

**FILED**

SID J. WHITE

FEB 8 1991

CLERK, SUPREME COURT

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

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

Case No. 75,850

(TBF Case Nos. 90-31,323 (05A)

and 90-31,711 (05A)

JOHN MONTGOMERY GREENE,

Respondent.

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REPORT OF REFEREE

I. Summary of Proceedings

Pursuant to the undersigned being duly appointed as Referee to hear an Order to Show Cause issued by the Supreme Court in the above disciplinary matter, and the undersigned after due notice to the parties conducted an evidentiary hearing on October 11, 1990, in Ocala, Marion County, Florida, at which the Florida Bar was represented by David G. McGunegle, and the respondent having failed to appear, and the referee having made findings of fact (a copy being attached hereto) and having requested briefs from the respective parties concerning whether or not the acts of respondent constituted "practicing law", and having received and considered the authorities submitted by the Florida Bar, and the respondent having failed to reply in a reasonable time, the referee files this as his recommendation to the Supreme Court of Florida.

II. Recommendation as to Guilt

The referee finds the activities of the respondent contained in Paragraphs 1, 2, 3 and 4 of his findings, constitute the practice of law contrary to the order suspending the respondent entered by the Supreme Court of Florida on the 11th day of January 1990, and recommends that he be found guilty of contempt of court.

III. Recommendation as to Punishment

The undersigned recommends that the Respondent, John Montgomery Greene, pay a fine of \$2,500.00, that his suspension be extended for two years and that the costs of these proceedings be taxed against the respondent.

Respectfully submitted, this 5<sup>th</sup> day of February 1991.

Robert P. Miller

REFEREE

CERTIFICATE OF SERVICE

I hereby certify that copy hereof has been furnished by mail this \_\_\_ day of February 1991 to John Montgomery Green,, Respondent, at 201 North Magnolia Avenue, Post Office Box 1777, Ocala, Florida 32678-1777, and to David G. McGunegle, Florida Bar Counsel, 800 North Orange Avenue, Suite 200, Orlando, Florida 32801.

Robert P. Miller  
REFEREE

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

Case No: 75,850  
(TFB Nos 90-31, 323  
(05A) and 90-31, 711 (05A)

FLORIDA BAR,

Complainant

vs.

JOHN MONTGOMERY GREENE,

Respondent.

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FINDINGS OF REFEREE

This matter being before the Referee on an Order to Show Cause and the Referee having set the matter for hearing on October 11, 1990, in Courtroom E, adjacent to the Marion County Courthouse, Ocala, Florida, and the complainant being represented by David G. McGunegle, and the respondent having elected not to appear and the court after hearing the testimony of the witnesses and the exhibits received in evidence makes the following findings:

1. On July 10, 1990, the respondent in the course of representing one M. Milbrath wrote a letter to the Ocean Village Club regarding the repayment of her earnest money deposit in the amount of \$8,300.00. The letterhead used by the respondent held him out to be an attorney at law. This service to Mrs. Milbrath was performed as a personal friend and no fee was involved. Respondent did not tell Mrs. Milbrath he had been suspended from the practice of law.

2. On February 23, 1990, the respondent closed a real estate transaction on behalf of Mr. and Mrs. George Robinson, the sellers. The closing statement was prepared by the respondent and carried his letterhead at the top reflecting he was an attorney at law. The closing was at respondent's office in Ocala. Respondent also drew an Affidavit of Ownership to be signed by the sellers. It also reflected that Respondent was an attorney. Though the closing statement reflects an attorney fee deducted as an expense of the sellers the referee finds that no fee was paid to Mr. Greene for these services and that the Mr. Robinson and respondent had been friends for over 25 years. The proceeds of the sale were deposited in respondent's Trust Account which also reflected him to be an attorney at law.

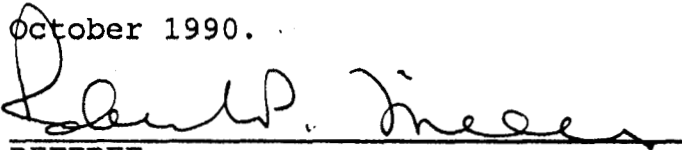
3. On June 1, 1990, respondent wrote a letter to Edwin C. Cluster, Esquire, asking him to review a quit claim deed he drew for a Mrs. Jones and which he wanted Mr. Cluster to approve for one of his employees to sign. This service was furnished as a favor to Mrs. Jones.

4. On June 1, 1990, respondent represented Mr. James D. Rike in the preliminary negotiations in dispute. Mr. Rike and respondent had been friends for over 35 years and no fee was charged. Respondent had informed Mr. Rike that he was suspended from the practice of law.

5. Within the six months preceding the 11th of October 1990, Mr. Greene charged a Mr. Walter Berman \$25.00 to obtain a deed for him.

At the conclusion of the hearing this referee asked the Bar for authorities supporting its view that the particular acts of the respondent were in fact the "practice of law" in light of the fact that either no fee was paid or the service furnished was no longer one required to be done by an attorney. The respondent, may, if he so elects, file his response to the Bar's memorandum.

ORDERED this <sup>15~~th~~</sup> day of October 1990.

  
REFeree

Copy to:

David G. McGunegle, Bar Counsel  
The Florida Bar  
880 North Orange Avenue, Suite 200  
Orlando, Florida 32801

John Montgomery Greene, Esquire  
201 North Magnolia Avenue,  
Post Office Box 1777  
Ocala, Florida 32678-1777