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IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,
Complainant,

vs .

BARBARA L. WOLF,
Respondent.
_____ /

Supreme Court No. 76,797

The Florida Bar No.
89-52,623 (17)

ON REVIEW FROM THE REPORT OF A REFEREE

BRIEF OF RESPONDENT

✓
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BARBARA L. WOLF,
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BRIEF OF RESPONDENT

STATEMENT OF THE FACTS AND OF THE CASE

A. PRIOR DISCIPLINARY PROCEEDINGS

Respondent BARBARA L. WOLF (hereinafter "**Wolf**") has been a member of the Florida Bar since 1977 and Board Certified in Taxation since 1984. Prior to 1986 Respondent had never been the subject of any Florida Bar disciplinary proceedings or complaints.

In 1986, Wolf received a Public Reprimand, pursuant to a Consent Judgment, for trust account violations which included failure to segregate client trust funds, failure to maintain proper records of client trust accounts during the period of July 1984 to September 1985, and issuing several insufficient fund checks from trust accounts. *The Florida Bar's present complaint against Wolf is based on transactions in the same client: trust accounts during the same period of time.*

B. ORIGINAL COMPLAINT OF THE FLORIDA BAR

Between 1982 and 1985, Wolf created seven land trusts for various clients whereby for an investment of between \$10,000 and **\$15,000** the investor acquired beneficial ownership, with limited liability, of a land trust which owned, managed and rented residential real **estate** in Broward County. It was anticipated that rental income would cover the operating costs of the land trusts, including mortgage payments due on the properties. Wolf acted as trustee, accountant, **property** manager and attorney for the land trusts. As a result of the unexpected downturn in the South Florida real estate market in the **mid-1980's**, rental income proved insufficient to cover **costs**. Despite Wolf's subsidization of the land trust accounts with her own funds, most of the real property underlying the land trusts was foreclosed by **1986**.

In 1985, **two** attorneys filed separate complaints against Wolf with the Florida Bar Grievance Committee when two checks **issued** on Wolf's P.A. Trust Account were dishonored for insufficient funds. ¹ On September 13, 1985, Florida Bar Assistant Staff Attorney Richard Liss directed Florida Bar branch auditor Carlos Ruga (hereinafter "**Ruga**") to audit Wolf's professional account **records for** the period January 1, 1984 to September, 1985. On October 11, 1985 Wolf provided Ruga with original bank statements, canceled checks, deposit slips and disbursement journals relating to Wolf's land **trust** accounts, client trust

¹ The checks were in the amounts of \$308.59 and **\$50.00**, respectively, and **both checks subsequently cleared**.

accounts, and professional operating accounts. (Transcript, pages 161 & 257).

In November, 1985, the Florida Bar filed a complaint against Wolf alleging client trust account violations, specifically, commingling of trust account funds, failure to maintain proper records of professional trust accounts and land trust accounts, and issuing several insufficient fund checks from those accounts. Ruga issued a report dated January 31, 1986 based on his audit of Wolf's trust accounts for the period 1/1/84 to 9/15/85. In his cover letter to the Florida Bar, Ruga stated that he had conducted a "detailed review" and concluded that he would not conduct any further review unless directed otherwise.

Ruga's report cited the following as his conclusions:

- 1) Client funds had been expended for purposes other than the specific purpose for which they were entrusted;
- 2) Personal funds and client funds had been deposited into trust accounts;
- 3) Inadequate identification of all trust deposits and checks;
- 4) Trust account balance reconciliations were improperly kept;
- 5) Individual client ledger cards properly reflecting receipts, disbursements and balances were not maintained; and,
- 6) An absence of written authorization permitting the bank to notify the Florida Bar of occurrence of any trust account checks being dishonored, and the issuance of several insufficient fund checks from trust accounts.

Wolf appeared before the Grievance Committee *without counsel* on February 24, 1986 and agreed to the entry of a Consent Judgment which included an *unconditional* guilty plea to issuing insufficiently funded checks as well **as** the allegations numbered 3 through 6 in Ruga's report. Wolf contested the allegations numbered 1 and 2 of that report.

The terms of the Consent Judgment (Wolf's Exhibit 5), prepared by the Florida Bar, agreed to by Wolf and accepted by the Florida Supreme Court were and are as follows:

First, a Public Reprimand;

Second, three years' probation during which time Wolf was required to retain a C.P.A. to review her trust accounts and land trust accounts and to prepare monthly statements for the Florida Bar;

Third, an ongoing audit of trust account and land trust accounts;

Fourth, bifurcation of the proceedings and admission of those portions of the audit which were not in controversy; and,

Finally, further proceedings for matters not expressly stated in the Consent Judgment including, but not limited to, **use** of funds for purposes other than the specific **purpose** for which the funds were entrusted to her, **commingling** of personal and trust account funds, breach of fiduciary duty as trustee for land trusts, conflict of interest, and misappropriation of funds.

In June, 1986, Wolf was sued by approximately half of the investors in the seven land trusts. The suit was settled by Wolf's malpractice carrier in February, 1988 in the amount of \$240,000 to be divided *pro rata* among the plaintiffs. There was no admission of wrongdoing by Wolf.² None of the investors ever filed a grievance against Wolf with the Florida Bar.

In 1986, 1987, and 1988, Ruga made no further investigation or audit of Wolf's professional trust accounts. (Transcript, pages 258 & 260). In 1989, the Bar reactivated its investigation of Wolf's trust account records for the 1984-1985 period and a second **audit** and complaint ensued.

C. SECOND COMPLAINT OF THE FLORIDA BAR

In 1989, Ruga was directed to re-audit the professional trust account records of Wolf which had been furnished to him by Wolf in 1985 and which had been the subject of Ruga's original **audit** and 1986 report. Ruga issued a report of his second audit on October 25, 1989. (Transcript, page 257). After a Florida Bar Grievance Committee Hearing on August 23, 1990, a new complaint was filed against Wolf in October, 1990. *The allegations of the second complaint are based on the same trust account records and bank statements which Wolf furnished to the Bar in 1985 in connection with the original proceeding.* (Transcript, page 288).

² The suit was ostensibly settled because a technical defect in the offering of the land trusts violated securities laws, and rendered the suit indefensible.

On July 6, 1991, the Bar and Wolf entered into a Stipulation, approved by the Honorable Otis Farrington, whereby the Bar limited its Complaint to Counts I through V which arise from transactions in Wolf's trust accounts during the period July, 1984 to December, 1985 and Wolf *stipulated* to all of the factual allegations of Counts I through V of the Complaint, but disputed allegations **as** to her intent, as well as those involving legal conclusions.

On July 22 and 23, 1991, a trial was held before the Honorable Otis Farrington on Counts I through V of the Florida Bar's Complaint. The preponderance of the testimony and evidence presented related to mitigating factors **and** circumstances.

On January 13, 1992, the Referee issued his report, finding Respondent guilty of all counts save Count IV, weighing certain matters in aggravation and mitigation, and recommending the imposition upon respondent of a suspension from practice of two years, rehabilitation, and submitting to the ethics portion of the Florida Bar Examination. From this recommendation both **sides** have appealed; the bar pursues its claim that Respondent should be permanently disbarred, and Respondent seeks a reduction in the recommended sanctions.

SUMMARY OF ARGUMENT

In all of the circumstances of this unfortunate **case**, Wolf has been punished in the **past** with sufficient severity that the

"new" offenses shown do not warrant any substantial additional discipline.

Most significant, the Bar delayed bringing this **case** for almost four years after the original conduct was discovered, and a punishment imposed, which has been served. This delay has been unreasonable, and has prejudiced Respondent, who has redirected her life in a manner consistent with the belief that this matter was behind her. While the evidence discloses an egregious style of bookkeeping, we believe that it **does** not support a finding that respondent *intended* to deprive clients of their funds. All of the trust account violations occurred within a short period of time **when** Respondent was under extreme stress from external forces. Additionally, Wolf has successfully completed three years' probation, and has demonstrated rehabilitation.

ARGUMENT

A. THE MITIGATING FACTORS AT BAR WARRANT A LESSER DISCIPLINE

The Bar's case against Wolf comes to this Court replete with mitigating factors; and while the Referee recognized and considered some of these, we take issue with his treatment of what we believe to be the strongest mitigating factor: an inordinate and inexcusable delay in prosecution which sounds in the nature of an equitable estoppel. The Referee concluded in his report that (p. 13):

"No sufficient reason was disclosed by the evidence for the delay of more than 3 years between the preliminary and final

audit. However, the referee is of the opinion that the delay cannot be considered in mitigation because no prejudice to respondent attributable to the delay **was** disclosed by the evidence, In fact, the delay permitted the respondent to present proof of **a** clean record during her three year probation as a mitigating factor in this proceeding."

This alleged "benefit" to Respondent is a hollow one indeed. It is not **as** if she in any way solicited an opportunity to work through her probationary period to compile an exemplary record. When Respondent - who is not shown to have any expertise in handling legal matters such as attorney discipline - **agreed** in January 1986 that the Bar had a right to further investigate her conduct, implicit within that agreement was the notion that the Bar would act *within a reasonable time!* When the Bar **did not act** for **nearly four** years, respondent was entitled to rely on what appeared to be an end of the matter. By failing to seek retraining in another income-earning capacity, and by committing herself to substantial and commendable expenditures by enrolling her daughters in one of the finest **colleges** in the nation, Respondent experienced **a** substantial change of position in reliance on silence. Had the Bar rumbled thunder on the horizon during this period, Respondent might have been put on notice and on guard. Instead, she was lulled into a sense of security by an unconscionable and totally groundless delay,

The Bar's Complaint against Wolf reflects transactions in Wolf's trust accounts in 1984 which, by the admission of the Bar

auditor assigned to this **case**, were known or should have been known to the Bar in 1986. (Transcript, page 288). This constitutes an unreasonable delay by the Bar in the implementation of disciplinary proceedings against Wolf, a delay which has not been occasioned in any way by Wolf. Apart from the Bar's original proceedings against Wolf in **1985** for trust account violations which occurred in 1984, there is an absence of a prior disciplinary record. The evidence shows the absence of a selfish motive underlying the trust account transactions at bar, because Wolf provided at least \$48,000.00 of her **own** funds to correct account deficits engendered in large part by her poor bookkeeping. The trust account violations occurred during a limited period of time in **1984** when Wolf was under extreme stress as a result of the violent and paranoid behavior of her then husband, whose cocaine addiction came to light in April, 1984. None of Wolf's clients lost any money because Wolf voluntarily rectified deficits the client accounts with her **own** funds *prior* to the Bar's investigation of her professional accounts in 1985. From the outset of the Bar's proceedings in 1985, Wolf produced all of her professional account records to assist the Bar in its investigation. All post-1986 audits of Wolf's professional accounts demonstrate that Wolf's trust accounts are in substantial compliance with the Bar's trust account requirements. Finally, there have been no complaints against Wolf since the Bar initiated **its** proceedings against her in 1985.

Wolf's negligent handling of her client trust accounts in 1984, for which Wolf has already been subjected to Public Reprimand

and three **years** probation, does not **warrant** the severe penalty of disbarment, **or** even the lesser penalty - at this point in **her** life - of a two year suspension.

The purpose of attorney discipline is threefold:

First, the judgment must be fair to society, both in terms of protecting the public from unethical conduct and at the same time not **denying** the public the **services** of a qualified lawyer **as a** result of undue harshness in imposing a penalty.

Second, the judgment must be fair to the **respondent**, being sufficient to punish a breach of ethics and at the same time encourage reformation and rehabilitation.

Third, the judgment must be severe enough to deter others who might be prone or tempted to become involved in like violations." The Florida Bar vs. Pahules, 233 So. 2d 130, 132 (Fla. 1970). Accord The Florida Bar vs. McShirley, 16 FLW S83, January 18, 1991 (Fla. 1991) and The Florida Bar vs. Hartman, 519 So. 2d 606, 608 (Fla. 1988).

Although **upon** a finding of intentional misuse or misappropriation of client funds there is a presumption that **disbarment is** the appropriate punishment, this presumption can be rebutted by **various** acts of mitigation, including lack of dishonest or selfish motive. The Florida Bar vs. Farbstein, 570 So. 2d 933, 936 (Fla. 1990); The Florida Bar vs. Schiller, 537 So. 2d 992, 993 (Fla. 1989); The Florida Bar vs. Miller, 548 So. 2d 219 (Fla. 1989).

The Florida Supreme Court stated in McShirley, supra, that to disbar an attorney without considering the mitigating factors would be "tantamount to adopting a rule of automatic disbarment when an attorney misappropriates client funds. Such a rule would ignore the threefold purpose of attorney discipline in Pahules, fail to take into account any mitigating factors, and do little to further an attorney's incentive to make restitution." 16 F.L.W. at 384.

The instant case is similar to The Florida Bar vs. Miller, 548 So. 2d 219 (Fla. 1989). As a result of a Bar audit of Miller's trust accounts for the period from March, 1986 to October, 1988, it was determined that those accounts reflected deficits, which at one point totalled \$28,000.00, and that Miller was expending trust funds for purposes other than those for which the funds were entrusted. However, the Florida Supreme Court determined that the appropriate discipline would be a ninety day suspension from the practice of law due to evidence of some of the same mitigating factors which are extant in Wolf's case. Miller argued that he had no ill intent, the account violations arose from sloppy bookkeeping, and no client was disadvantaged because he applied \$30,000 of his own fees to fully compensate those clients. The Florida Supreme Court noted that Miller had no prior disciplinary record, no dishonest intent, and apparently no knowledge of the problems in his trust account. The Court concluded: "Miller's cooperation, his lack of a greedy motive, and his ultimate rectifying of the situation serve to mitigate the sanction we impose." Id. at 221.

**B. THE BAR'S FOUR YEAR DELAY IN BRINGING THIS COMPLAINT
IS UNREASONABLE AND HAS PREJUDICED WOLF**

Rule 3-3.1 of the Rules Regulating the Florida Bar states that the board of governors, grievance committees, and referees shall have such jurisdiction and powers as are necessary to conduct the "proper and speedy disposition of any investigation or cause". Rule 3-7.6 (f) requires Bar counsel to make such investigation **as** is necessary and to "prepare and prosecute with utmost diligence any **case** assigned." (Emphasis added).

The Florida Supreme Court has stated: "This Court is committed to the proposition that disciplinary proceedings should be handled with dispatch, without undue delay." The Florida Bar vs. Papy, 358 So. 2d 4,6 (Fla. 1978) (citing The Florida Bar vs. King, 174 So. 2d 398 (Fla. 1965), The Florida Bar vs. Randolph, 238 So. 2d 635 (Fla. 1970) and State vs. Oxford, 127 So. 2d 107 (Fla. 1961)).

In Papy, supra, the Court held that the Bar's inordinate delay of three years between Respondent's offenses, which included dishonesty and misuse of client funds, and the grievance committee hearings and Bar's complaint on those charges, coupled with the respondent's absence of a prior disciplinary record and good behavior subsequent to the charged incident, mandated reversal of a recommendation of disbarment.

In The Florida Bar vs. Pritikin, 259 So. 2d 138 (Fla. 1972), the Bar issued a second complaint against Respondent based on the same general scheme or transaction for which respondent had already

been suspended from practice. The Court held that the Bar's tardy prosecution justified a nunc *pro tunc* **approach** whereby Respondent's second suspension would be considered as already having run concurrently with the time theretofore served in suspension.

In **The Florida Bar vs. Randolph**, 238 So. 2d 635 (Fla. 1970), the Court held that the delay of six years between the Bar's initial complaint against Respondent and the final judgment of the Board of Governors justified a mitigation of discipline. The Court reasoned that when the Bar fails to pursue its responsibility for exercising diligence in the prosecution of attorney misconduct **"...the penalizing incidents which the accused lawyer suffers from unjust delays, might well supplant more formal judgments as a form of discipline. This is so even though the record shows that the conduct of the lawyer merits discipline."** *Id.* at **638**.

The Bar's present complaint does not allege that any offenses occurred after **1985** nor does it contain any charges which could not have been brought in **1986**, (Transcript, page 288). Both the 1986 complaint and the present complaint are based on Wolf's professional account records during the same period of time, **1984-1985**, all of which were furnished to Ruga in **1985**. (Transcript, pages **235, 258, 288**).

In the instant case, the Bar completely ceased its investigation of and proceedings against Wolf between **1986** and **1989**. (Transcript, pages 258 & 260). Notwithstanding the Bar's unexplained three year moratorium, the Bar directed Ruga to reaudit the bank statements and account records which the Bar had obtained from

Wolf in 1985 (Transcript, pages 257 & 259) and which Ruga had purported, in his January 31, 1986, report to have subjected to a **"detailed"** examination in 1985.

There were no complaints filed against Wolf which precipitated or otherwise justified the Florida Bar's resumption of an investigation into account records it had obtained in 1985. Nor has the Bar's delay in any way been occasioned by any acts or omissions of Wolf. (Transcript, pages 161,257,288)" The only significant event to occur in 1989 is Wolf's successful completion of the three **year** probation period imposed by the 1986 Consent Judgment. The Bar's failure to proceed against Wolf until 1989 notwithstanding that it has had Wolf's account records since 1985, is a very clear indication that the Bar knows that Wolf **does** not, in fact, pose a threat to the public and should not be prohibited from practicing law.

Wolf reasonably believed that the Bar proceedings against her were concluded, based on the Consent Judgment, the Public Reprimand imposed thereon and the fact that the Bar ceased its investigation and proceedings against her. The Bar's delay in bringing this complaint has resulted in substantial prejudice to Wolf because she has materially changed her financial obligations as a **result**.

Wolf is obligated to pay 75% of the costs of her two daughters' college and post-graduate education costs, (Transcript, page 73). In 1989, Wolf enrolled her elder daughter at Yale University. This semester Wolf enrolled both of her daughters at

Yale at a cost to Wolf of **\$17,000.00** per semester for tuition **costs** alone. (Transcript, page **75**). Wolf believed in **1989** that, having successfully completed her probation period coupled with the cessation of Bar proceedings against her, there was no reason to anticipate that she would be unable to fulfill her desire and obligation to fund her daughters' higher education at the college of their choice.

C. WOLF LACKED INTENT TO MISUSE OR DEPRIVE CLIENTS OF FUNDS

Wolf has never denied that her management and record-keeping of her client trust accounts in **1984** constituted a departure from the standards for trust accounting **required** by Florida Bar rules and regulations, as is evidenced by the **1986** Consent Judgment and Wolf's testimony at trial. Wolf testified that she delegated her professional account record-keeping duties to various bookkeepers and secretaries from the outset of her solo practice in **1980**. (Transcript, pages **108, 111, 112**). During the **1983-1985** period Wolf asked a series of secretaries to keep the books but she failed to insure that those duties were properly performed. (Transcript, pages **70,79,80,112,130**). Wolf further admitted at trial that she did not scrutinize, balance or reconcile her trust accounts during the period of time in question. (Transcript, pages **86,127, 139, 148-149, 152, 198**). Wolf compounded the foregoing problems by merging the client trust accounts in **1984**. (Transcript, page **128, 131**).

As a result of Wolf's admittedly abysmal co-mingling of client trust account funds and failure to keep track of account balances, ten to fifteen client trust account checks were returned between **1983** and **1984** for insufficient funds (all of which cleared promptly after **Wolf** became aware of the account deficiency). (Transcript, page **113**). Wolf exacerbated **the** confusion by prepaying land trust expenses with her own funds and recouping those advances when land trust revenues were received. (Transcript, pages, **113, 116, 234**).

However, this is clearly not a case of misappropriation or conversion of client funds. There is no evidence of **a** selfish motive underlying the transactions in questions. **Wolf's** denial of **any** intention to deprive any clients of their funds (Transcript, pages **146, 148, 152, 154, 204-205, 219**) is supported by the facts that:

- 1) **Wolf** contributed between **\$48,000.00** and **\$76,000.00 of her own** funds to correct deficits in client trust accounts (Transcript, pages **117 & 253; Wolf's Exhibit 8**) which she has never recovered (Transcript, pages **234, 239-240**);
- 2) Wolf had voluntarily and fully restored all funds to the accounts and clients in question prior to **the** Bar's initiation of disciplinary proceedings against her in **1985**, with the exception of the Nemetz account which was restored in **July, 1986** (Transcript, pages **121-122, 138-139, 143**); and
- 3) **No** claims have been made against Wolf by any clients or third parties charging any deficiencies in Wolf's handling or remittance of client or third-party funds (Transcript, pages **133, 140, 143, 145, 164, 172**).

Wolf and the Bar account auditor assigned to this case, Ruga, agree that, at the very least, Wolf contributed in excess of \$48,000.00 of her **own** funds to her client trust accounts after July, **1984**.

Wolf contends that she contributed \$76,004.01 of her **own** funds to the trust accounts after September, 1982 (Wolf's Exhibit 8) or \$46,000.00 after July, 1984 (Transcript, page 117). Ruga testified that his summary of Wolf's trust accounts shows that Wolf deposited \$48,689.28 of **her own** funds into the trust accounts after July, 1984 (Transcript, page 253).

Ruga testified that the **aggregate** disbursement to Wolf from the trust accounts after July 2, 1984 was \$107,636.32 (Transcript, page 255). Bar Exhibits 11, 12 and 14 (Wolf's Accountings to Beneficiaries of Land Trusts 3, 5 & 4, respectively) account for disbursements from Land Trusts 3, 4, and 5 and enumerate land trust expenses, including legal fees and sales proceeds to Wolf, sales and rental commissions to Downtown Development as property manager and other **proper** expenses. Wolf stated that **she** prepared those accountings at the Bar's request and based on Ruga's figures. (Transcript, **pages** 179, 186, 236). Ruga conceded that once an attorney is entitled to a fee, he or she is obligated to **take** the amount representing the fee out of the client trust account. (Transcript, page 266).

D. ALL OF THE TRUST ACCOUNT VIOLATIONS OCCURRED DURING
A SHORT PERIOD OF TIME WHEN WOLF WAS UNDER EXTREME STRESS

This is a case of dire inattention to proper trust account procedures and improper commingling of trust funds for a limited period of time, during which Wolf was embattled against domestic violence and turmoil engendered by the cocaine addiction of her then husband, Rodney Dobler.

There was extensive testimony at trial that in the fall of 1983 Wolf's then husband, Rodney Dobler (hereinafter "Dobler"), began to manifest bizarre and often violent behavior as a result of his cocaine addiction which came to light after his marriage to Wolf in July, 1983.

Psychiatrist Richard F. Brohammer testified that Wolf contacted him in November, 1983 and told him that she was distraught over the erratic behavior of Dobler. (Transcript, page 20). Wolf contacted him again in February, 1984 and expressed concern about Dobler's aggressive behavior as a result of which Wolf was afraid for her own physical safety and that of her daughters. (Transcript, page 24). During this time, Dr. Brohammer treated Dobler (Transcript, page 21) as well as Wolf's daughters. (Transcript, page 25).

Maia Walters, who had been Wolf's legal secretary from 1983 to 1986, testified that in 1984 Wolf was extremely upset because she said Dobler had a very severe drug problem. Dobler was admitted to Humana Hospital for treatment of his drug addiction in May, 1984. (Transcript, page 54). Ms. Walters also testified that sometime in

June, 1984 Dobler had removed acoustical **tiles** from the ceiling in the office he shared with Wolf; she later learned that he did this in an effort to find hidden cameras. (Transcript, pages 60-62).

Wolf testified that she married Dobler in July, **1983**. However, as early as the honeymoon, Wolf observed behavior which caused concern and prompted her to file her first petition for **divorce**. (Transcript, pages 86-90). In early **1984**, Wolf became alarmed by Dobler's bizarre and paranoid behavior such as stalking the house at night with a gun and crawling through the attic in search of surveillance cameras. (Transcript, pages **90-91, 96**). In April, **1984**, Wolf learned from Dobler that he was addicted to cocaine. (Transcript, pages **92-93**). Dobler was admitted to Humana Hospital for drug treatment in May, **1984**. (Transcript, page 100). Dobler's behavior caused Wolf serious concern about her physical safety and that of her daughters (Transcript, pages **95, 96 & 168**). Wolf divorced Dobler in January, **1984** but he continued to live with her on an off until November **1984** (Transcript, pages 98 & 166) largely because Dobler's parents implored Respondent to **provide** support to Dobler during his putative recovery period. (Transcript, pages **104-105**). Between November **1983** and November **1984** Wolf contacted the police **5** to **6** times to obtain protection or a restraining order against Dobler because he threatened physical harm to herself and her daughters. (Transcript, pages 97 & 100).

Had Wolf herself been addicted to cocaine, she would receive leniency and rehabilitation from the Bar. Wolf should not be penalized more harshly for her long past trust account shortcomings

based on the fact that they did not arise from an illicit narcotics habit of her **own**.

**E. WOLF HAS SUCCESSFULLY COMPLETED THREE YEARS' PROBATION
AND HAS DEMONSTRATED COMPLETE REHABILITATION**

Wolf has been a licensed attorney in the State of Florida since 1977 and has never been subject to discipline or disciplinary proceedings apart from the 1986 proceedings with which the present: complaint is associated. Since 1986, there have been no disciplinary proceedings or complaints **filed** against Wolf.


Wolf voluntarily hired a C.P.A. to audit her trust accounts from 1986 to 1989 and again in 1991. Wolf has completely rehabilitated her record keeping as is evidenced by C.P.A. Elaine Norton's audit of Wolf's trust accounts from 1986 to the present, which show that Wolf's trust accounts have been in substantial compliance with **Bar** rules and regulations since 1986 (Wolf's Exhibits 6 & 7). Significantly, the Bar does not allege that Wolf violated trust account standards after 1984.

James F. **Savage**, Investigations Editor for the Miami Herald, testified that he has known Wolf for 24 **years** and, that notwithstanding the Bar's proceedings against her, Wolf has a reputation for honesty in the community such that he recently referred a family member to Wolf for legal representation (Transcript, page 250).

CONCLUSION


Respondent BARBARA L. WOLF respectfully submits that if discipline is imposed against her, any such discipline should be reduced by the myriad mitigating factors before the Court. Appropriate discipline in this case would be a further Public Reprimand and additional trust account surveillance **as** may seem appropriate. In order to be consistent with prior **cases**, Wolf ought in no case to be punished more severely than was Miller, *supra*. The circumstances in both cases are remarkably similar with the exception that Miller lacked the mitigating circumstances of a burdensome and distracting marriage to a drug abuser and the profound disadvantage inherent in a delayed prosecution.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was *sewed* by U.S. Mail to Honorable *Otis Farrington*, Referee, 625 N.E. 11th Avenue, Fort Lauderdale, Florida 33304 and David M. Barnovitz, Bar Counsel, The Florida Bar, 5900 North Andrews Avenue, Suite 835, Fort Lauderdale, Florida 33309 this 8th day of June, 1992.



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