

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

*Original*  
**FILED**  
SID J. WHITE  
JUL 5 1991  
CLERK, SUPREME COURT.  
By \_\_\_\_\_  
Chief Deputy Clerk

THE FLORIDA BAR,  
  
Complainant,  
vs.  
BRUCE L. HOLLANDER,  
  
Respondent.

Supreme Court Case  
No. 76,862

The Florida Bar Case  
No. 90-50. 105 (17H)

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 January 11, 1991. The pleadings and all other papers filed with the undersigned, which are forwarded to the Court with this 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:

A. In October of 1987, Frank Ferrano of Eagle Air Conditioning contacted Automated Credit Services (A.C.S.) with regard to collecting an outstanding debt.

B. A.C.S. is owned 100% by Bruce Hollander and his wife, and is located in the same office building as Hollander and Associates (The Firm). R. 50; 57.

C. A retainer agreement was executed October 19, 1987 (FB Exb. 1). Ferrano signed on behalf of Eagle Air Conditioning and Respondent signed on behalf of A.C.S.

D. Ferrano agreed to a contingent fee of one-third of any monies collected on his behalf.

E. Sometime after October 19, 1987, the Ferrano collection matter was referred to Hollander and Associates to file suit; someone at the Hollander firm executed a "new case report" which denotes that the Firm would be paid a contingent fee. (FB. Exb. 2)

F. A handwritten note appears in the Respondent's file which indicates a 40-60 split of any settlement. (FB. Exb. 3)

G. A note to the Hollander file dated June 29, 1988, by Respondent states "modified fee 50 per hour against 1/3 recovery." (Record P. 60. FB Exb.4)

H. Ferrano admits having a discussion with Respondent regarding a change in the fee arrangement, but did not agree to it. (Record P. 24)

I. Respondent admits that there is no written retainer agreement between the Respondent and/or his Firm and Ferrano. (Record P. 54)

J. The Respondent is the sole partner in the entity known as Hollander and Associates, P.A., the law firm that represented Ferrano/Eagle Air Conditioning.

K. Respondent acknowledges that this matter began as a suit on a mechanic's lien bond, from which the fees would be paid (Record 58.) and after filing suit and spending much time on the file it was learned that no bond existed and therefore no fees would be collected. (Record 90).

L. Respondent admits that he received Three Thousand Two Hundred Fifty dollars (\$3250.00) as a settlement of the Ferrano collection matter, which he applied toward his legal fee and that Ferrano never received any proceeds from this settlement.

M. Ferrano was never given a copy of a closing statement which sets forth how his monies were disbursed. (Record 54)

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

I find that the Respondent has violated the following rules: Rules 4-1.5(A) (An attorney shall not enter into an agreement for, charge, or collect an illegal, prohibited, or clearly excessive fee.); 4-1.5(F) (1) (Contingent fee agreements must be in writing); and 4-1.5(F) (2) (Upon recovery on contingent fee agreement a lawyer must execute and keep a distribution statement) of the Rules of Professional Conduct.

IV. Recommendation as to the disciplinary measures to be applied:

I recommend that Respondent receive a public reprimand to be administered by the Board of Governors of the Florida Bar and published in the Southern Reporter. In my opinion the Respondent was only entitled to a one third legal fee, as there is no

modification in writing. Accordingly, I also recommend that the Respondent be instructed to remit to Ferrano Two Thousand One Hundred Sixty-seven Dollars and seventy-five cents (\$2167.75), which sum represents two thirds of the monies recovered on his behalf.

The Florida Bar v. Lord, 433 So. 2d 983 (Fla. 1983) states that:

"Discipline for unethical conduct by a member of the Florida Bar must serve three purposes: 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 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."

I find that the public reprimand and restitution that I have recommended are consistent with the precepts enunciated in The Florida Bar v. Lord, Id.

V. Personal history:

Respondent is 48 years of age and was admitted to The Florida Bar in 1973.

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 4/7/90  | 80.00           |
| Grievance Committee hearing 6/5/90  | 217.25          |
| Deposition of David Rappaport and<br>Jerome Ventura 4/5/91 (appearance fee) | 90.00           |
| Deposition of Ferrano 4/5/91  | 186.44          |
| Final hearing on 5/8/91   | <u>443.40</u>   |
| <br>TOTAL COSTS DUE THE FLORIDA BAR   | <br>\$ 1,517.09 |

I recommend that such costs be taxed against  
Respondent.

Rendered this 2nd day of July 1991 at Dade County,  
Florida.

  
\_\_\_\_\_  
NANCY J. POLLOCK, Referee

Copies furnished to:

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Avenue, Suite 835, Fort Lauderdale, FL 33309  
Bruce L. Hollander, Respondent, at 1940 Harrison Street, Hollywood,  
FL 33020