

FILED

SID J. WHITE

JAN 31 1991

CLERK, SUPREME COURT

By

Deputy Clerk

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

JACK BARITON,
Respondent.

Supreme Court Case
No. 76,157

The Florida Bar Case
No. 88-51,231 (17B)

AMENDED REPORT OF REFEREE

I. Summary of Proceedings:

The undersigned was appointed to preside in the above disciplinary action by order of the Supreme Court of Florida dated June 25, 1990. The pleadings and all other papers filed with the undersigned, which are forwarded to the Court with the Report, constitute the entire record in this case.

During the course of these proceedings, the Respondent represented himself and The Florida Bar was represented by Kevin P. Tynan, Bar Counsel.

II. Findings of fact as to each item of misconduct of which the Respondent is charged:

After hearing testimony concerning this matter, I find as follows:

1. On April 27, 1988, The Florida Bar received a grievance filed by the Respondent.

2. Said grievance contained a copy of a letter dated January 27, 1988 (Florida Bar Exhibit One) addressed to the attorney that the

Respondent was complaining about.

3. However, the copy of the letter, submitted to The Florida Bar by the Respondent, was not a true and accurate copy of the letter that the Respondent sent to the accused attorney. See Florida Bar Exhibit Two.

4. Florida Bar Exhibit Two is an accurate copy of the letter actually sent to the accused attorney.

5. Florida Bar Exhibit One was on different stationary than Florida Bar Exhibit Two.

6. More importantly, Florida Bar Exhibit One had the following language deleted from the original version of the letter:

" . . . and in addition, there was a two week period around my termination notice where I did not receive a paycheck. Your response at that time was 'when the cases are settled and fees come in, you can deduct your hourly wages that are owed from those monies.'"

7. It is my opinion that the aforementioned omission was not material to the Respondent's complaint to The Florida Bar.

III. Recommendation as to whether or not Respondent should be found guilty:

I find that the Respondent has violated the following rules:

Rules 3-4.2 [Violation of the Rules of Professional Conduct is cause for discipline.] and 3-4.3 [The commission by a lawyer of any act contrary to honesty and justice is cause for discipline.] of the Rules of Discipline; Rules 4-8.4(a) [A lawyer shall not violate the Rules of Professional Conduct.] and 4-8.4(c) [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.] of the Rules of Professional Conduct.

IV. Recommendation as to disciplinary measures to be applied:

I recommend that the Respondent be publicly reprimanded. The Respondent submitted a copy of a letter to The Florida Bar in furtherance of a complaint against another attorney. The Bar through its investigation, of said complaint, found that said document was not a true and accurate copy of the letter in question. These differences are explained above. It is important to note that these differences are not material in nature. If the changes in the the document were material, in nature, I would be recommending a much sterner sanction. See The Florida Bar v. Langford, 126 So.2d 538 (Fla. 1961); The Florida Bar v. Saphirstein, 376 So.2d 7 (Fla. 1979) and The Florida Bar v. Lund, 410 So.2d 922 (Fla. 1982).

In my opinion, the Bar and attorneys in general, should be able to rely on what is submitted to them by other attorneys, as being a true and accurate rendition of the document submitted. In the case before me this obligation of trust was breached, but in the scheme of things, the failure to submit a true and accurate copy of a document, with only non material changes, warrants nothing more than the most lenient recommendation a referee can make. Therefore, I recommend a public reprimand as a disposition of this matter.

V. Personal history:

The Respondent is 44 years of age and was admitted to The Florida Bar on May 19, 1986.

VI. Statement as to past discipline:

Respondent has no past disciplinary history.

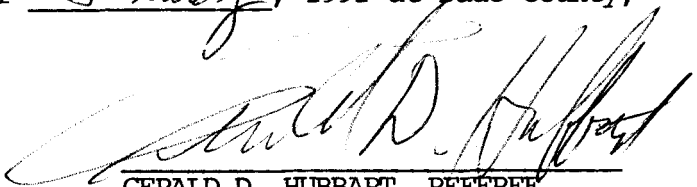
VII. Statement of costs of the proceeding:

The costs of these proceedings were as follows:

<u>Administrative Costs</u> [Rule 3-7.6(k)]	\$500.00
<u>Court Reporter Costs</u>	
Grievance Committee Hearing on 6/14/89	45.00
Grievance Committee Hearing on 3/28/90	518.25
Referee Hearing on 11/8/90	<u>146.75</u>
 TOTAL	 \$1210.00

I recommend that such costs be taxed against the Respondent.

Rendered this 28 day of January, 1991 at Dade County, Florida.


GERALD D. HUBBART, REFEREE

Copies furnished to:

- ✓ Kevin P. Tynan, Bar Counsel, at The Florida Bar, 5900 N. Andrews Avenue, Suite 835, Fort Lauderdale, FL 33309
- ✓ Jack Bariton, Respondent, at 7800 W. Oakland Park Blvd., Suite 109, Sunrise, FL 33321

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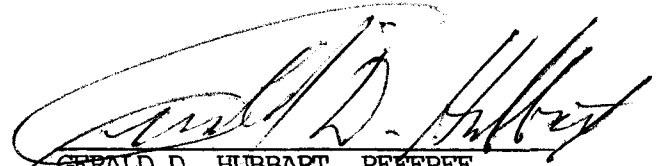
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Grievance Committee Hearing on 3/28/90	518.25
Referee Hearing on 11/8/90	<u>149.50</u>
TOTAL	\$1212.75

I recommend that such costs be taxed against the Respondent.

Rendered this 4 day of Dec, 1990 at Dade
County, Florida.


GERALD D. HUBBART, REFEREE

Copies furnished to:

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