

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

T. MICHAEL PRICE,

Respondent.

CASE NO. 74,764
[TFB No. 89-30,368 (09D)]

FILED

SD J. W. W.

APR 6 1990

CLERK, SUPREME COURT

RECOMMENDATION OF REFEREE

Michael Price is one of the most disorganized attorneys who has appeared before me. In the course of the proceeding, he eventually had papers scattered all around him on the floor and over one-third of a double table. (Tr. P. 10, and P. 135). He worked with a display board using unnecessary blown up exemplars. In the course of shuffling papers over the table, he moved what appeared to be a digital clock in rambling directions. I never understood the significance of several large flashlight batteries that he placed on the table. I certainly don't criticize him for having his own reporter, although I have not previously encountered this arrangement.

The Bar moved that I deem their Request for Admissions admitted by reason of Mr. Price's failure to respond. It was at an early point in the proceeding that Mr. Price began shuffling papers around trying to find his response, which he claimed was in the file. The truth is Mr. Price had no idea whether he filed a response. (Tr. P. 7, 8, 9, and 180). This is especially disconcerting inasmuch as Mr. Price propounded a Request for Admissions to the Bar which was timely answered. This conduct is an example of Mr. Price's behavior pattern, at least with

respect to the instant proceeding and matters related to it.

I will accept the proposition that Mr. Price negligently overlooked responding to the request. I believe this to be a fair result, especially in light of the fact that the Bar did not make this motion until after the hearing began.

It is certainly not my intention to unduly disparage Mr. Price or the unfortunate events which brought him to the hearing. He was understandably nervous, and, in my opinion, would have been better served by retaining counsel. (Tr. P. 9).

These matters are mentioned solely to point up what I believe to be Mr. Price's underlying problem. It was said that he adopted a cavalier attitude towards the bankruptcy proceeding which is the basis of the Bar's complaint. It is not difficult to believe Mr. Price when he candidly states that he does not return calls from clients. (Tr. P. 101, 102). Happily for him, no such complaint is a part of the Bar's instant charge, or this Referee would certainly take him to task for that practice.

There is no point in going into great detail about the bankruptcy and foreclosure cases which gave rise to these proceedings. Suffice it to say that the bankruptcy action probably caused no prejudice to the complainants. The foreclosure sale was at first imminent and then a past fact with respect to initiation of said bankruptcy proceedings.

There is no proof to the contrary with respect to Mr. Prices' contention that Judge Proctor (the bankruptcy judge) had previously taken the position that the institution of bankruptcy proceedings effectively interrupted foreclosure proceedings after sale but before the issuance of title. Mr. Price can be faulted for not preparing a memo suggested by Judge Proctor, however, it

is questionable as to whether this conduct rises to the level of warranting disciplinary action. I must say, however, that such conduct smacks of that which I have learned to expect from him.

Regardless of what Mr. Price says is the practice in bankruptcy among attorneys, he should not have taken a voluntary dismissal of the proceeding without consulting his clients.

(Tr. P. 24, 138, 139, 140, 141, 168, 169). It is clear to me that he made no effort to communicate with his clients prior to his court appearances. In one instance, he called his clients in a panic as a hearing became imminent. (Tr. P. 114, 115, 140, 141, 170, 171).

His explanation that he feels no responsibility for communicating with his bankruptcy clients about court proceedings because they are notified by the clerk, is insufficient, particularly in light of his clients sworn testimony that they never received any such documents from the bankruptcy court clerk.

(Tr. P. 175, 176).

I find that the respondent committed the acts listed in enumerated Paragraph 16, 17 and 20 of the Bars complaint, with respect to not conferring with his clients before taking a voluntary dismissal. By reason of this conduct, the respondent has violated the following Disciplinary Rules of the Florida Bar's Code of Professional Responsibility:

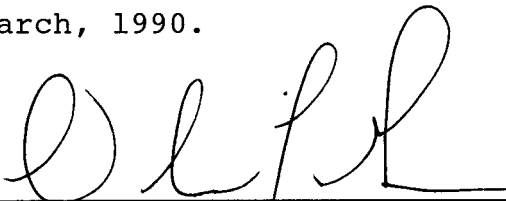
- a) 1-102 (A) (5) for engaging in conduct that is prejudicial to the administration of justice;
- b) 6-101 (A) (3) for neglecting a legal matter entrusted to him; and
- c) 7-101 (A) (1) for failing to seek the lawful objectives of his clients through reasonably available means.

It is my recommendation that the respondent receive a private reprimand with the direction that hereafter he should consult with his clients before taking any significant action in their behalf, and should take affirmative steps to see that they are informed with respect to any judicial events irrespective of customary acts by others such as court clerks. [Rules of Discipline 3-7.5 (K) (1)].

I make this recommendation because the respondent has apparently managed to avoid disciplinary action in the past, and because I believe that his conduct only resulted in an inconvenience and annoyance to his clients. (Tr. P. 181). This Referee is also mindful that these events occurred approximately five (5) years ago. In my estimation, a letter of reprimand should point out to Mr. Price that loose behavior such as that described in these proceedings will not hereafter be tolerated.

The respondent should also pay the costs of these proceedings.

DONE AND ORDERED in Chambers at Bartow, Polk County, Florida, this 27th day of March, 1990.



OLIVER L. GREEN, JR., Referee

Copies furnished:

John B. Root, Jr., Esq.
Bar Counsel - The Florida Bar
880 N. Orange Ave., Suite 200
Orlando, FL 32801

Staff Counsel
The Florida Bar
650 Apalachee Parkway
Tallahassee, FL 32399-2300

T. Michael Price, Esq.
425 West Colonial Drive #102
Orlando, FL 32804-6863