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IN THE SUPREME COURT OF FLORIDA

CASE NO. 72,934

THE FLORIDA BAR,

Complainant,

vs.

GENE FLINN,

Respondent.

/

Florida Bar Files:

No. 87-24,978 (11I)
No. 87-24,956(11I)

Florida Bar No. 096870

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RESPONDENT'S BRIEF

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TABLE OF CONTENTS

	PAGE
TABLE OF CITATIONS AND AUTHORITIES..................	ii
INTRODUCTION...	1
STATEMENT OF THE CASE AND OF THE FACTS...............	2
ISSUES:	
ISSUE I - WHETHER THE FLORIDA BAR HAS A POLITICAL ROLE TO PLAY IN SIDING WITH THEIR LOBBYIST AGAINST THE RESPONDENT IN A FEE DISPUTE WHERE THE CLAIMS BILL FEE WOULD HAVE GONE INTO FLINN'S CAMPAIGN TO UPSET THAT LOBBYIST'S DE FACTO BUSINESS PARTNER IN 1978/88................	10
ISSUE II - WHETHER THE FLORIDA BAR HAS A LEGITIMATE ROLE IN SIDING WITH THE DEPUTY/ATTORNEY ALLIANCES, WHICH ARE CURRENTLY CREATING A WORKERS' COMPENSATION CRISIS IN THE STATE, AGAINST THE WHISTLEBLOWER/REFORMER....................	10
ARGUMENT I - THE FLORIDA BAR DOES NOT HAVE A POLITICAL ROLE TO PLAY IN SIDING WITH THEIR LOBBYIST AGAINST THEIR LOBBYIST AGAINST THE RESPONDENT IN A FEE DISPUTE WHERE THE CLAIMS BILL FEE THAT WOULD HAVE GONE INTO FLINN'S CAMPAIGN TO UPSET THAT LOBBYIST'S DE FACTO BUSINESS PARTNER IN 1987/88............	11
ARGUMENT II - THE FLORIDA BAR DOES NOT HAVE A POLITICAL ROLE IN SIDING WITH THE DEPUTY/ATTORNEY ALLIANCES, WHICH ARE CURRENTLY CREATING A WORKERS' COMPENSATION CRISIS IN THE STATE, AGAINST THE WHISTLEBLOWER/REFORMER.................	32
CONCLUSION...	48
CERTIFICATE OF SERVICE...............................	50

TABLE OF CITATIONS AND AUTHORITIES

CASES	Page
Arky, Freed, Stearns, Watson, Greer, Weaver, & Harris v. Bowmar Instrument, 537 So.2d 561 (Fla. 1988)	6, 12
Chambers v. Liberty Mutual Ins. Co., 511 So.2d 608 (Fla. 3DCA 1987)	43
Chambers v. Public Health Trust, Dade County Circuit Court Case No. 83-36251 CA 10	17, 18, 40
The Florida Bar v. Carlson, 183 So.2d 541 (Fla. 1966)	31
The Florida Bar v. Davis, 361 So.2d 159 (Fla. 1978)	31
The Florida Bar v. McCain, 361 So.2d 700 (Fla. 1978)	47
The Florida Bar v. Weaver, 356 So.2d 797 (Fla. 1978)	47
Fumigation Department and Claims Center v. Pearson, 14 F.L.W. 2092 (Fla. 1st DCA 1989)	8, 44
Grunwaldt v. Silver Eagle, W.C. Case, Claim No. 199 56 3122	36
Handy v. Modern Age Furniture Co., Inc., 440 So.2d 356 (Fla. 1st DCA 1983)	9, 34, 44
Kindley v. Ryder Truck Rental, W.C. Case, Claim No. 253 76 5594	7
Liberty Mutual Ins. Co. v. Chambers, 526 So.2d 66 (Fla. 1988)	17, 42, 43
Michigan Citizens for an Independent Press v. Thornburgh, 868 F.2d 1285 (D.C.Cir. 1988) aff'd per curiam 110 S.Ct. 397 (1989)	14,15,30,46
N.W. Home Florida Health Agency v. Merrill, 769 So.2d 893 (1st DCA 1985)	48
SEC v. ESM, 642 F.2d 310 (5th Cir. 1981)	15, 21, 26
Solomon v. South Miami Hospital, W.C. Case, Claim No. 267 64 6215	40
U. S. v. Conn, 769 F.2d 420 (7th Cir. 1985)	44

U. S. v. Hoffa,
349 F.2d 20 (6th Cir. 1965) 24

What an Idea, Inc. v. Sitko,
505 So.2d 497 (Fla. 1st DCA 1987) 34

Williams v. Arnold,
Dade County Circuit Court
Case No. 87-54141 CA 17 .... 31, 35

FLORIDA STATUTES:

Section 11.111 (1987) 17

Section 47.011 (1987) 11

Section 57.105 40

Section 440 .... 4, 40

LEGISLATIVE BILLS:

First Bohannon Claims Bill
(House 1987) HR 1001 2

Second Bohannon Claims Bill
(Senate 1987) SB 1223 2,13,14,22

Third Bohannon Claims Bill
(Senate 1988) SB 495 4

Pitts and Lee Claims Bill 13

RULES OF DISCIPLINE:.

Rule 3-75(c) 11

OTHER SOURCES:

The Florida Bar News,
March 1, 1989, at 1 14

The Miami Herald,
August 14, 1989, page 14 .... 18, 44

The Miami Review,
May 23, 1989 .... 31, 33

Trials and Tribulations,
April, 1989 31

The Washington Post,
February 8, 1990 18

INTRODUCTION

This Petition is filed by the Respondent, GENE FLINN, for review in response to the Report of the Referee.

The parties to this review proceeding are as follows:

The Respondent, GENE FLINN, will be referred to by Respondent or FLINN.

The Complainant, THE FLORIDA BAR, shall be referred to as the "Bar", or "Gross" (Bar Counsel).

The parties and witnesses in the instant case and other proceedings will be referred to by their surname after first being identified.

The abbreviation "TR-" refers to the Transcript of Proceedings before the Referee.

The abbreviation DEN- refers to the Docket Entry Number.

All Exhibits designated shall be contained in the Appendix.

All emphasis set forth in this Brief is supplied, unless otherwise indicated.

STATEMENT OF THE CASE AND THE FACTS

This case unlike the other case (they are not companion cases) which addresses the problems inherent in corruptive practices which are driving businesses and industries out of this State, is a political fight in the Keys, the Legislature and elsewhere. Incidental to this, is the cover-up of two (2) malpractice cases, and fraud.

The Bohannons and their relatives have been clients of this office for ten (10) years. The Respondent won a malpractice verdict and immediately formed a legislative team to put a claims bill across.

On our side were Rep. Patchett, Levy, Cohen, and FLINN [Martinez] and on the other side are Plummer, Jacobs, Buschbom, and Hall [Margolis]. Rep. Patchett filed the bill in the House on the last day (March 17, 1987) with no other bill in behalf of the minor on the computer. It had been put through the "Sunshine committee process" and before it hit the floor, Jacobs copies the Bohannon Bill word-for-word and hands the phony (competitive; not companion) bill to Plummer, who in turn hands it to the Senate Master Kahn just three (3) weeks before sine die. Neither of them want to talk to us nor did Jacobs file a motion for substitution nor ask to adopt the first Bohannon Bill. Further, Plummer/Jacobs failed to legally advertise this 'stopper' bill. Moreover, FLINN and Plummer were sloughing it out in the 39th (So. Dade/Keys) District where votes for an open U. S. Senate seat were crucial (a party lines fight), and Respondent's job was to cut into Kenneth

Mackay's plurality in Mackay's territory.

Buschbom, a hand holder to chief trial counsel FLINN in the five (5) year, five (5) day trial of this expensive and complex case, was instructed by Jacobs to get Bohannon to sign with Jacobs. When that occurs ... and it occurs through the laundering of $8,000.00 in cash and guaranteed loans, 'they' move her from the Miami ghetto to a big house in Palm Beach, where they bankrupt the family in '87. The second Bohannon Bill doesn't fly because (1) of Plummer's problems (ranked last) with John Vogt, and (2) being filed "too late".

Meantime, Jacobs signs on an unverified complaint with Bohannon filed with the Miami Office of the Florida Bar alleging, inter alia, interference with his opponent's Bill.

After the Session, Bohannon returns unannounced to FLINN'S office bringing in a deceased daughter's malpractice case; cussing out Jacobs/Buschbom/Hall and dictating to Gene Flinn, Jr. a letter to the Bar dropping the charges against FLINN.

Because Jacobs had lobbied the Bar effort in bottling up Rep. Burnsed's DPR/Bar Bill in 'Ham' Upchurch's Judiciary, Bar Center - along with Jacksonville President Lyles - pressures Gross to continue to run serial hearings on FLINN/Staff as the campaign heats up.

D. Flinn refuses an unethical $1,800 loan requested by the Bohannons and Jacobs/Hall makes such an $1,807.46 loan as an inducement to quit FLINN (again) and sign (again)

with the Plummer/Jacobs/Buschbom/Hall team.

The whole dastardly plot, which uses the child as a pawn, was to defraud the Legislature with a void, ab initio, bill, to keep the resultant ('87) fee on a substantial claim from going into FLINN'S war chest to be used to oppose Jacobs' de facto business partner (Jacobs and Bobby Hartnett run all their bills through Plummer), no matter how severely it injured an innocent and retarded ward of the State or damaged his family. The Bar checks the time frame so that when FLINN was about even in the polls, 'they' conveniently publish the Complaint for pickup by Plummer's P.R. Plummer immediately jumps ahead 10 to 15% in the polls and goes on to win.

Additionally, there are suits and countersuits among the players running concurrent with the Broward trial, in Dade and Palm Beach Counties.

Plummer/Jacobs refile the '87 version and pass it while the Florida Bar is holding Cohen/Levy/FLINN at bay (Respondent as hostage). However, a very perceptive and great Governor refuses to sign the Bill on his desk as being tainted with fraud. The Bar thereupon renews the attack to keep the lid on tight on the saga of political intrigue, the chicanery and code violations that lead to malpractice.

In 1978/79, Representative FLINN was one of the Chief Architects of the Reform Legislation with respect to a revised Workmen's Compensation Act, which went into effect in August, 1979. The statute included innovative

concepts, such as 'wage loss' [a professor] and the 'specialist' [FLINN] to make the Act more self-executing. By 1983, by virtue of the Bar's assault, the W.C. Specialist was entirely eliminated and the trend to greater attorney involvement and the resulting ever increase in costs is well documented. (Respondent participated in a case cost analysis symposium in Boca Raton last year.

Also, there was a discernible trend in the forming up of (personal) alliances to perpetrate fraud on the respective carriers/pools. FLINN reported his observations (discovery) to law enforcement authorities in '83/'84 and continued in an undercover investigation centered on the notorious Miami Bureau operation. The probe, which is currently in progress, is directed to expose to the press and public the Deputy/Attorney combinations who have conspired for the purpose of defrauding the Workers' Compensation System of millions upon millions of dollars. The criminally corrupt become suspicious and one or more of the Deputies instruct "a regular" viz, Dr. Arthur Stillman to help them discredit FLINN and to enlist the Bar to short circuit the State/Federal investigation. Stillman then telephones the Bar and reports that FLINN is suffering from acute brain damage and should not be practicing comp. law. Using this pretext[1], the four Deputies, without notice, without hearing and without grounds, enter a joint 4-way

1. The only other example of this occurring is when SS dressed as Poles took over a Polish radio station at Gleiwitz to broadcast slanders against the German people on the evening of August 31, 1939.

recusal, bringing the Miami Bureau to a virtual standstill. Thereupon, a great Chief Judge (Wetherington) says "tell those Deputies for me that this is a disgrace to the Bureau", and he meant it... and indeed it was a tragedy. Others complain vociferously and an outstanding Governor Graham moved expeditiously, and with resolve to solve the problems of the people of Florida. He sent in his legal assistant, James Quincy, who makes the recalcitrant Deputies rescind their illegal across-the-board recusal and later transfers one of the 'Chicago four' out of this office. At the same time and by a mandating Executive Order, FLINN'S emergency cases (cripples, etc.) are transferred from "K" Division to "J" Division. Once Respondent/Staff/Associates were able, administratively, to get the cases transferred out of Dade - by both the Governor's and Chief Commissioner's Orders - FLINN won, (or settled on favorable terms for the client - forgetting about himself) <u>every</u> case at issue, as against the Bar's comp. lawyers (principally), who no longer had the mechanized momentum of a divisive and illegal ("Fraternity") clout through a scamming (involved) Deputy. However, the situation, which was affecting the civil rights of the Claimants, the Carriers and the FLINNS, continued to deteriorate as the group re-grouped. By mid-1988 nothing is moving, or if it is, it is denied summarily. It was the repeat of the sudden Great Depression for the ordinary claimant/citizen. (Big problems to little people are as important in Government as little problems to big people.) In December, Respondent demands an audience. Thereupon,

he is invited to address the Secretary of Labor and Employment Security/designees in Tallahassee. Based upon that legal oral argument and a staff prepared evidence (in a Brief), the (now) never-too-busy-for-people-problems Governor Martinez transfers the balance of FLINN'S caseload, consisting of primarily indigent Black and Hispanic claimants from Dade to the Broward Bureau, where rights are gradually restored and the Respondent, solo, starts immediately winning cases, again, e.g., a $10,000.00 fee on Kindley by Broward Deputy Seppi [DEN 132].

However, there were information leaks as to what is in the works and the Deputies retaliated through the accommodating Bar with trumped-up incompetency charges. They bring in former law partners and other members of the "Fraternity", in essence to discourage any more 'whistle-blowing'. Additionally, they prep out a new Nelson to do their bidding. However, the FLINNS refuse to capitulate for a (quiet) reprimand. The scam operation has reached grandiose proportions by now. Instead of involving only a handful of attorneys, doctors and deputies. It's spreading like a cancer. The Bar plays along and votes a blanket P.C. Thereupon, being a "case and controversy" that impacts on interstate commerce, FLINN prepares and files a Complaint for Violation of Civil Rights and Conspiracy to Commit RICO lawsuit on behalf of a large aggrieved class of clients, carriers and pools in the Southern District of Florida. It is based upon the following scenario [so we can get to the M.O. rather early):

A deputy tips a member of the "fraternity" that

FLINN (or others) have a case with potential. FLINN must thereupon hire a former law partner or member of the "fraternity" from a short list and that co-counsel brings Dr. Stillman on board who projects anywhere from five (5) million to seventeen (17) million dollars in benefits. While the Respondent continues to try the case, the member makes the ex-parte contact to draft the order and, of course, the scamming Deputy always believes Stillman, over the E/C's expert, which locks in the substantial evidence rule. Thereafter, the member drops his fee below the 25/20/15 formula to avoid reversal and the findings are artfully drawn in a lengthy order. This order (like this Report ignores any references to any evidence presented to the contrary) rides now with the presumption of correctness to the First DCA whose three (3) Judge panels have no choice but to affirm. The payoffs to the Deputies occur in Miami (case on file).

Last year and in 1990 FLINN has addressed the Governor's Oversight Board both in Tallahassee and in Tampa and other civic minded groups with respect to the 'root cause' of the skyrocketing W.C. rates, which is having the effect of driving the legitimate businesses and industry out of this State. Parenthetically, the Respondent has pointed out (quite correctly) "...don't lay the blame on the doorstep of the First DCA" [for these problems]. ...and under these conditions these dedicated jurists cannot be expected to cope with the situation,...all alone.

Four Deputies and four worker compensation attorneys gang up on FLINN in a bonanza all day (Saturday) Hearing, including Sicking[2] and Feuer[3], who have their

2. Sicking as State AFL/CIO attorney for Dan Miller gets Katie Tucker to have Larry Wood (now DNR) to hire over Greg Marr to DOR to quash State part of the investigation.
3. Kudos to a fine lady jurist (Wentworth) who jumps 'fraternity' member Feuer for logging [false] 86 hours [at $840 per hour] - another segment of the scam in the library in Fumigation ('89), an order entered by D.C. Johnson, a former law partner of Richard Sicking, another fraternity member. See Johnson Depo. P. 34. Fumigation Department and Claims Center v. Pearson, 14 F.L.W. 2092 (Sept. 15, 1989).

testimony, instead, proffered by Gross, to stop Flinn from utilizing his Handy investigative files for cross-examination of the two (2) accusers. The Referee not only allows basic constitutional rights to be violated but threatens FLINN with contempt if he brings up the issue of corruption. He enters a finding of fact exonerating all four Deputies of taking unlawful compensation, so they can plead double jeopardy when the indictments are handed down [like Hastings].

Further details are also set forth, by Counts, in the attached Civil Rights & RICO lawsuit where the battle has begun and will not end until the jury knocks on the door [Exhibit A].

This Petition follows:

ISSUES

ISSUE I

WHETHER THE FLORIDA BAR HAS A POLITICAL ROLE TO PLAY IN SIDING WITH THEIR LOBBYIST AGAINST THE RESPONDENT IN A FEE DISPUTE WHERE THE CLAIMS BILL FEE WOULD HAVE GONE INTO FLINN'S CAMPAIGN TO UPSET THAT LOBBYIST'S DE FACTO BUSINESS PARTNER IN 1987/88.

ISSUE II

WHETHER THE FLORIDA BAR HAS A LEGITIMATE ROLE IN SIDING WITH THE DEPUTY/ATTORNEY ALLIANCES, WHICH ARE CURRENTLY CREATING A WORKERS' COMPENSATION CRISIS IN THE STATE, AGAINST THE WHISTLEBLOWER/REFORMER.

ARGUMENT I

THE FLORIDA BAR DOES NOT HAVE A POLITICAL ROLE TO PLAY IN SIDING WITH THEIR LOBBYIST AGAINST THE RESPONDENT IN A FEE DISPUTE WHERE THE CLAIMS BILL FEE THAT WOULD HAVE GONE INTO FLINN'S CAMPAIGN TO UPSET THAT LOBBYIST'S DE FACTO BUSINESS PARTNER IN 1987/88.

As set forth in the Summary of the Proceedings, Respondent takes exception to the conclusion that venue was waived. This finding not only constitutes reversible error, but the circumstance under which it was done was a violation of FLINN'S Civil Rights[4]. The Referee, thereupon, enters an Order - at a critical stage of the proceedings - without notice to FLINN'S office and during a hearing being conducted in Respondent's absence. Therefore, there was no opportunity and certainly no "knowingly" and "intelligently" waiving of his right pursuant to the Rules of Professional Conduct[5].

Further, we direct this Honorable Court's attention to the record [DEN-86 page 2] where the glaring fact appears that Gross and the Referee are engaged in a private discussion completely off the record. It is bad enough

4. FLINN'S due process rights as guaranteed by the Fifth and Fourteenth Amendments to the Constitution. See also, Complaint for Violation of Civil Rights and Conspiracy to Commit RICO (Case No. 89-2513, So. Dist. of Fla.) (Copy attached as Exhibit A].
5. Rule 3-75(c), Rules of Discipline, states: the trial shall be held in the county in which an alleged offense occurred or in the county where the Respondent resides or practices law. Section 47.011, Fla. Stat. (1987) permits a lawsuit to be brought only in the county where the defendant resides or where the cause of action arises, Leon and Dade.

for Gross and the Referee to be taking wholesale advantage of FLINN (not being there), but (even now), Respondent/Staff can't find out what went on between them. "...your Honor, I don't know if you want this on the Record..." [DEN 86, p. 2] One can well surmise that the thrust of any such intimate discussion was that FLINN won't come out of this alive [DEN-86 page 2]. Therefore, there is no way Respondent/Staff could prepare a defense and the Referee's Report should be rejected as a sham and without a basis in fact on these grounds alone, and Judgment entered, in stanter, in favor of the Respondent/Staff[6]. Moreover, that the Referee be called to Tallahassee to explain himself; that this Honorable Court serves notice to all attorneys in the State that it will consider the public interest to be first and foremost; that when a Referee oversteps the bounds of propriety with respect to an attorney, this Court, not necessarily the Bar, will see that justice is done. Further, that this is an Honorable Court, and its members are Honorable, and it will always seek honorable solutions to the problems of this great State, be it lawyer or layman. [TR-739, 743, 184].

As to Count I, the Legislative Team had begun work on the Claims Bill prior to any conjured up "problems". The first Bohannon Claims Bill was proceeding smoothly

6. Arky, Freed, Stearns, Watson, Greer, Weaver & Harris vs. Bowmar Instrument, 537 So.2d 561 (Fla. 1988), where there is no way that the Firm could conceivably draft a possible defense. This Honorable Court can believe that the Referee believed what Gross told him off the record. Thank God for an honest court reporter or these ex parte communications would have been hidden from this Court's probing eye.

through Committee and was ready for final passage. Rep. Patchett had 45 committed votes; and Robert M. Levy & Associates (Levy), which only represents Democrats had the balance of the votes necessary. Moreover, 'Pete' Dunbar had been talked to. All Claims Bills, at least, have lobbyists handling it[7]. Rep. Patchett filed the Bill on March 17, 1987 when no other Bills showed up on the computer. In fact, and moreover, there was never a second Bill on the computer throughout the Session. What Plummer/Jacobs attempted to do was file a shill Bill that was void for reason that it had never been legally advertised. That is pure law[8].

Levy testifies, both before the Grievance Committee and before Circuit Judge Rudnick, that this was what killed the second Bill [Levy transcript DEN 63, p. 63, 132]. Further, FLINN did not interfere with the Bill in any way [Levy's deposition]. Moreover, the Senate Master, in his deposition, stated that there was no interference by FLINN [DEN 173]. In fact, FLINN was 500 miles away and never participated with respect to either Bill. He did, however, adduce testimony by way of Judge Moore addressing the members of the Legislature with respect to the needs of the child at a hearing which was incorporated into the bill. The Respondent would not have even wanted to hurt a piece of Legislation in which his team had a vested interest, by

7. FLINN voted for the Pitts & Lee Claims Bill eleven years ago and it is still hanging around (no Lobbyist).
8. By Statute, the Bill must be advertised in a newspaper of general circulation once a week for six (6) weeks, and Jacobs did not take the time to do it.

virtue of the fact that he was armed with an Order from a Circuit Judge, entitling his office and that of Cohen's to a fee. Besides, how can one interfere with something that never was? Moreover, if Gross had observed the proper venue on this case, the proceedings would have been shifted to Leon County where FLINN'S witnesses were readily available. The Bar has that responsibility, when the Bar makes the charge that Flinn interfered in Leon County.

The long and the short of it is that Plummer/Jacobs did not give a damn about the family going into bankruptcy and the injury/damage that they were doing to this kid. They were overwhelmed with greed to (1) defraud the Legislature; (2) the Bohannons (committed legal malpractice); and (3) the Honorable Patchett team. This was why Governor Martinez would not lend his name and give credence to any such dastardly plot that was underlying the 1988 version. If the Chief Executive Officer of this State can see through this thinly veiled stratagem, why couldn't the Referee...unless he is biased to begin with[9].

9. Michigan Citizens for an Independent Press v. Thornburgh, 868 F.2d 1285 (D.C. Cir. 1988), aff'd per curiam 110 S.Ct. 397 (1989). The Respondent takes issue with the manner in which these proceedings were conducted by the Referee. First, no lawyer in the United States, let alone in Florida, has ever been required to try two (2) dissimilar civil litigation cases simultaneously, as this Referee required FLINN to do ... and then for the Respondent to be required (in addition to the changing back and forth of witnesses) to turn 180 degrees and assume the role of an Assistant U. S. Attorney and in the remaining time prosecute four (4) Deputies making this second case into a public corruption trial without warning (notice); second, without being allowed to alert the media (Referee kept the case off his calendar and doors tightly closed). Such practices would not be allowed under the new grievance rules (The Florida Bar News, March 1, 1989 at 1); and thirdly, issuing subpoenas for Bureau agents (he refused); and then, in view of the restraints and threatening FLINN

As to Count II, the Respondent should not be charged with Trust Account violations when in truth and in fact, he neither possessed nor held any trust accounts in his bank for the Bohannons. [DEN 87, D. Flinn, page 10,11] Further the Bohannons had never advanced one red cent (1¢) for costs or a retainer; neither did Buschbom nor Cohen. The FLINNS borrowed money to keep the claims going from 1981 and to meet payroll, expenses, and Edwin's medical needs in fulfilling their oath, and to help the poor child to obtain justice.

It was at that time when FLINN discovered Buschbom to be crooked. By way of brief background, Buschbom runs off to New York without telling Cohen and FLINN that he had failed to perfect an appeal with the Third DCA (TR-730, 737]. That Rule is absolute. He then goes behind our backs to negotiate a sacrifice of three-quarters of a million dollars (of the ward's medical funds, and our fee, too). Later Respondent files suit against the Court Reporting Firm after learning the reporter who lost his notes is leaving Miami for good, in order to recoup some of the child's losses. Now this is done after the FLINNS are supposedly fired and the Bar doesn't want this Honorable

9. (continued) with jail [TR-184], the Referee ups and exonerates the four (4) Deputies - by a Finding of Fact - so that when indictments are handed down, their defense attorneys can claim double jeopardy based upon being tried for crimes already adjudicated and go scott free [TR-90, 237. 253. 279]. Just like Arky, Freed - who wiped out FLINN and the SEC - bought five (5) more years, with the aid and comfort of the Florida Bar, in which to bilk municipal portfolios and depositors' accounts through securities fraud...these Deputies/Attorneys are (now) buying time...to a rich retirement while bankrupting the Workers' Compensation System of this State.

Court to know this because it doesn't fit into their scheme of things (affirmative action). At length, Gross takes the case away from FLINN and gives it to a bungling Buschbom, who without experienced direction from FLINN, loses it summarily in short order before an excellent Circuit Judge, Joseph Nadler. [See forwarded Memo with attached certified copies of pleadings]. Flinn wouldn't have lost this case [DEN 62]. To cover up his malpractice, Jacobs and Buschbom enlisted the Bohannons against the FLINNS and there were several motion calendars where they were attempting to get their hands on all of the money to keep it away from FLINN, the expected candidate. Finally Judge Moore turned to defense counsel Smith and said "... and you make sure that all three names appear on that check". [TR-404]. After that they were unsuccessful at exparting the trial judge to change his mind. They "popped" in unannounced at Respondent's office one morning where they made a demand for the immediate release of the funds Buschbom was holding. At that point, Dorothy Flinn and Ron Buschbom worked on the accounting in a separate office from where Respondent was conducting corporate business. FLINN did not participate. Assuming arguendo, if there was an accounting mistake, the Respondent didn't make it. The record reveals none. The point is that at this time Buschbom - a lawyer for Bohannon - was controlling the distribution of funds from his law offices and there wasn't anything we could do about it. Plummer admitted to FLINN in a deposition that he was talking with Buschbom. Respondent could never

catch him (Plummer) for this trial [F.S. 11.111], DEN 186].

Moreover, there were four (4) attorneys and several other law offices drawing funds over a period of five (5) years, including that of Buschbom. After all the Respondent had enough to say grace over in trying a major malpractice case against two of the best malpractice defense attorneys in the State in a five day trial[10]. His co-counsel was only a technician with no charisma, who was determined to handle the accounting and trust account matters as he did in Chambers[11]. A closing sheet was prepared but Bohannon was never sent back by Buschbom that day to sign it.

Further Bohannon was shown the tape and initialled it leaving with Buschbom to return to his office in order to include his expenses. However, Bohannon did execute an affidavit of Satisfaction [TR-450, 452], and it was expected that Buschbom would send his statement to this office. One could analogize to a faithful farm hand who was to put the sweaty horses away after the chief trial farmer had a good day of plowing this million dollar field.

It became evident that Buschbom couldn't keep a straight set of books any time [Exhibit in Record] and a letter which was seen subsequently stated that his

10. A member of II, Douglas Broeker had a big conflict of interest (never disclosed) in being a partner to one of the trial counsel, and then sitting throughout the Grievance hearings to vote a P.C. against FLINN. Also he admits contact with Buschbom [Broeker depo, DEN 87].

11. Liberty Mutual Ins. Co. v. Chambers, 526 So.2d 66 (Fla. 1988). The biased Referee would not wait for the FSU film to arrive showing competency before the members of this Honorable Court, who he was reporting to.

accounting was off by "$1,000.00 more or less" (Buschbom's words).

Moreover, there is evidence in the Record of his duplication of expense receipts submitted to our office and was caught red-handed several times by D. Flinn [DEN-87, Flinn Deposition]. The Bar's Ruga stated ours was in line, but Gross had to approve his findings. It is respectfully suggested that this Honorable Court send a strong message to those participating in such a legal flim-flam, just as the Federal Judges recently sent to the powerful Helmsly tax evaders, and the Feds recently have to the Junk Bond manipulators.

Dr. Mitzner was an integral and essential part of this trial team as he was in Chambers[12] malpractice case and he performed here admirably. He didn't charge fully for all the services performed, including the very difficult job of seeking out a doctor to testify as an expert witness in a highly complex case. The Respondent didn't pay him; D. Flinn paid him in cash [TR-649]. Cash is still legal tender. Additionally, the Referee ignores the check paid to Mitzner appearing on FLINN'S accounting sheet.

So Mitzner was hiding his money from his estranged wife. So what! This is not exactly a new phenomenon[13].

12. Chambers v. Public Health Trust, Dade County Circuit Court Case No. 83-36051 CA 10.
13. See The Miami Herald and The Washington Post expose articles in 1989 and 1990 on U.S. Attorney Dexter Lehtinen estranged from Donna - and his mistress, Dolores Zell.

This Referee is "cluttering" [TR-822] the report about FLINN where Respondent has no legitimate interest. This reveals his bias reporting[14]. If the Referee is concerned, let him direct the matter to another forum. It doesn't belong here. Respondent was concerned about reform in the Grievance procedure. The Referee said it was "the most ridiculous thing [He] had ever heard" [TR-7]. Well, it wasn't so ridiculous to Federal Judge Marcus, or to this Honorable Court. The Respondent was proven to be right; Referee wrong. ...and the Referee went out of his way to ridicule FLINN in front of everyone and they were laughing. [TR-7]. This has never happened before, at least, not by judges. In 1979, Rep. FLINN prime sponsored a bill to amend the judges' retirement plan, amending the act "knocking off" the 6% participation - contribution of after tax dollars - in the plan. Respondent was opposed before three (3) committees by Mr. Kennedy who ridicules this legislator as raping the State Retirement System...but again, Kennedy was wrong; FLINN right.

As to Count III (The Affidavit), there was absolutely no evidence that the affidavit was altered in any manner. Our side presented an expert with forty years of professional experience who testified that the type was typed on the same typewriter and there was no evidence of tampering [TR-904]. When this Honorable Court looks

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14. Referee is so biased that he accepts Buschbom's opinion as to the cause of Edwin's illness rather than the opinion of Mitzner, who while not a medical doctor, is more familiar with the medical field than attorney Buschbom. Mitzner is on staff at a hospital.

at the paper, please note the rust left by the paperclip due to aging in the warehouse. Gross presented no expert, and extracted no admissions. Both Respondent and D. Flinn were cross-examined [TR-407, 408, 409, 1082, 1083]. The Bar does not even prevail by the standard of preponderance. It may be pointed out that Gross did have this document in his personal possession for approximately three (3) months and probably did run a test which results turned out to be negative. Why else would he want it and then give it back to D. Flinn? This is gross prosecutorial misconduct not to bring up that exonerating evidence. Respondent gave it over because Staff is not afraid of it. Moreover, he objects to Respondent's offer - via the Honorable Clerk of this Honorable Court - to send the original to the FBI lab in Washington [Memo dated 1/8/90], which should make this Court highly suspicious of his real motives in all of this. Gross is really a front for those taking refuge in a Cambodian sanctuary. Obviously, if the FBI agrees with our expert, then his whole case falls four counts down like a Berlin Wall. Further, there was no evidence presented that FLINN himself did anything. There exists no causal nexus. First of all, Respondent doesn't type, and secondly, there was no weeping secretary throwing her hands in the air confessing to making any changes. Count III is a fishing expedition for the proverbial red-herring, but it has cost Respondent a bundle to defend scientifically on a non-scientifically based allegation (Gross held the paper up to the light in front

of the grievance members and said the type looks different). Of course, it does, it's big type vs. small type. The overview was to sap Respondent/Staff of their ready reserves for the campaign, as well as their precious time. Finally D. Flinn got fed up and moved to recuse the Chairwoman of II on grounds that she is a member of a radical organization opposed to the candidacy of moderate FLINN. Moreover, Gross is giving her excused absences to attend campaign functions that the Respondent should be attending, but was confined all evening. Without the Bar's aid and comfort, Plummer would have lost the race[15].

Gene Flinn, Jr., testified that this document was a pre-processed form, which is commonly used by law firms and modified for the legal situation at hand [TR-995, 996].

He also testified that he witnessed Bohannon sign the document; to wit, Exhibit 15 [TR-969]. So does Smith, Beckwith, Upton, in supplemental statements [Exhibit B]. Further Flinn Jr. stated that it was added as the addendum on the retainer agreement to include the retaining of FLINN and Levy for the Claims Bill. [TR-970-995]. Logical thinking was followed here. If the verdict is below the statutory cap, there would be no need for such an agreement. So one would have to await close to the outcome of the trial. Further, if FLINN had lost the trial, as predicted, Staff could throw away boxes of documents

15. With the confidence of "the charges", he could get away with calling Respondent's son gay, and threaten he was going to have Martinez impeached.

and pleadings because there was no error committed. Since Buschbom and Bohannon put nothing into it they could walk (Respondent's office put up all the seed money); only the FLINNS would be left holding the empty bag. The form has blank spaces throughout. The Respondent presented the Referee with several affidavits signed by the Bohannons, notarized by other secretaries, as well, together with the basic form [Composite Exhibit]. The Referee is so biased during the trial, he says "It won't help you". It is also highly suspicious that out of the dozen or so affidavits Bohannon signed over a period of five (5) years, including one in opposition to Defendants' Motion for Summary Judgment that Bohannon would remember only this phrase which in effect strikes at the heart of Jacobs' representation on the second Bohannon Claims Bill [TR-453]. The only logical conclusion is that she was told to say that! However, she must have forgotten about the other one she signed that stated the same thing.

Mattie Bohannon's credibility was totally shot and should have been considered non-existent by the Referee (The Bar paid for her husband's trip, but never put him on the stand to collaborate her testimony.) following the filing of the depositions testimony of Randy Ripkey, George Slaton, and Jack Smith (who happens to be a war hero and a Distinguished Flying Cross recipient). The probative value and weight to be given to such credible witnesses should not have been ignored any more than the Referee in Detroit ignored all the credible witnesses KRN presented.

Upon quick review[16], Ripkey found Mattie Bohannon's behavior erratic when she called his office [DEN 67, Ripkey, page 6] while FLINN'S behavior was always that of being very professional [DEN 67, Ripkey, page 9]. Slaton also found Mattie Bohannon to be completely undependable and not to be trusted [DEN 67 Slaton, page 15] [Emphasis added]. Smith testified that in working with her over the years he found her to be a pathological liar [DEN 87, Smith depo.]. Even if he dismissed the aforementioned, the Referee couldn't ignore the remarkable (and live) testimony of a courageous little lady named Shirley Small who completely wiped out any vestige of believability that might have remained for the Bohannons[17]. Additionally, and perhaps even more important from the standpoint of fraud on this Honorable Court and other other forums he has testified in, Shirley Small correctly identifies Buschbom as a crooked lawyer [affidavit on file]. The Referee should have taken cognizance (woke up) and referred these cases to a Grand Jury downstairs upon learning that Small had received a white envelope containing a check for $150.00 the very night before she was to appear in Court for the FLINN/Cohen/Levy side on the civil trial in a dispute over fees with Jacobs/Buschbom/Hall[18]. In the time frame that we are discussing, it had been three (3) years after the

16. Summary sheets are attached as Exhibit C.
17. Mattie "isn't a lady of her word [TR-808]. I don't trust her."
18. See transcript filed re Palm Beach Circuit Court Proceedings where everyone in this case testifies in that case. The Bar threw its entire weight against the FLINNS to tip the scales.

fact when Buschbom and Bohannon (Bohannons had obtained cash, i.e. $100.00 from D. Flinn) - and had promised to pay Small and her other witnesses right away for their court appearances [TR-802,804,805]. However, Buschbom and Bohannons do much more than that, 'they ' go further acting -in concert - to tamper with this witness [TR-815,816]. See U. S. v. Hoffa, 349 F.2d 20 (6 Cir. 1965)[19]. [Memorandum of Law on file] Nowhere in American jurisprudence is it said that Respondent in a Grievance Matter must anticipate crimes, including perjury by Buschbom that he had all the hospital records in his possession.

The date on the affidavit is highly significant because the 1985 Session of the Legislature was underway. When FLINN would return to the office at noon (with the Bohannons) on particular days of the trial, and was asked by the secretaries how it [the trial] is going and FLINN replies either he is going "to win big or I'll blow it", it doesn't take long for beautiful and mature ladies in their forties and fifties, who have had the benefit of extensive Legislative experience, as well, to decide to draw up an addendum contract as the next step, realizing that there is a tort cap of $100,000.00 being a public hospital [TR-732]. The Bohannons sign sitting next to FLINN at the table in the courtroom on the eleventh floor when they signed (this and other documents).

Also, in Count III is the Referee's reference to FLINN and Buschbom being good friends and that's the

19. See Memorandum of Law filed herein February 28, 1990.

reason why a Lobbyist would not be hired is pure hog-wash. This is so absurd for any affluent individual and for particularly those living in the capitol city, as to constitute incompetency. He is so far off base as to be laughable when told to others...but the FLINNS aren't laughing about anything in view of the threats made [TR-27]. Friendship has nothing to do with it, at least not with Buschbom. Rep. FLINN, and FLINN, the lawyer have worked on Claims Bills with Rep. Upchurch; Buschbom admitted he did not know his way around Tallahassee. Robert M. Levy and Associates stationed themselves there permanently for two (2) months. On every Claims Bill there is a Lobbyist, or it doesn't move. Levy is an expert and it takes a mover and shaker. As to the Bohannon one, he was successful with all but the (an interfered with) final passage. Rep. Patchett as an outstanding minority leader had 45 chits in his possession, and Levy, who represents only Democrats in campaigns, had the rest of the votes needed [DEN 177, p. 125, 126]. 'Pete' Dunbar had been talked to. It did not make any difference whether Bohannon ever knew Bob Levy. The Bohannons never met any of FLINN'S hired experts for trial, until afterwards, and then to congratulate them. She had stated to the FLINNS that she had never met Jacobs either[20] [upon her return with the peace offering (new case)].

Therefore, Respondent is not guilty and, moreover,

20. Probably there are not a dozen executives at EAL that have met Jim Ashlock (who does all of Texas Air's lobbying from Tallahassee).

the matter should be referred to the FBI - not only as to the affidavit to run through their lab - but for reason of prima facie evidence of criminal activity making out that it is a Grievance matter, when this is anything but.....

We respectfully submit that probably this Honorable Court's immediate concern is the fact that Broeker, as a law partner of one of the defense attorneys FLINN tried the Bohannon case against, didn't recuse himself sua sponte. The FLINNS obtained the court reporter's notes to confirm this travesty.

There are other (nagging) questions in this ten (10) year scenario of investigation into white collar lawyer racketeering. Why didn't the Bar charge the SEC and CID attorneys, too? Everyone knows the Feds went down to defeat (as did FLINN) humbled before the feet of ESM and Arky. Freed in Atlanta[21]. Why hasn't Boggs charged Cohen and Buschbom or at least joined both as indispensible parties or co-defendants? Why hold back on filing of the complaint until Respondent closes the gap (49.5 vs. 50.5 - in Record) against their Bar Lobbyist's pal.

Surely if there is probable cause to find that FLINN has altered a document, then take it to the State Attorney; if it is found to merely be a fee dispute, then leave it to the Circuit Court; if it is interfering with the passage of a bill, then take it up with the Speaker

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21. Sec v. ESM, 642 F.2d 310 (5th Cir. 1981). A "Corruption Connection" Chart is attached as Exhibit D. This Respondent was railroaded through Grievance proceedings up for disbarment, suspension, or reprimand as the only one to stand up against the prestigious Arky, Freed Firm in 1980. Owen Freed as a member of II yelled for FLINN'S head.

or the President; if the Governor has already taken action against the Deputies then stay out of it; if it is found that the F.B.I. is in on the case(s), then get off FLINN'S back, or affirmately help them fight fraud no matter where the chips may fall. Respondent and associates believe this Honorable Court knows the answer to these and the other questions presented. The Referee/Judge rejected Alvah Chapman's testimony entirely as not being credible, and, yet, before the Supreme Court, he was found to be entirely credible. The rejection of the testimony of the FLINNS, and all of his witnesses, except one in Count IV, in toto, is likewise unreasonable, arbitary, and capricious. Their testimony before the Circuit Court and Federal Court juries have been found, without exception, to be truthful and credible, and the presiding judges have entered judgments rendered in their favor,accordingly. The FLINNS have never lost a case before a jury of their peers. The People of Florida can't be bought.

As to Count IV, (payment of $150.00), there is absolutely no evidence to justify the Referee's libelous statement (so some future political opponent can pick up on it) that there was "evidence introduced tending to support the allegation" that FLINN, himself, paid or had anything to do with the paying of the $150 to the Bohannons. There was plenty of evidence, however, that Buschbom paid $150.00 ($50.00 being the bribe) to Small to keep her from testifying in court on behalf of Cohen/Levy/FLINN in the concurrent fee dispute case, and the Referee refused to even make

one of those "pertinent" [his page 1] references to this whole matter in his report. The Respondent neither discussed the matter with the Bohannons nor signed nor directed any such check. In fact and moreover, the testimony is that Bohannon approached D. Flinn, who stated that Bohannon wanted the money to buy a new hearing aid to replace the one that Edwin had lost and that she (Dorothy Flinn) gave the money to her [TR-1009].

So far as the document is concerned, this was typed by Respondent's son who handled the matter (solely) with the (both) Bohannons [TR-989]. The Respondent was not involved. They came in on their own volition and, as usual, without an appointment, requesting such a letter be sent to Gross. Gross and Plummer's attorney, Larry Kaine, want Respondent to say that he is drunk and has had marital problems...that he won't turn in white collar people to the Feds, anymore, so he becomes rehabilitated.

There is no evidence on the part of FLINN/Staff that FLINN/Staff were alerted as to their coming or asked them to come. The testimony was clearly otherwise. It was completely unsolicited on FLINN/Staff's part. The Bohannons brought with them a file with photographs wanting FLINN, not Buschbom, not Jacobs, not Hall, to file suit [TR-958]. Certainly with that letter, Gross - if he had not been issued marching orders to the contrary - would have dropped the matter at that point. However Gross refused because of the pressure being exerted by Jacobs and the political decisions being made at Bar Center and "the push"

from Jacksonville and elsewhere to stop the only "crime-fighter" with credentials and a track record. Naturally, Jacobs wanted to get his (unclean) hands on the ready-to-go-to-the Floor Bill, and he callously did not care whether the minor suffered or not. Edwin did, grievously, and Bohannon knew that Jacobs [she said] 'screwed up' the green-for-go bill. He never made a Motion for Substitution[22].

Moreover, the Referee, under this Count, found FLINN Jr. to be a credible witness, yet, for some unexplained reason to this Honorable Court, did not believe Flinn, Jr. with respect to his testimony in Count III. Such is totally inconsistent, and what is called in the DCAs as reversible error.

It can be said that sitting judges, knowledgeable attorneys, in Tallahassee and Miami, (and others) have verbalized that 'Buddy' (Jacobs) should have put a ten (10) foot pole between himself and the Bohannons while he was officially representing the Bar [TR-800] rather than to sign on as their attorney, again, and then manufacture a grievance complaint to strong arm the case back to Jacksonville. Besides, he wasn't knowledgeable in that specialty, so under the code he assumed a legal duty he couldn't cope with, and the real reason he had to commit RICO to get the case back was the fact that he

22. Jacobs did make a motion in attempting to drop an object on FLINN'S head while passing under him in the Rotunda..."FLINN, FLINN, take this..." Respondent ran upstairs to confront the little sniveling felon face to face, where some touching was involved.

was guilty of legal malpractice and he had to cover it up. These are multi-count violations of the Code and most probably a felony. The Referee was arbitrary and capricious by choosing not to believe the following facts: our house was set ablaze [TR-366], was crowded off the road at the cut, MM 104; rear-ended at 80 mph over a 40 foot culvert [TR-365, 366]; a cement block thrown through office window onto sofa where Respondent naps [TR-366]; IRS audit in 1989 (clean, no tax owed).

It is appropriate to point out that this Referee had not encountered such a task before, having only been made a circuit judge in 1988. These cases were for someone of the statute, respect and experience of a Judge Harold Vann (Ret.). FLINN has known good judges, and Arthur Birken is no Gerald Wetherington or Harold Vann.

Moreover, this Referee was going to stop the probes, investigations, and newspaper stories benefitting the people of Florida by burying the senior judges and FLINN by assigning no weight to their testimony as occurred [on all fours] with the Referee (Judge) who was going to stop the presses affecting millions of people in Wayne County by assigning "little weight' to the side of Knight-Ridder.

The Supreme Court of the United States affirmed the Circuit Court of Appeals' rejection of the Referee's report denying the JOA[23]. This report should be likewise

23, Michigan Citizens for an Independent Press v. Thornburgh, See footnote No. 9.,

rejected as being unreasonable, arbitrary, and capricious[24].

A credible Mark Lynn testified in the instant case, as well as in civil proceedings brought against Plummer with respect to the consequences of an unwarranted Bar invasion injected in (THIS CAMPAIGN). Plummer had created out of it an attack piece to be distributed within twelve(12) hours of the polls closing. There was an emergency hearing before a Circuit Judge in which he agreed to pull the ads [DEN 172, Lynn, page 4].

In conclusion, and assuming arguendo, that Rep. Patchett and Levy had never filed any Bill, what was Sen. Plummer and Jacobs going to do (now that they had the Bohannons back in their clutches)? Nothing? ... just sit there on their backsides! Yes!!! ... because it is clear and convincing in all the Records that 'they' had not started a claims bill through the Committee Process prior to the opening, April 2nd. What did happen is that 'they' had made strictly a political decision and that was to keep the money from ever going into Republican and FLINN'S coffers during the period of these races. Remembering, too, that the Plummer team had not yet earned a fee in this case and FLINN/Cohen were found to be entitled to a fee at this point. So...because of political expediency, the Bohannons and their invalid son be damned. Money being the Mother's milk of the old time Plummer-type politician, they took

24. Besides being a per se unjust conclusion the Referee's recommendations (which are inaccurate) would be a harsh remedy. The Florida Bar v. Davis, 361 So.2d 159 (Fla. 1978); The Florida Bar v. Carlson, 193 So.2d 541 (Fla. 1966).

a page right out of Earl Henderson's Golden Rule Book! "He who has the gold rules[25].

ARGUMENT II

THE FLORIDA BAR DOES NOT HAVE A LEGITIMATE ROLE IN SIDING WITH THE DEPUTY/ATTORNEY ALLIANCES, WHICH ARE CURRENTLY CREATING A WORKERS' COMPENSATION CRISIS IN THE STATE, AGAINST THE WHISTLEBLOWER/REFORMER.

FLINN'S for Florida's future team took no more time in Hearings than the slow-to-reform reactionary Bar. The lead-off witness, Dr. Jerome Powell testified that in the 10 to 12 times where he was an expert witness at trials [TR-632] he always found FLINN to have been prepared [TR-630] and could not find anything negative to say about FLINN [TR-631]. The next witness was Dr. Ira Mitzner, who testified that he found FLINN to be professional and competent [TR-635] and that FLINN had a high degree of success in handling Worker's Compensation cases [TR-636]. In fact, Dr. Mitzner found that FLINN compared favorably with other practicing attorneys and was extremely competent [TR-636]. He is also acquainted with the reputation of Stillman and calls him a liar [Affidavit on file]. Further, Bohannon had been making inquiries about him surreptitiously [Exhibit E]. Dr. Barry Burak was Respondent's next witness,

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25. Henderson (a lawyer in good standing with the Florida Bar) is under scrunity by the State and the Federal Government. He has thrown big bucks against FLINN in every Senate race because he knows that Sen. FLINN would head up a Congressman Dingell Committee when he returns. Out front, you can't beat them when they have the Bar behind them.

who testified that the Respondent was always prepared [TR-671. 672] and FLINN was found to be highly skilled in complex cases which would place him in the upper 10% of practicing attorneys [TR-674] (and observation of the ethical rules). Dr. Alan Gumer testified in a Circuit Court matter where he was very impressed with FLINN'S preparation and trial technique - displayed in the (March '89) Williams case [TR-956], also see Exhibits, Trials and Tribulations and The Miami Review, attached to RICO suit. Further, Dr. Gumer found FLINN to be "extremely professional". The Referee was visibly irritated with the overwhelming testimony on behalf of a highly capable Respondent and moved to cut out any other witnesses, Dr. Gren and others. However, Gren's sworn statement was taken subsequently in which he finds FLINN a very able attorney in a number of comp. and Circuit Court cases [Exhibit F].

Putting aside the bias of the "fraternity" members, even their testimony is not sufficient to show FLINN as an incompetent. The Referee, however, failed to mention that only Tomlinson thought that FLINN was "incompetent." [TR-76][26]. D. C. Kuker and others thought that FLINN'S performance was "below average" [TR-236].

Another area where the Referee incorrectly evaluated the evidence involved FLINN'S mental health. The Referee based his findings upon Stillman, who never actually examined Respondent. Actually there are two (2)

26. As part of the holocaust to Respondent's family, Tomlinson also called Flinn Jr. an incompetent. After a deposition Tomlinson once commented he didn't much care for FLINN'S niggers. Dania Carrillo, Director of Div. of W.C. denies any contact as reflected in the Bar Memo by Tomlinson.

depositions, and that doctor said FLINN did fine in every other case. Right now, Stillman is the subject of investigation in two (2) cases [see testimony from Bohannon attached to Motion to Dismiss Based Upon False Official Statements (Perjury) of One or the Other of Complainant's Witnesses: Stillman or M. Bohannon by the DPR]. Stillman, is a quack doctor who has, for years, done nothing more than to declare ever patient brain damaged and to project millions of dollars in benefits for "fraternity" members Feuer, Sicking, Williams (and others) to run up the bill for an award of outlandish attorneys' fees that eventually come out of the taxpayer's pocket. Further, in an effort to counter the attack by Sitko's Stillman, FLINN submitted to an IME on the eve of the Hearings conducted by Nestor Garcia, M.D. and called him to the stand[27]. Dr. Garcia's credentials, including a residency at the reknown medical center at Columbia University, went unchallenged by a devastated Bar counsel (and a behind-the-scene instigator, Tomlinson)[28].

In his report, after a thorough psychological and physical examination of FLINN was that FLINN had "no signs or symptoms of psychotic discharge". [TR-911]. Further, Dr. Garcia, who had reviewed Dr. Stillman's

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27. Others have commented that a former Chief Justice of this Honorable Court and FLINN are perhaps the only ones in the State to be certified.
28. The Bar's strategy was to prove by uncontroverted (Stillman) evidence that FLINN was a idiot due to organic brain damage, justifying the slanders of Tomlinson of FLINN and his family. Tomlinson sent his secretary in to testify against FLINN. She quit him. See Sitko and Handy as classic rip-off and corruptive examples.

deposition testimony, found that Stillman's accusations were "pretty far fetched" in that there had been no physical signs of any alcoholic problem and that the Record will reflect that Stillman had never conducted a physical examination of FLINN [TR-917]. In addition, FLINN presented a number of other witnesses, including Alan Gumer, M.D., a board certified psychiatrist, who testified that FLINN had done "an excellent job" at the Williams v. Arnold trial (March 1989) where he had been called as an expert witness (like Stillman) and that FLINN had "asked all the right questions" while he was on the stand [TR-956]. The Referee did not address any of these doctors' testimony. In fact, the Referee began quarrelling with Respondent about putting on Dr. Gumer or more witnesses [TR-952, 953, 954]. Thereafter, he wouldn't permit FLINN to handle his own case and that that point Dr. Eric Gren had to be eliminated[29]. This witness was called to, again, counter Stillman's deposition testimony that FLINN had not handled the questioning of Dr. Stillman in a competent manner in the one case after talking to Tomlinson and Trask[30].

Besides the doctors' testimony noted above throughout the proceedings, FLINN presented both extensive deposition testimony and live testimony of numerous witnesses

29. Dr. Gren's deposition reference to the Williams and other cases, particularly W. C.

30. D. C. Trask denied ever talking to Stillman about the Respondent [TR-697] which makes Stillman and Tomlinson liars, and the Bar memo a false document which was the basis for set-up of Respondent to hold these proceedings, leading to financial ruination for both practicing FLINNS.

including members of the judiciary, fellow practitioners, and clients who testified as to FLINN'S fairness, demeanor, and competence not merely as an adequate practitioner but as an outstanding lawyer. There is not one word of those witnesses throughout any of the Referee's Report to this Honorable Court. Former Judge David Trask testified that FLINN was, for twelve (12) years [he was running "K" Division as senior D. C.], "normal and competent" as an attorney on all matters coming before him [TR-687; DEN 183D, 183E]. Judge Gerald Wetherington, Chief of the Eleventh Judicial Circuit, found that FLINN at all times had represented his clients in "fine fashion" and he had no criticism of any presentation or representation by FLINN in his courtroom [TR-862]. Circuit Judge Harold Featherstone, likewise found FLINN very professional and polite in all of his dealings with the court [TR-858, 859] as did thoroughly experienced Deputy Fontaine, who is busy enough with 13 North Florida Counties but heeded the call of the Chief Executive to solve a Dade venue emergency problem, and, who found all proceedings involving FLINN to be "uneventful and routinely handled". [TR-869, 870; DEN 90]. Further, Judge Block, as well, found FLINN to be well prepared all the time, an above average attorney who has "done an exemplary job" in court appearances and has seen FLINN in trial within the last six (6) months [TR-948, 949].

FLINN's colleagues testified that he is capable and competent. Donald Gillis, a worker's comp. specialist with over twenty-five years experience, found FLINN handled

cases in a capable manner. [R-876]. Another experienced Workers' Compensation practitioner, Reinert, with more time in grade than Gregory or Kronenberg, testified that he found Respondent's dignity, demeanor, competency, and professional conduct to be "okay" [TR-989], and also with regards to the several jury trials where he was opposing counsel to FLINN, Reinert found the Respondent's demeanor to be satisfactory [TR-898]. Respondent also presented the deposition testimony of Timothy Anagnost, Esq., a veteran practitioner with a large law firm, who stated that the Respondent had been chief trial counsel with him assisting in a number of Civil Jury trials, and had done very well. "You were competent." [See Anagnost Deposition pgs. 3 & 4.] Actually, FLINN, who had always picked the jury and made closing argument - as in Bohannon - had exceeded the policy limits in several trials which mandated second trials against the insurer on the basis of "bad faith". Respondent was a credible witnes on the stand in those - won.

Further, a number of FLINN'S current Worker's Compensation clients testified, all to the effect that FLINN was doing an excellent job for them and they had no complaints against FLINN. In fact, Gross complained to the Referee, again, stopping Respondent from proceeding. "He (FLINN) presented numerous witnesses. Former doctors, clients who testified they thought that he was doing a good job. It is not necessary to give us boxes of documents. He had his witnesses testify favorably about him. He had

judges testify and doctors testify." [TR-1067]. This was error and a miscarriage of justice, since FLINN'S professional career was being made the issue.

Referring to the Count V, Joe Hackney testified he handled the appeal of Nieto and that it was capably presented at the trial level. [DEN 67, Hackney p. 10]. In the Moore case, the Moores testified that FLINN did a good job. The Referee abruptly stopped Marion Moore midway in her testimony about Tomlinson's corruption in order, obviously, to cover it up so this Honorable Court and the print media never get wind of it. [TR-889, 890]. This is error and it is far from being harmless when a crisis is at hand for ten million citizens (Florida)[31].

This case is currently proceeding before D. C. Lewis, (who has demonstrated that he is destined for higher office) in Broward County, notwithstanding an evidentiary hearing called by Tomlinson to stop the transfer, to spite the Constitutional authority of the Governor's mandate. All of the Moores have testified against an incompetent Tomlinson [See Philpot case], as well as distributing petitions for his removal from office for odious conduct [Exhibit G]. Tim Moore executed an Affidavit [DEN-132] against him and Tomlinson's demeaning was a direct

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31. Is the Bar so unobserving on untruthfulness as to ask this Honorable Court to ignore the fact that the Governor has appointed a task force, followed by an Oversight Board (current) directed exclusively to the W. C. crisis. The Respondent conference the matter with 'Bob' Butterworth, who, as a Broward County Circuti Judge, said he did not believe Stillman when he was in his Court.

has been outright criminal[32], and the Bar stands over us with a drawn Luger while the rape of these clients is being conducted under the color of Title.

The Referee based his opinion as to FLINN'S competence vel non supposedly on his observation of FLINN during the hearing rather than what he was told ex parte. Yet, the presentation by a lawyer litigant on his own behalf, and under threat of contempt and constraints [TR-184] in a 'one-time-only-contact' should not be the test, anymore than a judge having been reversed once on appeal (even giving this Referee the benefit of the doubt). Moreover, it is amply revealed, and repetitive, in the Record with Gross objecting and his sustaining that the Referee didn't want FLINN to handle himself, so reasonable minds conclude that he was going to get even with the Respondent, and stick it to him good. Moreover, he denies FLINN a continuance after Gross takes a vacation to Europe, cutting out about six of FLINN'S discovery depositions - just prior to the trial. This prejudices the Respondent's case.

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32. Is this all because Rep. FLINN did not support Tomlinson's three unsuccessful tries or refused on his fourth to intercede with the Governor, notwithstanding, Eugene Williams approach at Sally's and buying tickets to FLINN's testimonial? This is the obvious reason for Tomlinson's retaliatory actions. The Respondent will add, bluntly, that Tomlinson lacks judicial temperament and dignity of demeanor as well as a lack of integrity. Respondent has been proven by history to have been right all along. Tomlinson gave outlandish fees to Feuer, Williams, and other "fraternity" members, and, moreover, allowed Williams to begin immediately practicing before him (and winning)! Tomlinson has also encouraged special hearings to pile up billable time for his cronies. Federal judges, who stand head and shoulders over him, have an ethical rule which prohibits their former law partners from appearing before them for a certain period (six months).

As to Count VI, Respondent requested that Nelson's, at variance, discovery deposition be made a part of the Record. Nelson's definition of incompetence, however, is somewhat unique in that she defines incompetence as "not being helpful to a claimant." [TR-285][33]. Nelson, however, on cross-examination, did concede that Mr. FLINN was "not incompetent, you did win the case." [TR-290][34]. The Referee failed to mention that Nelson, in fact, withdrew her allegation of incompetence and conceded that Mr. FLINN was competent because he "did win the case." [TR-290][35]. The transcript in the Rosa Solomon case ('89/'90) shows Robert Gregory fighting with Deputy Hand..."Mr. FLINN could get his pre-trial in on time." Gregory: Things are

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33. The fact of the matter is that Frank Chambers and his wife, appeared and testified on behalf of Respondent at the grievance stage, and this case was one of those transferred by the Governor, where we now have had fair and productive hearings before Deputy Commissioner Seppi. Nelson slapped a Stay Order on the case at Bob Gregory's request (and Ed Perse too) even though the Workers' Compensation proceedings had absolutely nothing to do with the malpractice lawsuit. The claimant was entitled to receive benefits pursuant to F.S. 440. Further, the uncolloborated story she tells is in conflict with that of Chambers, his wife, Dorothea Flinn, Shirley Walker, and Respondent...Grand Jury! Chambers and FLINN have given sworn testimony to a law enforcement attorney on Buschbom's grand theft. FLINN had 'tagged' Perse with 57.105s in the DCA.
34. The members of this Honorable Court have had first-hand knowledge of who was really the one helping Chambers and it certainly wasn't this recently appointed Deputy, who had no prior adjudicating experience and needed a steady job, by examining the Appellee's (FLINN) Brief on file in Chambers vs. Public Health Trust Case No. 86-2405, Supreme Court, 1989.
35. See Application for Circuit Bench on file, where FLINN lists quasi-judicial positions held twenty-five years ago. Respondent had ruled favorably, on the merits, but with understanding, for young and inexperienced lawyers, such as Bob Graham and Bob Shevin who were trying hard and were showing promise.

done differently in Miami[36]. He's right in that instance, and it is wrong. The four Greyprinces should have accumulated enough to retire within a few years, if they just keep the Five Fighting FLINNS at bay [See Affidavit of Margaret Gemelli, Exhibit H].

The Bar had the burden of proof, and did not meet that burden of persuasion to a reasonable prudent Referee for such an all over the world comprehensive charge. Gross should have, therefore, subpoened not only the three Broward Bureau Deputies[37] who had been hearing Respondent's (solo) cases for several years, but County and Circuit Court Judges that FLINN had tried cases before. There are many seasoned judges, who, like an outstanding George Orr, Circuit Judge, who says just get the Bar in here, and I'll testify. In analyzing the amount and weight of testimony, Gross did not even tip the scale. The scales got tipped when Tomlinson hired a Fort Lauderdale law firm. It was not hard to figure out ahead of time. FLINN practices in Dade and Monroe (application for Circuit Judge on file), so that appointment had to go to Broward. When bona fide judges testify that FLINN was before them <u>recently</u> and does an outstanding job; it cannot be deduced that the

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36. We'll see who beats a path to the U.S. Attorney's Office first! The attorneys or the deputies to plead to a 2205-B-2, and negotiate a deal for leniency and a withholding of adjudication so they are not disbarred (automatically.)
37. Being entitled to counsel is now an established legal principle. This Record will reflect that Respondent had an attorney, Weiss, at his own expense, sitting along side throughout these proceedings. Therefore, it was violative of FLINN'S basis constitutional right to use of counsel at trial for him not to be permitted by the Referee to ask FLINN questions [TR-1113, 1114].

opposing side has met any kind of a convincing standard. [TR-948, 949]. Certainly and more importantly than what a biased Referee thinks he sees (and hears), one of your Honors has presided over FLINN arguing a case while at the First District during the time frame encompassed by witnesses for the Bar. It would seem that this Judge (now Justice) would have said something then and there about alleged incompetency...and most importantly, as late as April 28. 1988, the Respondent participated in oral argument before this Honorable Court (En Banc)[38]. Nowhere in this record (or any other record for that matter) has there been a complaint (of any kind) made about the professionalism of FLINN by the First DCA, the Third DCA, or the Supreme Court. Additionally, we can add in the old I.R.C. In fact the opposite occurred before this Honorable Court. Perse's partner spent the first 7 or 8 minutes talking about some extraneous and irrelevant point when Justice McDonald quietly interrupted him in a pleasant, even handed manner to ask simply if Mr. Ginsberg wanted to help the Court out on the issue (on appeal)[39].

In sum, there was no clear and convincing proof, or even a perponderance of evidence, by which this Court

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38. Liberty Mutual Ins. Co. v. Chambers, 526 So.2nd 66 (Fla. 1988.).
39. See video tape of that Argument which Referee signed a subpoena for but refused to wait for. (The FLINNS have no control over FSU Law School's time constraints. The folks there are doing a swell job).

could agree with the Referee's purported Findings[40] in the handling of Worker's Compensation matters when only one of the four Deputy Commissioners (three of whom recused themselves from hearing FLINN'S Claimant and employer cases and one never opened his mouth) testified that FLINN was incompetent[41]. Even assuming arguendo, their aide, being less than average is not equivalent to being incompetent, or in Justice Burger's opinion half of the Bar would be disbarred.

Accordingly, this Court should not sustain the Referee's findings as to Count VI.

It is respectfully suggested that this Honorable Court might want to address the threat to the public and the inherent danger to the profession through addressing interlocking alliances in this state as a matter of a public policy pronouncement (coming from the Highest Court). Contained in this Record - for support - Judge Trask analogized (this) 'Operation Greyprince' investigation of Worker's Comp. Deputies to the undercover F.B.I. probe referred to as 'Operation Greylord' involving payoffs to

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40. The word "affirm" was rejected because of the fact these cases do not go through a DCA cleansing process where the issues are narrowed for the purpose of conflict jurisdiction. Respondent/Staff invite this Honorable Court to respectfully review the Chambers brief, on file, and moves that same be incorporated by Reference. The Respondent's Third DCA Brief will be forwarded upon request.
41. As another example, D. C. Kuker testified that he signed the joint recusal because of a bribery appeal by FLINN. It so happens that this recusal antedates the appeal to the First DCA by two weeks. When FLINN is being tried in this type of a proceeding then these whole proceedings become tainted, and the Charges and Report should be thrown out on the basis of contrived false testimony.

Cook County Judges by attorneys regularly practicing before them [TR-708]. See United States v. Conn, 769 F.2d 420 (7th Cir. 1985). It should be noted that Respondent didn't bring up that question on direct examination.

As to Count VII, the Respondent would once again repeat his firmly held beliefs and shared convictions, that the 'fraternity' is bankrupting our great state's workers' compensation system. The Miami Herald, as well, has called it a "corrupt system", (August 14, 1989, p. 14).

Not only have the scheme of payoffs cost FLINN money, like in Handy where co-counsel Feuer charges back FLINN a portion of the kickback, but the Respondent and others associated with him have suffered substantial economic losses to date because of the vicious and unprecedented retaliations. Now that the coalition figures FLINN is being put away or shelved by those standing behind the paper curtain (pushing the Bar), some are back to their old tricks. Accordingly, it is surmised that Drucker in the 1989 Fumigation case will have to 'kick-in' the same manner (This is why Ira logs 100 hours of billable time in order to participate in a joint closing statement where the juggling takes place). It is laundered between co-counsel. Naturally it takes someone who has been on the inside for some time to know how the insiders have been getting away with it. As stated, the Referee expected FLINN to turn 180 degrees from a position of defending himself to become a prosecutor...all in the span of three

days. Such a trial, if such a feat could have been accomplished, would have to be conducted like a federal tax fraud case through the tracing of payments. This, alone, makes the Referee unbelievable, and shows he is not being candid or honest with this Honorable Court. This is why a grand jury was (is) requested[42].

U. S. Attorney Dexter Lehtinen accused circuit court judges and others of being corrupt and the Bar whitewashed these accusations. In fact, Dexter Lehtinen made the following statements, both in writing and orally before a televised audience: "Judges take bribes" and are corrupt. [TR-183, 184]. (See Respondent's Affirmative Defenses). ...and when a complaint was made to Gross there wasn't even a hearing where Shevin and FLINN could offer testimony. A finding of No Probable Cause was summarily entered by Gross/Bar so Lehtinen could clear a background check by the Justice Department. Again, Bar Center was making strictly a political decision. This is a classic example of the double standard (of justice) being applied, and based upon that precedent alone, dismissal with prejudice is in order.

Further, there was (and is) a basis. The Assistant Director of Workers' Compensation Department in Tallahassee, Administrator Lyons, who was in charge of the Bureau for

42. If 'they' can put the Respondent out of business, even temporarily, or hand a stigma around his neck, the Deputies and their cohorts will have effectively killed any further inquiry into their conduct, and the rates will continue to go "through the roof", as editorialized in the media.

investigations, collaborated the FLINN'S findings that there were problems in the Miami Bureau in 1986 and 1987 [DEN 180].

The problems are acknowledged and being investigated--how could anyone say that the allegations made by the FLINNS, who are the matches that turned up the heat on the 'fraternity', are totally without factual basis. Gross never asked FLINN or his wife about corruption, or their son; only the four Deputies. This is like asking the fox in the henhouse what happened to the chickens.

When FLINN attempted to question D. C. Tomlinson about the corruption, the Referee sided, again, with the Bar in not allowing this issue to be raised. [TR-109][43]. Further, when FLINN tried to raise the corruptive issues, the Referee threatened to find FLINN in contempt of Court [TR-184]. This is a repeat of the bias and prejudice that was revealed in the Michigan Citizens case.

There does not seem to be any other rational basis for the Referee so ruling.

The Referee asked questions of other witnesses, but carefully refrained from asking FLINN the million dollar

43. They (Tomlinson) threatened to dump all FLINN'S cases on D. C. Johnson's desk if he did not go along and sign (page 14, 15, Johnson's deposition). This is why Chief Carroll picked Tomlinson to be ordered to Broward Bureau whenever D. C. Seppi came to Miami for Respondent's motions and merit hearings (page 12, Johnson deposition). Further, the Referee ruled without having all of the evidence before him [TR-270].

question, though FLINN is charged with "knowingly"[44] making false statements. Moreover, the Referee failed to consider the testimony of former Judge of Industrial Claims, now Circuit Judge S. Peter Capua who found the joint recusal to be highly suspicious and bordering on conspiratorial behavior [TR-758].

The Alvah Chapman proceedings were quasi-judicial, and the D. C. Circuit Court of Appeals - backed up by the U.S. Supreme Court - stepped in to stop a miscarriage of justice, which if allowed to continue would have had a "chilling effect" on all investigative activity throughout the United States.

44. The Supreme Court is not bound by the recommendations of the Referee [The Florida Bar v. Weaver, 356 So.2d 797 (Fla. 1978)]; especially if the evidence presented to the Referee was not clear and convincing. [The Florida Bar v. McCain, 361 So.2d 700 (Fla. 1978)]. However, the Referee's conclusions do not suprise Respondent given that the very first time Respondent appeared in person before the Referee, he is jumped on for something he had nothing to do with. The Referee looks at FLINN and says, "... and he didn't even file an Answer", for some strange reason, this statement does not appear in the Record. It is, most probably, because it revealed his predetermination and bias to a party in a pending case.

CONCLUSION

It is respectfully submitted that there is no basis in or out of the Record to support the Referee's absurd Findings and particularly in the improper, biased, and prejudicial manner in which it was handled and a dismissal of all charges with prejudice is the only appropriate resolution for these cases from a purported Grievance standpoint. However, there is a reference to agent Fritz who came to this office twice on this case [TR-1069] [DEN 49, p. 26] and the cards of the two other F.B.I. agents were put in as Exhibits[45]. With respect to the credibility of members of this Office, it can be said that the F.B.I. was here on January 26, 1990 obtaining information and picking up documents for use before the U. S. Senate on a unrelated investigation.

It is respectfully submitted that there is no reasonable or rational basis in this Record to support any charges of Findings, and further, based upon Constitutional guarantees, including Respondent's to a fair and impartial trial, these cases should be dismissed with costs taxed to the Bar (which the FLINNS will donate to charities).

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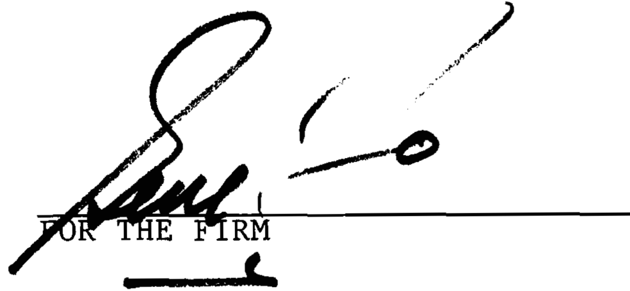
45. Matters substantially affecting the public interest, even though not raised in the court below may be considered on appeal. To hold otherwise would have a 'chilling' effect on the furnishing of information to the authorities. Northwest Fla. Home Health Agency v. Merrill, 469 So.2d 893 (1st DCA 1985).

Moreover, the Respondent, incorporates by reference all previously made Motions and Requests filed herein, including the Bar's excessive cost award entered without Notice and without a Hearing, though requested.

Respectfully Submitted,



FOR THE FIRM

CERTIFICATE OF SERVICE

ON THE PART OF THE STAFF AND MYSELF, WE HEREBY CERTIFY that a true copy of the foregoing Brief was mailed this 10th day of March, 1990 to: PAUL A. GROSS, ESQ., The Florida Bar, 444 Brickell Avenue, Miami, Florida 33131.

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