

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

vs.

CHRISTOPHER R. FERTIG,
Respondent.

CONFIDENTIAL

CASE NO. 71,886

The Florida Bar Case
No. 86-20,258 (17A)

FILED
JUL 21 1988

JUL 21 1988

REPORT OF REFEREE

CLERK, SUPREME COURT
JUL 21 1988

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Rules of Discipline, hearings were held on May 11, 1988 and June 24, 1988.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Jacqueline P. Needelman
For the Respondent: Lance J. Thibideau

II. Findings of Fact as to Each Item of Misconduct of which the Respondent is charged: After considering the pleadings and evidence before me, pertinent portions of which are commented upon below, I find as follows:

1. The Respondent, Christopher R. Fertig, is, and at all material times, was a member of The Florida Bar subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida. (Tr.32).

2. On April 1, 1986, Christopher R. Fertig pled nolle contendere in Case No. 86-4006CF to an information for violating the Racketeer Influenced and Corrupt Organizations act (RICO) in violation of §895.02(1), 895.02(1)(a)25, 895.02(4) and 895.03(3), Fla.Stats, in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida. (Bar Exhibit 1).

3. On April 1, 1986, the Honorable Barry J. Stone placed Respondent on probation for a period of four years and withheld adjudication of guilt. (Bar Exhibit 1).

4. Respondent attempted to explain his actions and dealings with Jerry Smith which actions were clearly criminal in nature. (Tr.32-51).

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5. There is no question but that based upon the evidence presented, Respondent is guilty of violating the code of professional responsibility and specifically those rules indicated in the complaint.

111. Recommendation as to Whether or Not the Respondent should Be Found Guilty: I recommend that Respondent be found guilty and specifically that he be found guilty of the following violations of the Code of Professional Responsibility, to wit: Rule 11.02(3) (a) and 11.02(3) (b).

IV. Recommendation as to Disciplinary Measures to be Applied:
I recommend that the respondent be suspended for a period of twelve months. Contrary to Rule 3-5.1(e) Rules of Discipline, based upon further observations of the undersigned, I recommend that no proof of rehabilitation be required. Mr. Fertig has in the past several years conducted himself in a manner which has convinced the undersigned that he is now totally and completely rehabilitated. The recommendation for discipline is made for a two-fold purpose - for punishment for the acts committed and as a deterrent to others. The actions of Mr. Fertig were extremely serious. He has mitigated these actions by cooperating with authorities and turning his life around since he committed these illegal acts. It is based upon these considerations and mitigating factors that a suspension is recommended as opposed to disbarment.

V. Personal History and Past Disciplinary Record: After finding of guilt and prior to recommending discipline to be recommended pursuant to Rule 3-7.5 (k)(1)(4), I considered the following personal history and prior disciplinary record of the Respondent to wit:

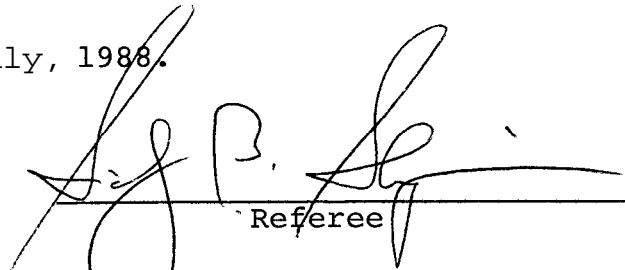
Age: 37
Date Admitted to bar: November, 1976
Prior disciplinary convictions and disciplinary measures imposed therein: None

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

<u>Administrative Costs</u>		
Referee Level	<u>150.00</u>	\$150.00
<u>Court Reporter</u>		
5/11/88 Motion Hearing	62.00	
5/19/88 Michael Powell's Deposition	46.36	
6/17/88 Respondent's Deposition	365.00	
6/23/88 Copy of Judge Speiser's Deposition	36.00	
6/24/88 Hearing before Referee	<u>826.25</u>	1,335.61
<u>Witness Fees</u>	6.60	6.60
<u>Travel Expense</u>		
5/19/88 Bar Counsel's travel to Washington, D.C. for deposition of Michael Powell	510.80	<u>510.80</u>
TOTAL COSTS DUE THE FLORIDA B R		\$2,003.01

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.

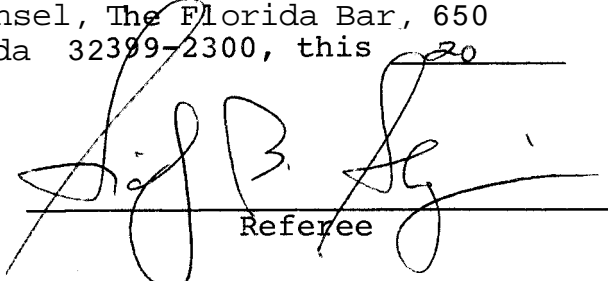
Dated this ____ day of July, 1988.



Referee

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing Report of Referee was mailed to Jacquelyn P. Needelman, Bar Counsel, The Florida Bar, Cypress Financial Center, 5900 N. Andrews Avenue #835, Fort Lauderdale, Florida 33309; Lance J. Thibideau, Attorney for Respondent, 901 South Federal Highway, #300, Fort Lauderdale, Florida 33316 and to John T. Berry, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32309-2300, this 20 day of July, 1988.



Referee