047 w/app.

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JOHN MONTGOMERY GREENE,

Respondent.
_____/

Case No. 75,850
[TFB Case Nos. 90-31,212 (05A)
and 90-31,711 (05A)]

INITIAL BRIEF

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SYMBOLS AND REFERENCES

In this brief, the complainant, The Florida Bar, will be referred to as the Bar.

STATEMENT OF THE CASE

The respondent was suspended for ninety-one days in The Florida Bar v. Greene, 515 So.2d 1280 (Fla. 1987). While still under suspension, the respondent was suspended for one year in The Florida Bar v. Greene, 557 So.2d 35 (Fla. 1990). The respondent, to date, has not petitioned for reinstatement.

These disciplinary proceedings commenced upon the filing by The Florida Bar on April 18, 1990, of a Petition for Rule to Show Cause why the respondent should not be held in contempt of the Supreme Court of Florida's order of suspension dated December 3, 1987, in The Florida Bar v. Greene, 515 So.2d 1280 (Fla. 1987) and its subsequent order of suspension dated January 11, 1990, in The Florida Bar v. Greene, 557 So.2d 35 (Fla. 1990). Pursuant to said petition, on April 24, 1990, this Court entered an order to show cause on or before May 14, 1990, why the respondent should not be held in contempt of court. The Bar filed an Amended Petition for Rule To Show Cause and a Second Amended Petition for Rule to Show Cause/Referral to Referee on July 23, 1990, and August 1, 1990, respectively. The Court issued an order on August 13, 1990, commanding the respondent to show cause on or before September 4, 1990, why he should not be held in contempt and directed the referee to hold an expeditious hearing on all matters and recommend further appropriate disciplinary measures

as may be warranted. The appointed referee held a final hearing on October 11, 1990. He made certain preliminary findings on October 15, 1990, and requested the parties submit memoranda of law concerning whether or not the respondent's actions constituted the practice of law. The Bar submitted its memorandum on October 22, 1990. The respondent did not submit a memorandum in support of his position. The referee mailed his Report of Referee on February 5, 1991, and found the respondent had in fact engaged in the practice of law while suspended and recommended that he be found in contempt of court, his current suspension be extended for a two year period, and that he pay a fine of $2,500.00 and the costs of these proceedings.

The referee's report was considered by the Board of Governors at its March, 1991, meeting. The Board voted to approve the referee's findings of fact and recommendation as to guilt, but to seek review of his recommendation as to discipline as being erroneous and unjustified and urges disbarment instead. The Bar filed its Petition For Review on April 1, 1991.

STATEMENT OF THE FACTS

Except as otherwise noted, the following facts are taken from the Findings of Referee dated October 15, 1990.

The respondent was suspended from the practice of law for ninety-one days in The Florida Bar v. Greene, 515 So.2d 1280 (Fla. 1987). While still serving that suspension, the respondent was suspended for a one year period in The Florida Bar v. Greene, 557 So.2d 35 (Fla. 1990). To date, the respondent has not petitioned for reinstatement from either suspension.

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

On February 23, 1990, the respondent closed a real estate transaction on behalf of Mr. and Mrs. George Robinson, the sellers. The respondent and Mr. Robinson had been friends for over twenty-five years. The respondent prepared the closing

statement and it carried his letterhead at the top which reflected he was an attorney at law. The closing occurred at the respondent's office in Ocala. The respondent also drew an affidavit of ownership to be signed by the sellers. It, too, reflected that he was an attorney. Although the closing statement reflected an attorney's fee had been deducted as an expenses of the sellers, the referee found that no fee was actually paid to Mr. Greene for these services. The proceeds of the sale were deposited to the respondent's trust account which also reflected him to be an attorney at law.

On June 1, 1990, the respondent wrote a letter to attorney Edwin C. Cluster asking him to review a quitclaim deed he drew for a Mrs. Jones. The respondent wanted Mr. Cluster to approve the quitclaim for the signature of one of Mr. Cluster's employees. The respondent furnished this service as a favor to Mrs. Jones.

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

SUMMARY OF THE ARGUMENT

The respondent was suspended by order of this Court dated December 3, 1987, for a period of ninety-one days with said suspension to begin within sixty days of that date. See The Florida Bar v. Greene, 515 So.2d 1280 (Fla. 1987). At the end of his ninety-one day period of suspension, the respondent did not petition for reinstatement. He was later suspended for a period of one year by order of this Court dated January 11, 1990, with said suspension to be effective immediately. See The Florida Bar v. Greene, 557 So.2d 35 (Fla. 1990).

The Bar first became aware of the respondent's unauthorized practice of law in March, 1990, when Bar Counsel received a letter from attorney John F. Bennett concerning the respondent's participation in a real estate closing. The Bar presented at the final hearing on October 11, 1990, three additional instances where the respondent had engaged in the unlicensed practice of law.

The case law is clear that willfully engaging in the practice of law while suspended usually warrants disbarment. The Florida Bar v. Hartnett, 398 So.2d 1352 (Fla. 1981).

The respondent became eligible for reinstatement in January,

1991. To date, he has not applied for reinstatement.

Suspending an attorney who is already suspended is meaningless in these circumstances. In addition, the respondent not only has an extensive prior disciplinary history, but he has also ignored orders of this Court in the past. See The Florida Bar v. Greene, 529 So.2d 1103 (Fla. 1988). Disbarment is the only level of discipline that is effective as a sanction to discipline, act as a deterrent, and provide a measure of protection for the public where attorneys knowingly and willfully ignore orders of this Court and continue to practice law after being suspended. The practice of law in the state of Florida is a conditional, revocable for cause privilege and not a right. Rule 3-1.1; The Florida Bar v. Price, 478 So.2d 812 (Fla. 1985). If openly violated, the privilege should be revoked.

ARGUMENT

THE REFEREE ERRED IN NOT RECOMMENDING DISBARMENT AS THE MOST APPROPRIATE DISCIPLINE WHERE THE RESPONDENT OPENLY ENGAGED IN THE PRACTICE OF LAW IN DIRECT CONTRAVENTION AND VIOLATION OF THE SUPREME COURT OF FLORIDA'S ORDER OF SUSPENSION AND HE ERRED IN RECOMMENDING THE RESPONDENT BE FINED.

At the outset, the Bar notes the referee committed an error by recommending the respondent pay a $2,500.00 fine. It is an inappropriate and clearly erroneous recommendation in that there is no case law or rule authorizing imposition of a fine as a condition of discipline. The Bar submits this recommendation should be deleted.

The respondent has a long and extensive disciplinary history with this Court, including ignoring its orders. In fact, he has been a frequent visitor.

The respondent's first brush with the disciplinary process was in The Florida Bar v. Greene, 235 So. 2d 7 (Fla. 1970). He was reprimanded and placed on a one year period of probation due to misdemeanor convictions for failure to file federal tax returns. The Board of Governors found the respondent had engaged in a "prolonged and knowing course of illegal conduct" and deserved a stronger sanction than the private reprimand and probation recommended by the referee. The Board of Governors

recommended the respondent be suspended for six months. Although this Court's majority upheld the referee's recommendation, Justice Thornal indicated in his dissent that he would either affirm the Board of Governor's position or, in the alternative, extend the probation from one to not less than five years.

The respondent's next problem resulted in a private reprimand for minor transgressions. The reprimand in The Florida Bar v. Greene, The Florida Bar Case No. 78-01,671, was administrered in 1980.

In The Florida Bar v. Greene, 463 So.2d 213 (Fla. 1985), the respondent was publicly reprimanded by this Court and placed on a conditional one year period of probation. The respondent had prepared several deeds for a client in which he made an error in the legal description of the properties. The client discovered the problem two years later and requested the respondent correct his errors. Despite the client making several such requests, the respondent failed to make the necessary corrections, even after the client complained to The Florida Bar and the matter went to a final hearing before a referee. The respondent also overcharged his client and neglected to prorate the tax bill for the properties that the client had sold. This Court ordered the respondent to refund the overcharged amount and prepare and record all necessary corrective deeds to clear the title to the

properties in question. He was also to compensate the client for his failure to prorate her taxes and submit quarterly case load reports to The Florida Bar.

The respondent refused to comply with the conditions of his probation and this Court found him in contempt after he failed to respond to its order to show cause. He was suspended for ninety days. See The Florida Bar v. Greene, 485 So.2d 1279 (Fla. 1986).

In The Florida Bar v. Greene, 515 So.2d 1280 (Fla. 1987), the respondent was suspended for ninety-one days. The misconduct again involved his neglect of a real estate matter. He represented the sellers and was supposed to clear title to the subject properties. The respondent admitted he did not attend to the problem and the sale fell through as a result. The sellers later found another buyer. The respondent relied upon a non-lawyer employee to check the property records. The employee mistakenly reported the title was now clear and the respondent relayed this erroneous information to his clients. The mistake was not discovered until after the closing.

The problems concerning the erroneous deeds addressed earlier in The Florida Bar v. Greene, 463 So.2d (Fla. 1985), and The Florida Bar v. Greene, 485 So.2d 1279 (Fla. 1986), resurfaced yet again in The Florida Bar v. Greene, 529 So.2d 1103 (Fla.

1988). A little over three years had passed since this Court first ordered the respondent to correct the deeds. A reprimand, one year of probation, and a ninety day suspension failed to convince the respondent to correct the errors he had made in 1980. His excuse was that he assumed his associate had corrected the problems with the deeds. The corrected deeds were not sent to the client until October, 1987, after the passage of seven years and three Bar discipline cases. At the time of this Court's opinion in August, 1988, the exact status of the properties was still unclear. The referee urged the client to retain independent counsel to resolved the situation once and for all. The respondent was publicly reprimanded and placed on two years' conditional probation.

In The Florida Bar v. Greene, 557 So.2d 35 (Fla. 1990), the respondent was suspended for one year for failing to advise clients of his suspended status, failing to make clear his suspended status in a property transaction, and for failing to answer a complaint in a contested divorce resulting in a default being entered against his client.

Since January 2, 1988, the respondent has remained suspended pursuant to the ninety-one day suspension in The Florida Bar v. Greene, 515 So.2d 1280 (Fla. 1987). To date, the respondent has not petitioned for reinstatement. Instead, he continues to

engage in the practice of law by rendering legal advice and services to friends whenever he sees fit. The respondent is continuing to engage in an established pattern of behavior of ignoring orders of this Court. See The Florida Bar v. Greene, 529 So.2d 1103 (Fla. 1988); and The Florida Bar v. Greene, 485 So.2d 1279 (Fla. 1986). It appears the respondent believes he is above the rules and that he has a right to continue practicing law even without a valid license.

Pursuant to Rule 3-5.1(e) of the Rules of Discipline, during the term of suspension, an attorney shall continue to be a member of The Florida Bar, but without the privilege of practicing. This does not mean that a suspended attorney may selectively choose when and where or to what extent to practice law, but rather it means he must cease practicing. The respondent chose the former rather than the latter.

As evidenced by the Petition for Rule to Show Cause, The Florida Bar first became aware of the respondent's unauthorized practice of law in March, 1990, when attorney John F. Bennett notified Bar Counsel by letter dated March 26, 1990, that the respondent had closed a real estate transaction in which Mr. Bennett had been involved. At the time of the closing, Mr. Bennett was not aware that the respondent was a suspended attorney.

This was not an isolated incident. Ultimately, the referee found that the respondent engaged in three additional acts constituting the unauthorized practice of law. In June, 1990, the respondent wrote a letter to another attorney asking that he review a quitclaim deed that the respondent had drawn for a Mrs. Jones. The respondent wanted the attorney to approve the quitclaim deed for the signature of one of the attorney's employees. Further, in June, 1990, the respondent represented James D. Rike in the preliminary negotiations in a dispute. Then, in July, 1990, he wrote a letter in behalf of M. Milbrath to a condominium seeking refund of Ms. Milbrath's earnest money deposit. The letterhead used by the respondent held him out to be an attorney at law. All of the "clients" involved were friends of the respondent and he charged no fee for the services he rendered.

The law is clear that willfully engaging in the practice of law despite a suspension usually warrants disbarment. The Florida Bar v. Hartnett, 398 So.2d 1352 (Fla. 1981). Suspension is appropriate only when an attorney's unauthorized practice of law is minimal. The Florida Bar v. Golden, 563 So.2d 81 (Fla. 1990). In Golden, supra, the attorney was found guilty of engaging in only one instance of unauthorized practice of law. Prior to the effective date of his suspension, the attorney had been contacted by a potential client who wanted representation

for two separate traffic offenses. The attorney agreed to take the case and drafted and filed two pleadings. The attorney was also paid a fee. He arrived in court with the client after the effective date of his suspension. The presiding judge notified the attorney that he was aware of the suspension and asked him to leave the courtroom. The referee found that the attorney had not notified the client of his suspended status. This Court declined to disbar the attorney with the caveat that had the attorney's practice been more direct or more substantial, disbarment would have been appropriate.

In The Florida Bar v. Bauman, 558 So.2d 994 (Fla. 1990), an attorney was disbarred for engaging in the unauthorized practice of law while serving a six month suspension. The attorney was found to have engaged in at least five distinct acts of practicing law. On one occasion, he was held in contempt by a circuit judge for holding himself out as an attorney. Despite this, the attorney continued representing clients in the courts. The referee in the case recommended a three year suspension. The Bar argued for disbarment because of the attorney's egregious behavior and defiance of the Supreme Court of Florida's order. The accused attorney argued that disbarment was an extreme penalty and should only be imposed in rare cases where rehabilitation was highly improbable. In response to his argument, this Court stated that it could "think of no person

less likely to be rehabilitated than someone like respondent, who willfully, deliberately, and continuously refuse[d] to abide by an order of this Court."

In The Florida Bar v. Jones, 571 So.2d 426 (Fla. 1990), an attorney was disbarred for continuing to engage in the practice of law during his ninety-one day suspension, failing to comply with the Rules by informing all of his clients of his suspended status and provide them a copy of the court order suspending him, and knowingly misrepresenting to the court that he had complied with the suspension order. In his reply to the Bar's Petition for Order to Show Cause, the attorney falsely represented to the Court that he had informed all of his clients of his suspended status and had otherwise complied with the order of suspension when in fact he had not done so. He further asserted that he had on several occasions sought assistance and guidance from The Florida Bar as to appropriate steps to take in order to comply fully with the court's order of suspension. He falsely represented that his inquiries met without any response when in fact Staff Counsel had provided him with a guidance letter which was received by him. The attorney also falsely represented that he attended a legal proceeding with the sole purpose of presenting certain evidentiary matters. The testimony provided during the final hearing clearly showed that during the proceeding in questions, the accused attorney had conferred with

the new attorney who was handling the case and had attempted unsuccessfully to assist in argument until the presiding judge reminded him that he was suspended. In addition, the attorney wrote the presiding judge the following day and provided him with additional case law. The attorney also admitted to the referee that he had not read the Rules of Discipline of The Florida Bar, had not advised his clients of his suspension, had not provided them with a copy of the court order, nor had he advised them to seek alternative counsel despite making these assertions in his reply to the Bar's Petition for Order to Show Cause. The referee found the attorney had also engaged in several other instances of practicing law by signing several legal documents as an attorney, preparing legal documents for a client, and rendering legal advice after the effective date of his suspension. The referee found that the attorney "violated both the letter and the spirit of the law by engaging in conduct that constituted the practice of law after his suspension became effective."

In The Florida Bar v. Winter, 549 So.2d 188 (Fla. 1989), a slightly different situation arose. The attorney had been given leave by this Court to resign permanently from the Bar. After resigning, however, the attorney continued practicing law. The referee recommended that the attorney be found guilty of twenty-one counts of engaging in the unauthorized practice of law and indirect criminal contempt of the Supreme Court of Florida's

order granting the resignation. This Court agreed with the referee and found the attorney to be in indirect criminal contempt of court. The referee recommended that the attorney be disbarred so that the stigma of disbarment could be attached to his record. It appeared that the attorney had been representing that he resign from the Bar for health reasons when in fact he had been granted leave to resign permanently in the face of impending disciplinary action. This Court agreed with the referee and ordered him disbarred.

In The Florida Bar v. Hirsch, 359 So.2d 856, (Fla. 1978), an attorney was disbarred for neglecting a client's case and lying to the client concerning the status of the case. More important, while suspended for other misconduct, the attorney undertook representation of a client in defense of a dissolution of marriage case, received fees from the client, conducted client interviews, and drafted pleadings.

Standard 7.1 of the Florida Standards For Imposing Lawyer Sanctions holds that disbarment is appropriate when a lawyer intentionally engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system. There is no more egregious an act committed on the public than when an

attorney, who has been ordered to cease practicing law, ignors this Court's order and continues to hold himself out publicly as an attorney able to practice.

Disbarment would also best serve the three pruposes of discipline as set forth recently in The Florida Bar v. McShirley, 573 So.2d 807 (Fla. 1991). It would be fair to society in terms of protecting the public from unethical conduct. The judgment would punish the respondent's misconduct and, should he seek readmission, force him to prove to the Board of Bar Examiners that he has fully rehabilitated himself and is once again worthy of being a member of The Florida Bar. Most importantly, disbarment would serve to deter others who might be prone or tempted to engage in similar misconduct.

To further suspend an attorney who is already under a suspension requiring proof of rehabilitation is meaningless. A suspension under these circumstances does not have any deterrent effect and may actually encourage attorneys to ignore court orders of suspension for as long as possible and to continue to practice law. To be effective as a sanction, a punishment for violating an order of suspension and act as a deterrent, it should continue to be the clearly established policy of this Court that attorneys who violate a suspension order face immediate disbarment. Unless this Court deals swiftly and

severely in enforcing its orders, confidence in its ability to regulate the profession could be eroded.

"A license to practice law confers no vested right to the holder thereof, but is a conditional privilege which is revocable for a cause." See Rule 3-1.1 of the Rules Regulating The Florida Bar. As with any other privilege, if you violate the rules, the privilege is curtailed or taken away. His conditional privilage is already curtailed by the ongoing suspensions, albeit the fixed periods have ended and he could apply for reinstatement. The respondent has violated the Rules. His privilege to practice law should be taken away. He should not be merely suspended further. He should be disbarred. This Court stated in Hirsch, supra, that "no lesser penalty than disbarment will impress upon Hirsch his professional responsibility as a lawyer." (at p. 857) The Bar submits that given the respondent's disdain for the dictates of this Court and the Rules and the great likelihood that he will in the future continue to ignore both orders of this Court and the Rules, that no lesser penalty than immediate disbarment will impress upon the respondent his responsibilities as an attorney.

CONCLUSION

WHEREFORE, The Florida Bar respectfully request this Honorable Court to review the Report of Referee, the findings of fact and recommended discipline and delete the recommendation that the respondent pay a $2,500.00 fine, impose an immediate disbarment and order payment of costs in this proceeding currently totalling $934.87.

Respectfully submitted,

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By: 
DAVID G. McGUNEGLE
Bar Counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven (7) copies of The Florida Bar's Initial Brief have been sent by regular U.S. mail to the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida, 32399-1927; a copy of the foregoing has been furnished by certified mail, return receipt requested, no. P 480 354 251, to respondent, John Montgomery Greene, 201 North Magnolia Avenue, Post Office Box 1777, Ocala, Florida, 32678-1777; and a copy of the foregoing has been furnished by regular U.S. mail to Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida, 32399-2300, this 26th day of April, 1991.

Respectfully submitted,

David G. McGunegle

DAVID G. McGUNEGLE
Bar Counsel

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JOHN MONTGOMERY GREENE,

Respondent.
_____/

Case No. 75,850
[TFB Case Nos. 90-31,212 (05A)
and 90-31,711 (05A)]

APPENDIX TO
COMPLAINANT'S BRIEF

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IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

JOHN MONTGOMERY GREENE,

Respondent.

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

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 5th day of February 1991.

Robert P. Smith

REFEREE

CERTIFICATE OF SERVICE

I hereby certify that copy hereof has been furnished by mail this 5th 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. Smith

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.

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 15th day of October 1990.

REFEREE

Copy to:

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