflects on his fitness to practice law) of the Code of Professional Responsibility (RR 2-3).

The Florida Bar requested that Respondent be disbarred. The Referee recommended that Respondent be disbarred ~~nun pro tunc~~ September 3, **1987,** the date the Respondent was suspended by The Supreme Court of Florida from practicing law due to his felony convictions (RR-3). On February **11, 1989,** Respondent filed a Petition for Review, contesting the Referee's recommendation as to discipline. On April **26, 1989,** Respondent filed his Initial Brief.

STATEMENT OF THE FACTS

From October 1, 1976 and continuing through January 9, 1981, Respondent participated in a conspiracy to conceal the existence, source, disposition and ownership of the proceeds derived, and assets acquired from the illegal importation by a co-conspirator of controlled substances understood by Respondent to be marijuana. Respondent was acting in the capacity of attorney for the co-conspirator. Respondent established and caused to be established Cayman Island companies and trusts and opened accounts at a Cayman Island bank in the name of said companies and trusts. Respondent also established and caused to be established Florida corporations and opened bank accounts in United States banks. Respondent concealed the ownership of financial interest in and signature and other authority over the foreign companies, trusts and accounts. Respondent also concealed the transportation and transferral of the proceeds derived from the importation of controlled substances by not filing the reports and records regarding the transportation of currency and use of foreign financial accounts as required by law. Furthermore, Respondent assisted his co-conspirators in acquiring assets using the foreign and domestic companies, trusts and accounts to conceal the true ownership of the assets from the

Internal Revenue Service. Such assets included 141 acres in White County, Georgia, (1) 44 foot motorsailer, the Darby Islands, (1) 43 foot Gulfstar Trawler, and (1) 53 foot Gulfstar trawler (CI 1-8).

On January 21, 1981, Respondent was indicted in the Southern District of Texas for tax related offenses. On March 18, 1981 this case was dismissed. On August 23, 1982, the Indictment was partially reinstated and ultimately transferred to the Southern District of Florida. On April 15, 1983, Respondent was indicted in the Southern District of West Virginia for involvement in a tax shelter scheme. On August 3, 1983, Respondent was indicted in the Northern District of Georgia for the laundering of drug money, the case at bar (Respondent's Exhibit 3). In July 1984 Respondent entered into a plea agreement whereby he pled guilty to a two count criminal Information in the Northern District of Georgia case. Respondent agreed to provide information to the government in exchange for the Indictments in Florida and West Virginia being dropped (Bar Exhibit 3).

SUMMARY OF ARGUMENT

Disbarment is appropriate discipline where an attorney, acting in his capacity as an attorney, engages in illegal drug activities over a four year period of time. The referee has the discretion to recommend disbarment based upon the seriousness of the misconduct involved despite respondent's argument of mitigation or rehabilitation. Respondent's disagreement with the Referee's recommendation as to discipline is an insufficient basis to allege that the referee's conclusions are clearly erroneous or without evidentiary support.

Respondent argues that the evidence demonstrates that his disbarment is not warranted. The Florida Bar submits that not only does the evidence demonstrate that Respondent's disbarment is warranted, but such evidence demands that Respondent be disbarred.

ARGUMENT

I. THE APPLICABLE LEGAL PRINCIPLES MANDATE THAT RESPONDENT BE DISBARRED

It is the position of the Florida Supreme Court that an attorney involved in drug trafficking be dealt with harshly. As stated by The Florida Supreme Court in The Florida Bar v. Hecker, 475 So.2d 1240, 1243 (Fla. 1985), "Illegal drug activities are a major blight on our society nationally, statewide and locally." Thus, the court warned, "Members of the Bar should be on notice that participation in such activities... will be dealt with severely."

The Florida Supreme Court also addressed lawyers' involvement in drug activities and subsequent felony convictions in The Florida Bar v. Wilson, 425 So. 2d 2, 4 (Fla. 1983).

> Respondent was engaged in illegal drug trafficking, a troublesome and serious crime. We have not hesitated in the past to disbar an attorney for similar acts even though a referee recommended less severe discipline. See The Florida Bar v. Beasley, 351 So. 2d 959 (Fla. 1977). Illegal behavior involving moral turpitude "demonstrate(s) an intentional and flagrant disregard for the very laws Respondent is bound to uphold, the well being of the members of society, and the ethical standards applicable to members of the Bar of this State. In re Gorman, 269 Ind. 236, 240, 379 N.E.2d 970, 972, (1978). See also In re Roberson, 429 A. 2d 530 (D.C. Ct.App. 1981); In re Thomas, 420 N.E. 2d 1237 (Ind. 1981); State ex rel. Oklahoma Bar Association v. Denton, 598 P.2d 663 (Okla. 1979); Muniz v. State, 575 S.W. 2d 408 (Tex. Civ. App. 1978). "Of all classes and

> professions, the lawyer is most sacredly bound to uphold the laws. He is their sworn servant; and for him ...to repudiate and override the laws... argues recreancy to his position and office." Ex Parte Wall, 107 U.S. 265, 274, 2 S. Ct. 569, 576, 27 L. Ed. 552 (1883). "The public has a right to expect the most from him who lays the greatest claim to its confidence." Levenson, 211 So.2d at 174.

In The Florida Bar v. Lopez-Castro, 508 So.2d 10 (Fla. 1987), The Supreme Court disbarred Mr. Lopez-Castro for "acting as the agent and attorney for other named defendants in that he knowingly invested the illicit profits of a marijuana smuggling syndicate and acquired and maintained assets through Panamanian corporations established for the sole purpose of concealing the identity of the other named defendants in the acquisition, maintenance and disposition of illicit assets." Likewise, Respondent in the case at bar participated in the same type of illegal activities. Such conduct in Lopez was viewed as a "betrayal of the trust and confidence of the bar and the public" thus warranting disbarment.

In The Florida Bar v. Marks, 492 So.2d 1327 (Fla. 1986) the Supreme Court disbarred Mr. Marks for his involvement in a scheme to import marijuana.

In The Florida Bar v. Price, 478 So. 2d 812, 814 (Fla. 1985) the Supreme Court disbarred Mr. Price for participating in a conspiracy to import marijuana stating that, "Respondent's reprehensible acts are completely inconsistent with the high

professional standards expected, indeed required, of members of The Florida Bar."

In The Florida Bar v. Pettie, Jr., 424 So.2d 734, 738 (Fla. 1982) the Supreme Court held that absent the unique facts of the case and atypical nature of the case, Mr. Pettie's knowing participation in a criminal conspiracy to import drugs, forming a corporation to hold title to an airplane to be used in the importation of drugs and use of his law office would warrant disbarment.

Respondent argues that in order to justify disbarment, The Florida Bar must prove that Respondent's rehabilitation is highly improbable. However, in The Florida Bar v. Routh, 414 So.2d 1023, 1025 (Fla. 1982), the Supreme Court held that rehabilitation is relevant in a reinstatement proceeding but not in a disciplinary proceeding. As the Court stated in The Florida Bar v. Scott, 227 So.2d 195 (Fla. 1969), "disbarment and rehabilitation are procedurally independent and should not be considered simultaneously except for the most pressing reasons."

The Rules of Discipline provide for a disbarred attorney to be readmitted upon full compliance with the rules and regulations governing admission to the bar. It is at that point that evidence of Respondent's rehabilitation would be relevant, not in deciding the proper sanction in past, admitted violations by Respondent.

While the Court may recognize that attorneys are capable of being rehabilitated, by imposing sanctions less than disbarment even in drug related cases, two factors distinguish those cases in which a non-disbarment sanction was imposed from the case at bar. In those cases where less than disbarment was imposed, some purported justification for the attorney's conduct is present (e.g. alcohol abuse, drug abuse or psychiatric difficulties). In The Florida Bar v. Jahn, 509 So.2d 285 (Fla. 1987), Respondent had a severe chemical dependency problem. In The Florida Bar v. Rosen, 495 So.2d 180 (Fla. 1986), Respondent was severely addicted to cocaine. In The Florida Bar v. Carbonaro, 464 So.2d 549 (Fla. 1985), Respondent suffered from a personality disorder causing him to be under psychiatric care. The other factor that distinguishes those cases where less than disbarment was imposed is that the attorney's felony convictions were unrelated to their law practice, unlike the case at bar.

The Court may consider factors in mitigation that may justify a reduction in the degree of discipline to be imposed.

Accordingly, in Pettie, 424 So.2d at 736, the Supreme Court held that this was an atypical case where Pettie initiated contact with investigators of the Florida Department of Law Enforcement one week after the seizure of an aircraft smuggling drugs, rendering substantial and material assistance to law enforcement in the identification, arrest and prosecution of the

various conspirators involved including the arrest of approximately thirty subjects with large amounts of real and personal property seized and forfeiture proceedings instituted. Further, Pettie placed himself in personal danger by wearing a "body bug" at the request of the Department of Law Enforcement. The Department of Law Enforcement received information that a "contract" existed on Pettie's life and there was a threat to Pettie's personal safety since some defendants were still at large. As a result, Pettie was relocated outside of Florida with his whereabouts not known to anyone outside the Florida Department of Law Enforcement. Thus, the Supreme Court held that "given the unique facts of the present case," such factors were to be taken into consideration as mitigation.

Where an attorney's misconduct is sufficiently grave to justify disbarment, mitigating factors are insufficient to lessen the enormity of the attorney's misconduct. The Florida Bar v. Roman, 526 So.2d 60, 62 (Fla. 1988). As the Court held in The Florida Bar v. Knowles, 500 So.2d 140 (Fla. 1986), even where Respondent has not practiced law since 1983, there were subsequent successful steps toward rehabilitation and other mitigating factors, the seriousness of the offense warranted disbarment. According to Florida'a Standards for Imposing Lawyer Sanctions, disbarment is appropriate when "a lawyer is convicted of a felony under applicable law" or "a lawyer engages in the

sale, distribution or importation of controlled substances" or "a lawyer attempts or conspires or solicits another to commit any of the offenses listed in sections (a)-(d)." Paragraph 5.11(a), (c) and (e).

The Referee may consider matters in aggravation and mitigation. See Paragraph 9.0 of the Florida's Standards for Imposing Lawyer Sanctions. Paragraph 9.22 states that dishonest or selfish motive, a pattern of misconduct, multiple offenses and substantial experience in the practice of law are factors which may be considered in aggravation, among others. Paragraph 9(b)(c)(d) and (i).

II. THE REFEREE'S FINDINGS WERE BASED ON PROPERLY CONSIDERED EVIDENCE AND SHOULD NOT BE OVERTURNED.

The Report of Referee and the findings and recommendations contained therein should be accepted by this Court. The Referee's findings "should not be overturned unless clearly erroneous or lacking in evidentiary support and must be sustained if supported by competent and substantial evidence." The Florida Bar v. Hooper, 509 So.2d 289 (Fla. 1987) Respondent has failed to set forth any basis for this Court to reject the Report of Referee.

Respondent argues that the Referee applied the wrong legal standard by coming to the conclusion that Hecker requires disbarment of attorneys convicted of drug offenses. However, what the Referee did, in fact, was take the Florida Supreme Court's warning in Hecker, 475 So.2d at 1243, that members of The Florida Bar should be on notice that participation in such activities would be dealt with severely and apply the aggravating factors in this case against what Respondent offered as mitigation. The aggravating factors considered were that Respondent's money laundering activities occurred while he was acting in the capacity of an attorney, and that Respondent's participation in such illegal activities encompassed a period of over four years (RR 3). The Referee did seriously consider the evidence offered by Respondent in mitigation of disbarment,

distinguished case law from the factors present in Respondent's case and came to the conclusion based on the evidence presented by both Respondent and The Florida Bar that despite the mitigating evidence presented by the Respondent, it was not enough to overcome the serious nature of his crimes thus warranting disbarment (RR 3-4).

Respondent argues that the Referee's Report erroneously contains statements that Respondent was charged with or convicted of engaging in the sale, distribution or importation of drugs. No where in the Report does the Referee state this. The Referee does cite the Florida Standards for Imposing Lawyer Sanctions, which states that disbarment is appropriate when "a lawyer is convicted of a felony under applicable law" and when "the lawyer engages in the sale, distribution or importation of controlled substances" Paragraph 5.11 (RR-4). Such Standards also mandate disbarment when a lawyer attempts or conspires or solicits another to commit a felony or the sale, distribution or importation of controlled substances, as Respondent did. Paragraph 5.11(e).

Respondent argues that the Referee made no finding concerning whether Respondent is rehabilitated or if not, whether rehabilitation is highly improbable and the Bar offered no evidence to show that Respondent's rehabilitation is highly improbable. However, as stated by the Florida Supreme Court in

The Florida Bar v. Routh, 414 So.2d at 1025, rehabilitation is relevant in a reinstatement proceeding but not in a disciplinary proceeding. Rehabilitation is relevant to whether an attorney should be readmitted to The Florida Bar upon full compliance with the rules and regulations governing admission to the bar, not in deciding the proper sanction in past admitted violations. At most, interim rehabilitation is one factor that *may* be considered to justify a reduction in the degree of discipline to be imposed. See Florida Standards for Imposing Lawyer Sanctions, Paragraph 9.31 and 9.32(j); The Florida Bar v. Lord, 433 So.2d 983, 985 (Fla. 1983). Even if evidence of rehabilitation was proper at this point, there is no evidence showing that Respondent would not again grow bored and succumb to illegal activities when presented to him in the course of his law practice, as he did in the case at bar.

Respondent argues that the Referee neither discusses the testimony of Respondent's witnesses nor describes his findings on the ten mitigating factors to which the testimony was addressed. The Referee not only addresses all of the evidence presented at the hearing in his Report (RR 3-4) but a review of the transcript of the September 20, 1988 hearing shows the Referee's interest in the testimony offered by Respondent's witnesses (T. 48-53; 60; 68-69; 85-99; 125-131). The Referee states in his Report that "I did give serious consideration to the testimony of the eight

witnesses who testified on behalf of the Respondent," (RR-3) and goes on to distinguish the degree of Respondent's cooperation with the government, when it was initiated and the reasons for such cooperation from the Pettie case, presented by Respondent in support of his contention that such cooperation warranted a reduction in the degree of discipline to be imposed.

While Respondent has a due process right to offer testimony in mitigation of any penalty to be imposed as discipline, The Florida Bar v. Cruz, 490 So.2d 48 (Fla. 1986), a right which Respondent was clearly afforded, there is no requirement that in recommending discipline a referee must accept the arguments in mitigation offered by a respondent. As in Cruz where the Court held that it was apparent from the record at bar that the referee gave credence to the mitigating testimony since the referee recommended Respondent's disbarment be effective from the date of Respondent's suspension, it is apparent from the record at bar that the referee gave credence to the mitigating testimony, not only as stated above, but since the Referee recommended Respondent's disbarment be effective from the date of Respondent's suspension (RR-3). Moreover, it is not necessary that the Referee's Report specifically address each piece of evidence presented. Rule 3-7.5(k)(1) of the Rules of Discipline specify what is to be contained in the Referee's Report.

Accordingly, it is not error for the referee to omit mitigating factors offered by the Respondent from his report.

While Respondent contends that the Referee might have failed to understand the permanent nature of disbarment, the fact is that a disbarred member of The Florida Bar may be admitted again upon full compliance with the rules and regulations governing admission to the bar. Such application for admission may be tendered within five (5) years after the date of disbarment. See Rule 3-5.1(f), Rules Regulating The Florida Bar, The Florida Bar v. Mattingly, 342 So.2d 508 (Fla. 1977).

It is quite clear that the referee's findings are fully supported by the clear and convincing weight of the evidence as established at the evidentiary hearing on September 20, 1988 and should be upheld by this Court.

III. THE REFEREE'S RECOMMENDATION OF DISBARMENT IS FULLY WARRANTED

Respondent admits to and pled guilty to participating in a conspiracy, while acting in the capacity as attorney for a drug importer and trafficker, to conceal, hide and disguise proceeds and assets derived from drug trafficking. This drug conspiracy was not an isolated event but encompassed a period of over four years. This drug conspiracy did not involve only the United States, but also involved the Cayman Islands and Bahamas. As The Florida Supreme Court stated in The Florida Bar v. Hecker, 475 So.2d 1240, 1243 (Fla. 1985):

> Illegal drug activities are a major blight on our society--nationally, statewide and locally. Necessarily, members of the Bar are brought into contact with the illegal activity of their professional obligations to offer legal assistance to clients accused of wrongdoing. Members of the Bar should be on notice that participation in such activities beyond professional obligations will be dealt with severely.

Accordingly, the Florida Supreme Court disbarred Hecker for conspiracy to act as a drug procurer despite mitigating factors offered by Hecker, including his genuine remorse, participation in civic matters, cooperation and assistance to law enforcement officers, personal misfortunes and serving of his prison sentence. While recognizing that disbarment is the severest

sanction available and should not be imposed where less severe punishment would accomplish the desired purpose, the Florida Supreme Court has repeatedly held that the legal profession cannot tolerate such conduct and warrants disbarment. Likewise, Respondent's conduct cannot be tolerated and warrants disbarment.

The Florida Bar does not have to prove by clear and convincing evidence that Respondent's rehabilitation is "highly improbable." While the Court may consider evidence of rehabilitation as a mitigating factor, the Supreme Court in The Florida Bar v. Routh, 414 So.2d 1023 (Fla. 1982) held that rehabilitation is relevant in a reinstatement proceeding but not in a disciplinary proceeding. The Rules of Discipline provide for a disbarred attorney to be readmitted upon full compliance with the rules and regulations governing admission to the bar. It is at that point that evidence of Respondent's rehabilitation would be relevant, not in deciding the proper sanction in past, admitted violations by respondent.

Even if evidence of rehabilitation was proper at this point, there is no evidence showing that Respondent would not again grow bored and succumb to illegal activities when presented to him in the course of his law practice Respondent attributes his willing participation in these illegal activities as an escape from an unhappy marriage and immaturity (T 123-124). Absolutely no

evidence was presented by respondent to negate the possibility of this happening again. One witness testified as to respondent's rehabilitative potential, cooperation with the government and trustworthiness and reliability based on personal conversations the witness had had with Respondent. Such witness testified that Respondent shared with him things that he would not share with anybody else..."he basically told me what happened to him." However, this witness did not even know respondent had been convicted of or involved in drug offenses (T 32-37). Another witness testified that respondent is a nicer human being (T 56). Respondent's own psychiatrist testified that respondent had suffered from "immaturity, stunted emotional development that affected his judgment during that period of time" and greed was one symptom of immaturity (T 46-67). Another witness testified that he ''observed over the recent past a calmer, happier kind of attitude" (T 61). One witness even attributed respondent's illegal activities to respondent feeling that he was so smart, smarter than everybody else and that he could figure out the way to do things that no one else could figure out (T 56-57). Perhaps respondent still believes he is smarter than everybody else and is trying to do things others could not in these disciplinary proceedings.

The fact that respondent's illegal drug activities did not involve a violation of a client's trust is not a mitigating factor for which respondent should be rewarded by a reduction in discipline to be imposed. Respondent's citing Pettie for such a proposition is erroneous. In Pettie, the Florida Supreme Court held that in this clearly atypical case where respondent voluntarily initiated contact with law enforcement authorities, cooperated with those authorities, suffered severe economic loss, closed his law practice, admitted his wrong and actually risked his life and had to be relocated outside the state with his whereabouts unknown since there was a contract on his life, disbarment was not warranted. No where does the Supreme Court state that a mitigating factor was that Pettie did not violate a client's trust. In Carbonaro, the Supreme Court considered among other factors, that the criminal acts for which Carbonaro was convicted did not involve the violation of his clients' trust and were unrelated to his practice of law. Obviously, such is not the case at bar. The criminal acts respondent was convicted of were very much related to his practice of law.

Respondent's admission of guilt and cooperation with the government was provided as part of a negotiated plea agreement which was very advantageous to respondent. In return for

respondent's providing information in tax matters being investigated by the government, two pending Indictments filed against respondent in two other states were dropped. There is no evidence that respondent voluntarily initiated contact with these government agents in an effort to cooperate or help right a grievous wrong that had occurred immediately following Respondent's participation in such illegal activities. Respondent only offered such cooperation at a time when it was most advantageous to him, in an effort to have pending charges dropped. Further, the only effect such cooperation had on Respondent in relation to the prison community Respondent was residing in was that Respondent was said to be ostracized from the community of people in the institution because of his cooperation (T-75). Since Respondent was given special privileges, such as a one day trip to Miami to assist government agents in their investigation, the inmates did not talk to Respondent, and Respondent was given the least desirable jobs such as pushing a broom in a warehouse and cutting the grass (T 107-108). Moreover, Respondent even benefited from his cooperation with the government by being transferred to a halfway house three to four months earlier than he was eligible to be moved (T-30). The assistance provided by Respondent and resulting inconveniences hardly compare to those of Pettie,

which prompted the court in Pettie to hold such assistance "atypical" and "unique", thus not warranting disbarment. Conversely, Respondent's cooperation was not "atypical" or "unique" but only offered as part of a negotiated plea agreement, beneficial to Respondent in many ways.

As stated in The Florida Bar v. Wilson, 425 So.2d at 3:

> Disbarment of an attorney after he has been adjudged guilty of two felonies cannot be interpreted as unfair to him. By the very nature of his professional commitment the lawyer is least expected to be a violator of the criminal laws. The Florida Bar v. Levenson, 211 So.2d 173, 174 (Fla. 1968) mere suspension would not be just to the public. In the case of a conviction of two felonies, the ultimate penalty, disbarment, should be imposed to insure that an attorney convicted of engaging in illegal conduct involving moral turpitude, ...who has violated his oath and flagrantly breached the confidence reposed in him as an officer of the court, can no longer enjoy the privilege of being a member of the bar. A suspension, with continued membership in the bar, albeit without the privilege of practicing, is susceptible of being viewed by the public as a slap on the wrist when the gravity of the offense calls out for a more severe discipline.
>
> Suspension and disbarment may very well have a similar effect toward correction of a convicted attorney's anti-social behavior, but disbarment insures that respondent could only be admitted again upon full compliance with the rules and regulations government admission to the Bar. In the case of a felony conviction, this additional requirement is significant, as it would better encourage reformation and rehabilitation.

CONCLUSION

The Report of Referee and the findings and sanctions recommended therein should be accepted by this Court. The criminal and unethical conduct engaged in by Respondent is so serious that disbarment is the only appropriate sanction. The public and legal profession cannot tolerate the type of conduct engaged in by Respondent. The Respondent has failed to set forth any support for his contention that the Referee's conclusions are clearly erroneous or without evidentiary support.

Wherefore, The Florida Bar respectfully requests this Honorable Court to accept the Referee's recommended discipline and disbar the Respondent, Lance E. Eisenberg, from the practice of law in the State of Florida.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY EI that g nal and seven copies of The Florida Ba A Brief were mai to Sid J. White, rk Supreme t f a Supreme Court Building, ah ss . 32399-1927, d a copy as mailed t a E. isenberg spon t, 10710 S.W. 60th en i i , and J T. erry The Fl Bar, lahass F orida 32399 this 5th day of y 1989

PAUL A. GROSS, BAR COUNSEL