

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED

APR 15 1988

CLERK SUPREME COURT

Deputy Clerk

THE FLORIDA BAR,

Complainant,

CASE NO. 71,956

v.

The Florida Bar Case Nos.

ROBERT W. HEATON,

87-27,201 (17F), 88-50,166 (17F),
88-50,008 (17F), 88-50,205 (17F) and
88-50,293 (17F)

Respondent.

REPORT OF REFEREE

I. Summary of Proceedings: The undersigned was duly appointed as referee to conduct disciplinary proceedings. The Respondent has submitted a Conditional Guilty Plea for Consent Judgment. The Designated Reviewer of The Florida Bar has approved same. I approve Respondent's Consent Judgment.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Jacquelyn P. Needelman

For the Respondent: Pro se

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:

1. The Respondent, Robert W. Heaton, Jr., 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.

As to Count I

(Supreme Court Case No. 71,956, The Florida Bar Case No. 87-27,201 (17F))

2. Respondent represented [REDACTED] (hereinafter referred to as Ms. [REDACTED]) in a dissolution of marriage proceeding.

3. On or about May 15, 1986, Ms. [REDACTED] gave Respondent a check in the amount of three hundred dollars (\$300) to pay the balance due for legal services rendered.

4. Respondent notified Ms. [REDACTED] that the check could not be cashed due to insufficient funds.

5. Ms. [REDACTED] then had issued to Respondent, on or about May 30, 1986, a new check in the amount of three hundred twenty-two dollars (\$322) to pay for the legal services and recording costs.

6. Respondent never returned the original check for three hundred dollars (\$300) to Ms. [REDACTED]

7. Respondent redeposited the May 16, 1986 three hundred dollar (\$300) check.

8. Respondent also deposited the May 30, 1986 check for three hundred twenty-two dollars (\$322).

9. Respondent failed to return messages left by Ms. [REDACTED]

10. When Ms. [REDACTED] was able to reach Respondent on the telephone in or about January 1987, Respondent promised to return the excess three hundred dollars (\$300) immediately to Ms. [REDACTED]

11. Respondent made misrepresentations to Ms. [REDACTED] on two (2) occasions that a refund would be forthcoming immediately.

12. Respondent failed to return the excess funds to Ms. [REDACTED] until November 1987.

As to Count II

Supreme Court Case No. 71,956, The Florida Bar Case No. 88-50,166(17F)

13. On or about April 6, 1987, Respondent began representing one [REDACTED] regarding the obtaining of a modification of his monthly child support payments.

14. The Respondent failed to act with reasonable diligence or promptness in representing Mr. [REDACTED]

15. During this representation, Respondent failed to communicate with Mr. [REDACTED] and did not respond to Mr. [REDACTED]'s telephone messages.

16. Respondent failed to keep Mr. [REDACTED] reasonably informed about the status of his matter and failed to promptly comply with reasonable requests for information from his client.

As to Count III

Supreme Court Case No. 71,956, The Florida Bar Case No. 88-50,008(17F)

17. Respondent was hired to represent one [REDACTED] in or about October 1986, regarding support arrearages owed to Ms. [REDACTED]

18. Respondent received five hundred dollars (\$500) as a retainer to represent Ms. [REDACTED] on or about October 1, 1986.

19. During his representation, Respondent did not return Ms. [REDACTED]'s phone calls and failed to communicate with her as to the status of her case.

20. Respondent failed to take any action on Ms. [REDACTED]'s behalf.

21. Ms. [REDACTED] was unsuccessful in attempting to contact Respondent to request her five hundred dollars (\$500) returned so that she could hire another attorney.

22. Respondent failed to represent Ms. [REDACTED] diligently and failed to keep Ms. [REDACTED] reasonably informed as to her legal matter.

As to Count IV

Supreme Court Case No. 71,956, The Florida Bar Case No. 88-50,205(17F)

23. In or about April 1987, Respondent was retained to represent one [REDACTED] [REDACTED] concerning a post dissolution of marriage partition action.

24. Respondent was paid three hundred twelve dollars (\$312) by Ms. [REDACTED] for said representation on April 10, 1987.

25. Respondent failed to perform the services requested and Respondent failed to act diligently in this matter.

26. Respondent failed to act promptly as requested by Ms. [REDACTED]

27. Respondent failed to keep Ms. [REDACTED] reasonably informed about the status of her case.

The Florida Bar Case No. 88-50,293(17F)

28. On February 16, 1988, [REDACTED] [REDACTED] Respondent, plead guilty in Case No. 87-15777CF-B to the felony charges of trafficking in cocaine, conspiracy to traffic in cocaine, delivery of cocaine and possession of cocaine and to the misdemeanor charge of possession of cannabis, in the Circuit Court of the Seventeenth Judicial Circuit, In and For Broward County, Florida.

29. Respondent was sentenced on March 25, 1988 and received a fifteen (15) year minimum mandatory prison sentence, and a \$250,000 fine and a 5% surcharge.

III. Recommendation as to whether or not the Respondent Should be Found Guilty: As to each count of the complaint I make the following recommendations as to guilt or innocence:

As to Count I (Case No. 71,956)

I recommend that the Respondent be found guilty of having violated Disciplinary Rules 1-102(A) (1), 1-102(A) (4) and 1-102(A) (6), of the Code of Professional Responsibility, and Florida Bar Integration Rule, article XI, Rules 11.02(2) and 11.02(3) (a) and Rules 3-4.2 and 3-4.3 of

the Rules of Discipline and Rules 4-8.4(a) and 4-8.4(c) of the Rules of Professional Conduct.

As to Count II (Case No. 71,956)

I recommend that the Respondent be found guilty of having violated Rule 3-4.2 of the Rules of Discipline; and Rules 4-1.3, 4-1.4(a) and 4-8.4(a) of the Rules of Professional Conduct.

As to Count III (Case No. 71,956)

I recommend that the Respondent be found guilty of having violated Rule 3-4.1, Rules of Discipline, and Rules 4-1.3, 4-1.4 and 4-8.4(a) of the Rules of Professional Conduct.

As to Count IV (Case No. 71,956)

I recommend that the Respondent be found guilty of having violated Rule 3-4.2 of the Rules of Discipline, and Rules 4-1.3, 4-1.4(a) and 4-8.4(a) of the Rules of Professional Conduct.

As to The Florida Bar Case No. 88-50,293(17F)

I recommend that the Respondent be found guilty of having violated Rules 3-4.3 and 3-4.4 of the Rules of Discipline.

IV] Recommendation as to Disciplinary Measures to be Applied: I recommend that the Respondent be disbarred from the practice of law in Florida pursuant to Respondent's Guilty Plea and that Respondent cannot tender an application for readmission for a period of five (5) years from the effective date of Respondent's disbarment.

V. Personal History and Past Disciplinary Record:

Age: 32

Date admitted to Bar: January 16, 1981

Prior disciplinary convictions: none

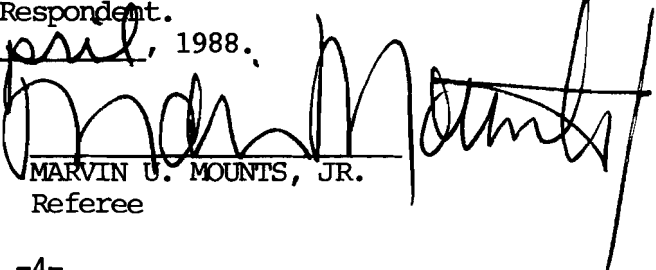
VI. Statement of Costs and Manner in Which Cost Should be Taxed: I find the following costs were reasonably incurred by The Florida Bar:

Administrative - Grievance Level (four (4) cases)	\$600.00
Court Reporter and Transcripts	715.15
Witness Fees	<u>48.00</u>

Total costs to date due The Florida Bar \$1,363.25

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 11 day of April, 1988.


MARVIN U. MOUNTS, JR.
Referee

Copies furnished to:

Jacquelyn P. Needelman, Bar Counsel
Robert W. Heaton, Jr., Respondent
1916 Coral Gardens Drive
Fort Lauderdale, FL 33306