

IN THE SUPREME COURT OF FLORIDA  
(BEFORE A REFEREE)

The Florida Bar,  
Complainant,

vs .

Robert W. Blunt,  
Respondent.

Supreme Court Case Nos.

73,656  
73,941  
73,978

**FILED**

SID. J. WHITE

**AUG 28 1989**

CLERK, SUPREME COURT,

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

Florida Bar Case Nos.

87-23,392 (09A))  
87-23,439 (09A))  
(87-23,442 (09A))  
(87-23,443 (09A))  
(87-23,483 (09A))  
(88-30,343 (09A))  
(89-30,232 (09A))

REPORT OF REFEREE

I SUMMARY OF PROCEEDINGS: Pursuant to the appointment of the undersigned as referee to conduct disciplinary proceedings herein according to the Rules of Discipline, a hearing was held on July 25, 1989 at the Seminole County Courthouse, Sanford, Florida beginning at 9:10 o'clock A.M.

The following attorneys appeared as counsel for the parties:  
For the Florida Bar - John B. Root, Jr.  
No appearance by or in behalf of the Respondent.

II FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH THE RESPONDENT IS CHARGED: After considering all the pleadings and evidence before me, pertinent portions of which are commented upon below, I find:

SUPREME COURT CASE NO. 73,656

As to Count 1

87-23,392 (09A) - The Florida Bar

Requests for Admission of each of the relevant facts contained in the Complaint were propounded to Respondent. Exhibit 3. No response was received from Respondent and the admissions requested are deemed admitted.

1. Respondent deposited a client's funds in his trust account and, thereafter, wrote a check which was returned due to insufficient funds.

2. Respondent discovered that his bookkeeper/wife had forged his signature on several trust account checks and had taken cash or checks for trust matters without properly depositing the money to the account.

3. Respondent immediately contacted the Florida Bar with regard to the trust discrepancy.

4. An audit of the account disclosed numerous violations of the rules regulating trust accounts of the Florida Bar, including absence of deposit slips, failure to preserve all cancelled and voided checks, failure to maintain a separate file or ledger for each client showing receipts, disbursement and balance and to make and preserve reconciliations over a period of six (6) years. See Transcript of Procedures; page 18, lines 8 through 13.

5. Four (4) checks were written on the trust account for purposes unrelated to client business. See Transcript, page 20, lines 4 through 17. Each of the checks had been written by Respondent's wife and bookkeeper, Debbie Blunt.

6. Respondent certified on his Bar dues statements for 1985-7 that he had maintained his trust account in compliance with the Rules, which in fact was not true. Exhibit 14.

As to Count 2

87-23,439 (09A) - Beverly Fuhrman

No response was received to Requests for Admission in Count 2, and it is thereby established that Respondent neglected the business of a client, Beverly Fuhrman, in certain Guardianship and Probate matters.

There was no evidence or proof presented at the hearing other than the Request for Admission.

1. Having received a fee for services to be rendered, Respondent closed his office and suffered his telephone to be disconnected-without communicating with his client.

2. It was thereafter necessary for the client to retain the services of another attorney to conclude both proceedings. Exhibit 3.

As to Count 3

87-23,442 (09A) - Michael E. Koszeki

The material facts were the subject of Requests for Admissions propounded to Respondent and are deemed admitted for lack of response. Exhibit 3. No further evidence was presented in support of this count.

1. Respondent represented Michael Koszeki on a personal Bankruptcy proceeding and, thereafter, accepted a fee for the

purpose of obtaining a copy of the Discharge and removing a debt from the public records.

2. Respondent failed to perform and as a consequence the client was unable to close on the purchase of real property in Georgia and lost a deposit of \$500.00.

As to Count 4  
87-23,443 (09A) - The Florida Bar

Requests for Admission on each material fact were propounded to Respondent, but went unanswered and are therefore deemed admitted. See Exhibit 3.

No further evidence was presented on this Count.

1. Respondent tendered a trust check to the Clerk of the Court as a filing fee in a dissolution of marriage case.

2. The check was returned for "uncollected funds". — ?

3. Thereafter, Respondent paid the check in full. Exhibit 3.

As to Count 5  
87-23,483 (09A) - Cynthia Shutter

No other facts are established by the record, other than those deemed admitted in the Request for Admission.

1. Respondent accepted an attorney fee and filing fee from Cynthia Shutter for a dissolution of marriage, and, thereafter, failed to respond to repeated attempts of the client to contact Respondent. See Exhibit 3.

2. Respondent allegedly was not aware of the problem that led to Mrs. Shutter's complaint to the Bar, as his wife had intercepted all telephone calls and letters.

SUPREME COURT CASE NO. 73,941  
88-30,343 (09A) - The Florida Bar

The material facts supporting the Complaint were the subject of Requests for Admission propounded upon Respondent. As no response was filed or served, the facts are thereby deemed admitted. No further evidence was presented.

1. Respondent purchased a residence from Turner, who held a first mortgage of \$60,000.00. Respondent, thereafter, defaulted in or about July, 1986.

2. Turner retained attorney William Barfield to represent him in a foreclosure action. After the action was commenced, and

at a time when Respondent was fully aware that Turner was represented by Barfield, Respondent wrote to Turner directly without receiving Barfield's consent to communicate directly with the client, and without sending a copy of the communication to Hartfield. See Exhibit 12.

3. Respondent attempted to intimidate Turner into settling the action.

4. Respondent threatened to stall the proceedings to drive up Turner's legal fees, and to seek protection by filing a Bankruptcy Petition.

**SUPREME COURT CASE NO. 73,978**  
**87-30,232 (09A) - The Florida Bar**

Requests for Admission were propounded to Respondent and were not answered and are therefore deemed admitted. Exhibit 7.

In addition, client Roy testified before the Referee supporting the contentions of the Florida Bar. See Transcript, pages 43-53. Attorney James Shepherd, who represented Phillips, also testified before the Referee in support of the allegations made by the Florida Bar.

1. Respondent was retained to represent Roy in an action for fraud and conversion against Phillips, from whom Roy had purchased a printing business.

2. Shortly thereafter, Phillips filed an action for replevin against Roy, and Respondent filed an answer, affirmative defenses and counterclaim.

3. The parties entered into a stipulation whereby Roy would make monthly payments to Respondent's trust account, representing the payments due on the note payable to Phillips.

4. A total of \$6,488.40 was Daidd into Respondent's trust account.

5. Respondent failed to reply to a request for an accounting by Phillips' attorney, and further failed to answer interrogatories relating to the escrow funds.

6. Roy thereafter authorized Respondent to convey a settlement offer to the Plaintiff, which was never done.

7. As a result of Respondent's failure to attend a hearing, Phillips was successful in obtaining a writ of replevin. Roy discharged Respondent on July 19, 1988, and he and his new attorney were unable to contact Respondent despite numerous attempts.

8. Roy's counterclaim was dismissed and a final judgment

was entered under which Roy was ordered pay \$43,308.93 plus \$2,500.00 in attorney fees. Respondent failed to advise Roy of the trial date or of the judgment, despite the fact that Respondent had received the notices. \*

\* 9. The entire \$6,488.40 had been removed from the trust fund maintained by Respondent, and was only made good the day before the grievance committee met to consider the Complaint.

10. Respondent failed to perform services for Roy because he was afraid he would be required to account for the missing trust funds.

11. A review of Respondent's trust account by the Florida Bar revealed that it was not maintained in substantial minimum compliance with the Rules Regulating Trust Accounts. Monthly reconciliations were not performed, check stub entries were either incomplete or not performed. Further, ledger sheets were not maintained for all clients and office expenses were paid from the account.

**III RECOMMENDATIONS AS TO WHETHER OR NOT THE RESPONDENT SHOULD BE FOUND GUILTY:** As to each count in the Complaint, I make the following recommendations as to guilt or innocence:

**SUPREME COURT CASE NO. 73,656**

As to Count 1  
87-23,392 (09A) - The Florida Bar

I recommend that the Respondent be found guilty and specifically that he be found guilty of the following violations:

(A) Article XI, Integration Rules:

- (1) 11.02 (3) (a) for conduct contrary to honesty justice and good morals;
- (2) 11.02 (4) for failing to maintain proper trust account records and following minimum trust accounting procedures;

(B) Disciplinary Rules of the Code of Professional Responsibility:

- (1) 1-102 (A) (6) for any other conduct that reflects adversely on his fitness to practice law;
- (2) 3-104 (C) for failing to properly ensure compliance of nonlawyer personnel with the provisions of the Code of Professional Responsibility;
- (3) 3-104 (D) for failing to properly supervise

nonlawyer personnel; and

- (4) 9-102 (B) (3) for failing to maintain complete records of funds, securities and other properties of a client in his possession.

As to Count 2  
87-23,439 (09A) - Beverly Fuhrman

I recommend that the Respondent be found guilty and specifically that he be found guilty of the following violations:

- (A) Disciplinary Rules of the Florida Bar's Code of Professional Responsibility:
  - (1) 1-102 (A) (5) for engaging in conduct that is prejudicial to the administration of justice;
  - (2) 2-110 (A) (1) for improperly withdrawing from employment;
  - (3) 2-210 (A) (2) for failing to protect his clients' rights upon withdrawing from representation;
  - (4) 6-101 (A) (3) for neglecting a legal matter entrusted to him;
  - (5) 7-101 (A) (2) for failing to carry out a contract of employment entered into with a client for professional services;
- (B) Rules of Professional Conduct:
  - (1) 4-1.3 for failing to use reasonable diligence and promptness in representing a client;
  - (2) 4-1.4(a) for failing to keep a client reasonably informed about the status of a matter;
  - (3) 4-1.16(d) for failing to take reasonable steps to protect his client's interests upon withdrawing from representation;
  - (4) 4-3.2 for failing to expedite litigation consistent with the interests of his client; and
  - (5) 4-8.4(d) for engaging in conduct prejudicial to the administration of justice.

I recommend Respondent be found not guilty of the other charges in Count 2.

As to Count 3  
87-23,442 (09A) - Michael E. Koszegi

I recommend that the Respondent be found guilty and that he be found guilty of the following violations:

- (1) 1-102(A) (5) for engaging in conduct that is prejudicial to the administration of justice;
- (2) 6-101(A) (3) for neglecting a legal matter entrusted to him;
- (3) 7-101(A) (2) for failing to carry out a contract for employment entered into with a client for professional services.

I recommend Respondent be found not guilty of the remaining charges in Count 3.

As to Count 4  
87-23,443 (09A) - The Florida Bar

I recommend that the Respondent be found guilty and that he be found guilty of the following violations:

(A) Rules of Professional Conduct:

- (1) 4-1.15(d) for failing to comply with the Florida Bar's Rules Regulating Trust Accounts;
- (2) 4-8.4(a) for violating The Rules of Professional Conduct; and

(B) Rules Regulating Trust Accounts:

- (1) 5-1.1(a) for failing to comply with minimum standards for trust account record keeping and procedures.

As to Count 5  
87-23,483 (09A) - Cynthia Shutter

(A) Rules of Professional Conduct:

- (1) 4-1.3 for failing to act with reasonable diligence and promptness in representing a client;
- (2) 4-1.4 for failing to properly communicate with his client and keep her informed as to the status of a matter;
- (3) 4-5.3(b) for failing to use reasonable efforts to ensure that his nonlawyer employee's conduct is compatible with his professional obligations.

procedures

I recommend the Respondent be found not guilty of the remaining charges in Supreme Court Case No. 73,978

IV. Recommendation as to Disciplinary Measures to be Applied: I recommend that the Respondent be suspended for a period of 12 months and thereafter until Respondent shall prove rehabilitation as provided in Rule 3-5.1(e), Rules of Discipline.

The referee considered the following factors by way of aggravation:

- (a) presence of misconduct;
- (b) multiple offenses

The referee considered the following factors by way of mitigation:

- (a) presence of a prior disciplinary record;
- (b) personal problems involving his wife;
- (c) timely good faith effort to make restitution.

V. Personal History and Past Disciplinary Record: No personal history was presented to referee due to the Respondent's failure to participate.

However, the referee was advised that there were no prior disciplinary matters involving Respondent.

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

Case No. 73,656  
(TFB Nos. 87-23,392 (09A),  
87-23,439 (09A), 87-23,442 (09A),  
87-23,483 (09A) and 87-23,443  
(09A)

A. Grievance Committee Level Costs:	
1. Transcript Costs	\$ 253 70
2. Bar Counsel/Branch Staff Counsel Travel Costs	\$
B Referee Level Costs	
1. Transcript Costs	\$ 263.10
2. Bar Counsel/Branch Staff Counsel Travel Costs	\$ 12.90



C	Administrative Costs	\$	500 00
D	Miscellaneous Costs		
	2. Investigator Costs	\$	
	87-23,392 (Grievance Level)	\$	37.20
	87-23,483 (Grievance Level)	\$	21.00
	87-23,392 (Referee Level)	\$	293.15
	87-23,483 (Referee Level)	\$	10.85
	<b>TOTAL ITEMIZED COSTS;</b>	\$	1,392.60

Case No. 73,941  
(TFB No. 88-30,343 (09A))

A	Grievance Committee Level Costs:		
	1. Transcript Costs	\$	114 10
	2. Bar Counsel/Branch Staff Counsel Travel Costs	\$	
B.	Referee Level Costs		
	1. Transcript Costs	\$	
	2. Bar Counsel/Branch Staff Counsel Travel Costs	\$	
C	Administrative Costs	\$	500 00
D.	Miscellaneous Costs		
	1. Investigator Costs	\$	
	2. Witness Fees	\$	
	<b>TOTAL ITEMIZED COSTS;</b>		\$14 10

Case No. 73,978  
(TFB No. 89-30,232 (09A))

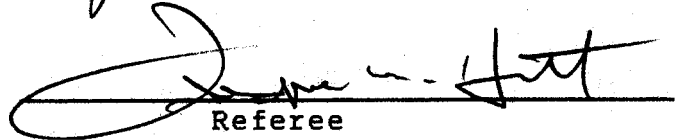
A.	Grievance Committee Level Costs:		
	1. Transcript Costs	\$	251.45
	2. Bar Counsel/Branch Staff Counsel Travel Costs	\$	
B	Referee Level Costs		
	1. Transcript Costs	\$	
	2. Bar Counsel/Branch Staff Counsel Travel Costs	\$	
C	Administrative Costs	\$	500 00
D.	Miscellaneous Costs		
	1. Investigator Costs	\$	248 70
	2. Witness Fees	\$	
	<b>TOTAL ITEMIZED COSTS;</b>	\$	1,021.15

*Transcript, 5,027 \$, 5,027 \$, 5,027 \$*  
*Transcript, 5,027 \$, 5,027 \$, 5,027 \$*

It is apparent that other costs may be incurred. It is

recommended that all such costs be charged to the Respondent.

Dated this 24 day of August, 1989.

  
Referee

**CERTIFICATE OF SERVICE**

i hereby certify that copies of the foregoing have been furnished to John B. Root, Jr., Bar Counsel, The Florida Bar, 880 North Orange Avenue, Suite 200, Orlando, Florida 32801; Robert W. Blunt, 924 North Magnolia Avenue, Suite 112, Orlando, Florida 32803-3845; Robert W. Blunt, 905 Wood Gate Trail, Longwood, Florida 32750; Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300, on this the 24 day of August, 1989.

  
FREDRIC M. HITT, Referee