

IN THE SUPREME COURT OF FLORIDA
BEFORE A REFEREE

72,614

THE FLORIDA BAR,

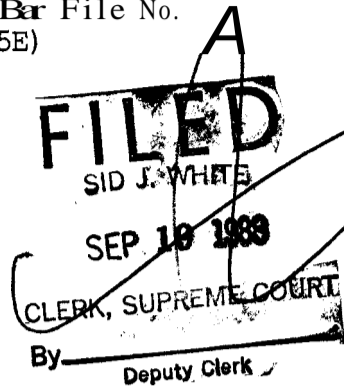
Complainant,

The Florida Bar File No.
88-50,261 (15E)

v.

ARTHUR B. KRAMER,

Respondent.



REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

The undersigned was appointed as the referee to preside in the above disciplinary action by order of this court dated July 5, 1988. The pleadings and the bar's application for judgment on the pleadings which are forwarded to the court herewith, constitute the entire record in this case.

The bar was represented by David M. Barnovitz, assistant staff counsel. Respondent defaulted at every stage of the proceedings.

II. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH THE RESPONDENT IS CHARGED:

Upon respondent's default in responding to the bar's requests for admissions, the bar made application for judgment on the pleadings which I granted. The effect thereof was to find each and every allegation of the bar's complaint to be admitted by the respondent. I accordingly find as follows:

A. 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.

B. Heretofore, between November 13, 1985 and November 19, 1985, in the Township of Union and/or in the Township of Springfield, County of Union, State of New Jersey and/or other divers places, respondent did knowingly dispose of property that had been entrusted to him as a fiduciary, to wit, money that he held for the benefit of Cora and Stanley Smith, with a value in excess of \$500.00, in a manner which he knew was unlawful and involved a substantial risk of loss or detriment to Cora and Stanley Smith in violation of N.J.S. 2C:21-15, a third degree felony.

C. On or about March 1, 1986 in the Township of Union, County of Union, State of New Jersey and/or other divers places, respondent did knowingly utter a writing, to wit, an affidavit of title concerning a house and property commonly known as 1286 Cambridge Avenue, Plainfield, New Jersey, knowing that it contained a false statement and/or information with the purpose to deceive and/or injure parties connected to the purchase and sale and/or mortgage of that property in violation of N.J.S. 2C:21-4(a), a fourth degree felony.

D. Respondent was arrested by State of New Jersey authorities and charged with the commission of the above enumerated felonies.

E. On April 5, 1988 in Superior Court, Union County, State of New Jersey, case number 88-01-0038, respondent pled guilty to violating the above two (2) enumerated felonies and on May 20, 1988 was adjudicated guilty thereof and sentenced upon the basis of such guilty plea.

111. RECOMMENDATIONS AS TO WHETHER OR NOT THE RESPONDENT SHOULD BE FOUND GUILTY:

I make the following recommendations with respect to the violations charged by the bar:

A. By misapplication of entrusted property and as a result of his felony conviction therefor, respondent violated Fla. Bar Integr. Rule, article XI, Rule 11.02(3) (a) which proscribes conduct by an attorney contrary to honesty, justice or good morals; Fla. Bar Integr. Rule, article XI, Rule 11.02(4) which provides that funds entrusted to an attorney for a specific purpose must be applied to such purpose; Disciplinary Rule 1-102(A) (3) of the Code of Professional Responsibility which proscribes illegal conduct involving moral turpitude; Disciplinary Rule 1-102(A) (4) of the Code of Professional Responsibility which proscribes conduct involving dishonesty, deceit, fraud or misrepresentation and Disciplinary Rule 1-102(A) (6) of the Code of Professional Responsibility which proscribes other conduct adversely reflecting on an attorney's fitness to practice law.

B. By falsifying or tampering with records and as a result of his felony conviction therefor, respondent violated Fla. Bar Integr. Rule, article XI, Rule 11.02(3) (a) which proscribes conduct by an attorney

contrary to honesty, justice or good morals; Disciplinary Rule 1-102(A)(3) of the Code of Professional Responsibility which proscribes illegal conduct involving moral turpitude; Disciplinary Rule 1-102(A)(4) of the Code of Professional Responsibility which proscribes conduct involving dishonesty, deceit, fraud or misrepresentation and Disciplinary Rule 1-102(A)(6) of the Code of Professional Responsibility which proscribes other conduct adversely reflecting on an attorney's fitness to practice law.

IV. RECOMMENDATIONS AS TO DISCIPLINARY MEASURES TO BE APPLIED:

I recommend as discipline for the violations hereinabove enumerated that respondent be suspended from the practice of law for three (3) years and required to furnish proof of rehabilitation before he resumes practice.

V. PERSONAL HISTORY:

Respondent was admitted to The Florida Bar on November 28, 1977 and is 37 years of age.

VI. STATEMENT AS TO PAST DISCIPLINE:

Respondent has no prior discipline record with The Florida Bar.

VII. STATEMENT OF COSTS OF THE PROCEEDINGS AND RECOMMENDATIONS:


The cost of these proceedings were as follows:

Administrative Costs ----- \$ 150.00

TOTAL ----- \$ 150.00

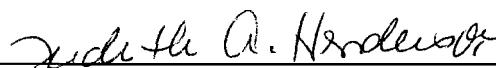
I recommend that such costs be taxed against the respondent.

RENDERED this 15th day of September, 1988 at Tallahassee, Florida.


VICTOR M. CAWTHON, REFEREE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing report of referee was furnished to Arthur B. Kramer, respondent, at his official record bar address of Post Office Box 470632, Charlotte, NC 28226-0006, to Joseph Spagnoli, Esquire, 115 Westminister Avenue, Elizabeth, NJ 07208 and to David M. Barnovitz, assistant staff counsel, The Florida Bar, 5900 North Andrews Avenue, Suite 835, Ft. Lauderdale, FL 33309 on this 15th day of September, 1988.


Judith A. Henderson, CLA
Judicial Assistant