

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

LAURENCE GOLDEN,
Respondent.

_____ /

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The Florida Bar Case No: 88-51,160 (17C)

Supreme Court Case No. 73,553

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

Pursuant to the undersigned being duly appointed as Referee to conduct disciplinary proceedings, a hearing was held on June 26, 1989. 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: Jacquelyn P. Needelman

For the Respondent: Pro se

11. 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:

AS TO COUNT I

1. 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.

2. On, or about July 24, 1985, the Respondent represented a client, SHIH WU, who entered into a contract to buy certain vacant real property from one NUZZO who had an option to purchase the property in question (Exhibit 1 in evidence).

3. The contract provided for the 10% escrow deposit of \$22,500.00 to be held in escrow by the Respondent. I find that Respondent received and held said \$22,500.00 as escrow agent in this transaction. (Exhibits 1, 2, 5, testimony of LEROY THAYER, Exhibit 16).

4. The contract provided that the deposit was to be liquidated damages in case of a breach of contract by the buyer, SHIH WU (Exhibit 1).

5. Prior to the closing of the contract, on/or about August 21, 1985, Respondent and his client terminated the contract alleging bad title (Exhibit 3).

6. I find that the Respondent wrongfully returned the funds he held in escrow on September 9, 1985, after he was on notice that the funds were in dispute and GEORGE PATTERSON, Esquire had demanded the release of the funds or that said funds be interpleaded with the Court (Exhibits 4, 6, 7, 10, 11, 12, 13, 14 and 15).

7. I find that by wrongfully returning the \$22,500 he held in escrow, Respondent violated his duties as a fiduciary and escrow agent.

8. I find that Respondent acted in bad faith when he attempted on August 21, 1989, to negotiate with WILLIAM STOCKMAN, Esquire, the attorney for the party who owned the property in issue, to purchase the property directly from Mr. STOCKMAN's client in an attempt to interfere with the NUZZO contract and with the stated motive of getting a nice fee for himself (testimony of WILLIAM STOCKMAN, Esquire, Exhibit 17).

9. I find that Respondent acted in bad faith and falsely represented

on August 28, 1985, o JACKIE JERNIGAN, a secretary of GEORGE PATTERSON, Esquire, that he had already returned the \$22,500.00 deposit monies to his client, when in fact such monies were not returned until September 9, 1985 (testimony of JACKIE JERNIGAN, Exs. 6, 7, 15).

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

As to each count of the Complaint, I make the following recommendations as to guilt or innocence:

AS TO COUNT I

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Florida Bar Integration Rule, article XI, Rule 11.02(4) [money entrusted for a specific purpose must be applied only for that purpose] and Disciplinary Rule 1-102(A)(4), [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation] of the Code of Professional Responsibility.

IV. RECOMMENDATIONS AS TO DISCIPLINARY MEASURES TO BE APPLIED:

I recommend that the Respondent be suspended from the practice of law in Florida for a period of two (2) years, to run consecutive to his current three(3)-year suspensionⁱⁿ/the The Florida Bar v. Golden, 14 FLW (June 2, 1989) for insurance fraud. Cumulative misconduct, as present in this case, warrants harsh discipline. I find that the following aggravating factors are present in this case:

- (a) Prior disciplinary offense
- (b) Dishonest or selfish motive
- (c) A pattern of misconduct
- (e) Refusal to acknowledge wrongful nature of conduct

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD:

Age: 36

Date admitted to Bar: November 5, 1982

Prior disciplinary conviction: The Florida Bar v. Golden, 14 FLW (June 2, 1989) wherein Respondent received a three (3)-year suspension for insurance fraud.

VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED:

I find the following costs were reasonably incurred by The Florida Bar:

Administrative Costs	\$ 500.00
Court Reporter Costs	
6-14-89 deposition of William Stockman	88.40
1-26-88 testimony of Leroy Thayer	65.00
11-14-88 Grievance Committee hearing	264.95
Witness Fees	<u>85.00</u>
Subtotal	\$1,003.35
Court reporter costs for 6-26-89 final hearing before Referee	\$
<u>TOTAL:</u>	\$

It is apparent that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the Respondent, and that interest at the statutory rate shall accrue and be payable beginning thirty days after the Judgment in this case becomes final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this 31 day of July, 1989.


S. PETER CALZA, Referee

Copies furnished to:
JACQUELYN P. NEEDELMAN, Bar Counsel
LAURENCE GOLDEN, Respondent
JOHN T. BERRY, Staff Counsel, The Florida Bar