

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

The Florida Bar,  
Complainant,  
vs.  
Laurence Golden,  
Respondent.

Case Number: 72,026

The Florida Bar Case  
Number 88-50761 (7c)

**FILED**

SID J. WHITE

DEC 1 1988

REPORT OF REFEREE CLERK, SUPREME COURT

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

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as a referee to conduct disciplinary proceedings, a hearing was held on September 22, 1988. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits all of which are forwarded to the Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For the Florida Bar - Jacqueline Needleman

For the Respondent - Edward G. Salantrie

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. Paragraph (4) of the Complaint filed by the Florida Bar on March 1, 1988 states:

- (4) Respondent, by virtue of his insurance fraud has violated Disciplinary Rules 1-102 (A) (1) 1. [a lawyer shall not violate a Disciplinary Rule], 1-102 (A) (3) 2. [a lawyer shall not engage in illegal conduct involving moral turpitude], 1-102 (A) (4) 3. [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation] of the Code of Professional Responsibility and Florida Bar Integration Rule, Article XI, Rules 11.02 (3) (a) 4. [commission by a lawyer of any act contrary to honesty, justice or good morals] and 11.02 (3) (B) 5. [conduct that constitutes a felony or misdemeanor].

Although the Complaint alleges a total of five violations, the Respondent's misconduct is a singular event occurring on April 1, 1986. The Respondent deleted one line from a treating

physicians report and signed a demand letter pursuant to that report and mailed both documents to Liberty Mutual Insurance Company. Based upon these documents Respondent settled his client's personal injury claim for \$3,100.00, the Respondent netting \$1,240.00.

III. Recommendation as to Whether or Not Respondent Should Be Found Guilty: As to Count (1) of the Complaint I make the following recommendation as to guilt or innocence:

That the Respondent be found guilty of the violations alleged in Count (4) of the Complaint based upon his previously entered plea of guilty to Insurance Fraud, and his acknowledgement of guilt individually and through counsel.

IV. Recommendation as to Disciplinary Measures to be Applied:

I recommend that the Respondent be suspended from the practice of law for a period of twenty four (24) months and thereafter until Respondent shall prove rehabilitation as provided in Rule 3-5.1 (e), Rules of Discipline. I recommend that Respondent's suspension be effective retroactively to February 3, 1988, the date he was automatically suspended on the instant case pursuant to the filing of the Notice of Determination of Guilt. I further recommend that prior to Respondent's reinstatement he be required to successfully pass the Ethics portion of the Florida Bar Examination. I additionally recommend that Respondent be placed on a probationary period not to exceed twelve (12) months immediately upon his reinstatement. As a special condition, Respondent should be required to make quarterly reports to an agency designated by the Florida Bar as well as reimburse the Florida Bar for their costs of supervision.

The above recommendation was reached after fully considering the Florida Standard for Imposing Lawyer Sanctions which outline the factors to be considered in imposing sanctions. Section 3.0 of the Standards states that in imposing a sanction after a finding of lawyer misconduct, a Court should consider the

following factors: (a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors.

Respondent's misconduct did not have a negative impact upon his client and therefore did not violate a duty owed to her, but to the public in general. Respondent has showed remorse for his action and has undergone rehabilitative therapy in an attempt to aid in his recovery. At the time of the incident, according to a report supplied by his therapist, Respondent was suffering from a depressive-reactive-syndrome. Approximately two (2) years before the misconduct, the Respondent's fiancée and close friend died suddenly and very violently. Testimony by the Respondent's co-workers and friends demonstrated the extent of the emotional disturbance based on this loss. According to testimony, the Respondent's actions were totally out of character and attributable to his diminished emotional state.

Section 9.2 of the Standards for Imposing Lawyer Sanctions lists numerous possible aggravating circumstances. I find that none of the ten (10) are applicable in this case. Although Respondent's actions reflected dishonesty (factor b), I find that it is inherent in the allegations and does not constitute an aggravating circumstance that should be afforded any weight. However I do find that the following mitigating circumstances do exist.

1. Respondent has no previous disciplinary record.
2. Respondent has made full restitution to the insurance company of \$3,100.00 although Respondent received only \$1,240.00.
3. Respondent's profit was minimal, if at all. Testimony of an attorney suggests that the claim had at least a "nuisance value" settlement worth of \$3,100.00 which could have been obtained without the misconduct
4. Respondent has made full and free disclosure during the disciplinary proceedings and has acknowledged his guilt in the Circuit Court and before this Referee.

5. There exists evidence of remorse, especially through the testimony of witnesses called on Respondent's behalf.

6. Finances permitting, Respondent has continuously undergone rehabilitative psychological therapy for his emotional disorder.

7. At the time of the incident Respondent was suffering from a depressive-reactive-syndrome.

8. Respondent's conduct represents an isolated incident in an otherwise professional and ethical practice.

9. There has been no violation of the attorney-client relationship.

10. Punitive measures have already been imposed. Respondent was placed on three (3) years reporting probation with a special condition that precludes him from practicing law for a period of three (3) years. He has lost his job, his only source of income, and is presently in debt and earning a couple of hundred dollars a week performing research. The Respondent has endured great financial and emotional suffering as a result of his misconduct as well as embarrassment, hopelessness and depression.

V. Personal History and Past Disciplinary Record: After finding of guilty and prior to discipline to be recommended pursuant to Rule 3-75(k)(1)(4), I consider the following personal history and prior disciplinary record of the Respond, to wit:

Age: 35

Date admitted to Bar: November 5, 1982

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 reasonably incurred by the Florida Bar

<u>Administrative Costs</u>	
Referee Level	\$ 150.00
<u>Court Reporter</u>	
Attendance & Transcript September 22, 1988	252.00

Travel  
Bar Counsel

TOTAL ITEMIZED COSTS \$ 436.65

It is recommended that all such costs and expenses herein itemized shall be charged to the Respondent.

Dated this 28 day of November, 1988.

  
S. PETER CAPUA  
REFEREE

Copies furnished to:

Jacquelyn P. Needelman, Bar Counsel  
Edward G. Salantrie, Esquire