

Based upon the pleadings, matter set forth in the Request for Admissions which have been deemed admitted, as well as the testimony and evidence presented at final hearing, I find:

Findings as to Count I

1. Respondent, NORMAN SOLOMON, is, and at all times hereinafter mentioned was, a member of The Florida Bar, albeit suspended from the practice of law since 1976, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. Respondent is the President of A. Taylor and Sons, a business entity which is involved in the sale of jewelry.

3. Respondent is the President of Greenleaf Realty Corporation.

4. During December 1987 through at least December 1988 Greenleaf Realty Corporation maintained a bank account at Eagle National Bank of Miami, Account No. 10313117600 (hereinafter referred to as "Greenleaf account").

5. Respondent is the sole signatory on the Greenleaf account.

6. On or about January 3, 1988, Respondent purchased jewelry on behalf of A. Taylor and Sons from Oriental Treasures.

7. On or about January 3, 1988 Respondent issued Check No. 1965 from the Greenleaf account, made payable to Oriental Treasures, in the amount of ONE THOUSAND THREE HUNDRED EIGHTY THREE DOLLARS AND SEVENTY CENTS (\$1,383.70).

8. Respondent tendered the aforementioned check to Oriental Treasure in payment for the jewelry that he purchased.

9. Respondent's Check No. 1965 was dishonored by his bank

due to insufficient funds.

10. At the time he issued Check No. 1965, Respondent knew or should have known that he did not have sufficient funds in the Greenleaf account to fund Check No. 1965.

11. Respondent's actions, described above, constitute the issuance of a worthless check.

12. An audit of the Greenleaf account during the period December 1987 through December 1988 was undertaken by The Florida Bar's Staff Auditor.

13. The audit reflected that between December 1987 and December 1988 Respondent issued checks which were dishonored by the bank due to insufficient funds in amounts ranging from TWENTY DOLLARS (\$20.00) to SIX THOUSAND DOLLARS (\$6,000.00).

14. Further, between December 1987 and December 1988 the Greenleaf account was in overdraft status on 117 occasions in amounts ranging from THIRTEEN DOLLARS AND EIGHTEEN CENTS (\$13.18) to TEN THOUSAND SEVEN HUNDRED EIGHTY THREE DOLLARS AND FIFTY NINE CENTS (\$10,783.59).

15. Between December 1987 and December 1988 Respondent engaged in unethical banking activities involving checkkiting between the Greenleaf account and bank accounts maintained by A. John Goshgarian including, but not limited to, Account No. 1713051-518, NCNB National Bank (formerly Pan American Bank, N.A.) Miami, Florida.

In addition, based upon the testimony and evidence presented at the final hearing, I make the following factual findings to supplement the unethical banking activities referenced in Count I:

16. During the period involved in this complaint, Respondent

was a suspended attorney who was employed as office manager for attorney John Goshgarian.

17. The checkkiting activities which Respondent engaged in specifically involved a bank account of the law office of John Goshgarian which was known as a "special account" into which funds of clients were deposited.

18. On several occasions, checks representing settlement proceeds received by the law firm of John Goshgarian on behalf of clients were deposited by Respondent directly into Respondent's Greenleaf account.

19. At the time the funds were deposited, Respondent's Greenleaf account was overdrawn. The funds, therefore, had the effect of reducing the shortage in Respondent's account.

20. Although the clients subsequently received the funds which they were entitled to receive, Respondent's handling of these trust funds constitutes misappropriation.

Findings as to Count II

1. Rhoda Solomon was the mother of Respondent.

2. Rhoda Solomon is the owner of record of a cooperative apartment located in Dade County, Florida, to wit: Fairmont House, Apartment 44, 2700 NE 135th Street, North Miami, Florida (hereinafter referred to as "property").

3. Rhoda Solomon died June 26, 1979 leaving a will which transferred her interest in the property to Samuel Solomon, Jr., her surviving spouse and father of Respondent.

4. The will of Rhoda Solomon was not submitted for probate.

5. On August 6, 1979 all of the assets belonging to Samuel Solomon, Jr., including the property referred to above, were placed

in a trust designated the "Solomon Family Trust" in which Samuel Solomon Jr., was the primary beneficiary.

6. Samuel Solomon, Jr., died August 27, 1985.

7. The Solomon Family Trust was dissolved in May 1987.

8. Pursuant to the Dissolution of Trust Agreement dated May 31, 1987, the interest of the Solomon Family Trust in the property was distributed to Respondent in lieu of a cash distribution.

9. Notwithstanding the death of Rhoda Solomon and the intended transfers of interest in the property, title to the property remained in the name of Rhoda Solomon.

10. Respondent resided at the property as of August 27, 1979 and continuing thereafter until at least March 1989.

11. Until his death in August 1985, Samuel Solomon, Jr., resided with Respondent at the property.

12. Renewal applications for Homestead Tax Exemptions were mailed by the Dade County Property Appraiser to Rhoda Solomon, as record owner of the property, even after her death.

13. A 1985 Homestead Tax Exemption Renewal Application dated January 3, 1985 was filed with the Dade County Property Appraiser (hereinafter referred to as "1985 exemption application").

14. The 1985 exemption application purports to bear the signature of Rhoda Solomon.

15. At the time the 1985 exemption application was executed, Rhoda Solomon was deceased.

16. A 1986 Homestead Tax Exemption Renewal Application dated January 22, 1986 was filed with the Dade County Property Appraiser (hereinafter referred to as "1986 exemption application").

17. The 1986 exemption application purports to bear the

signatures of both Rhoda Solomon and Samuel Solomon, Jr.

18. At the time the 1986 exemption application was signed, both Rhoda Solomon and Samuel Solomon, Jr., were deceased.

19. At the time the 1985 and 1986 exemption applications were signed, Respondent resided at the property.

20. Respondent signed the name of Rhoda Solomon on the 1985 exemption application.

21. Respondent signed the names of Rhoda Solomon and Samuel Solomon, Jr., on the 1986 exemption application.

22. Respondent's actions of signing the names of Rhoda Solomon on the 1985 exemption application and Rhoda Solomon and Samuel Solomon, Jr., on the 1986 exemption application constitutes forgery.

23. The filing of the forged tax exemption applications with the Dade County Property Appraiser constitutes knowingly giving false information for the purpose of claiming Homestead exemptions in violation of §196.131, Florida Statutes.

III. RECOMMENDATIONS AS TO WHETHER OR NOT THE RESPONDENT SHOULD BE

FOUND GUILTY: I recommend that Respondent be found guilty of misconduct involving issuing worthless checks and unethical banking practices involving checkkiting in violation of Rule 3-4.3 of the Rules of Discipline (commission of an act which is unlawful or contrary to honesty and justice), Rule 4-8.4(b) (criminal act that adversely reflects on the lawyer's honesty trust worthiness or fitness as a lawyer in other respects) and Rule 4-8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) of the Rules of Professional Conduct.

In addition, I recommend that Respondent be found guilty of

forgery and giving false information for purposes of claiming a Homestead tax exemption in violation of Rule 1-102(A)(4) (conduct involving dishonesty, fraud, deceit or misrepresentation) and Rule 1-102(A)(6) (conduct that adversely reflects on fitness to practice law) of the Code of Professional Responsibility.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

I recommend that Respondent be disbarred for a period of five years in accordance with Rule 3-5.1(f) of the Rules of Discipline. In recommending discipline I have considered Standards 5.11(b) and (f) of the Standards for Imposing Lawyer Sanctions as well as the following factors in aggravation:

a. Respondent's prior disciplinary history consisting of a private reprimand (1970), private reprimand (1974), suspension (1976) and suspension (1982). Respondent has never been reinstated to membership in The Florida Bar. In addition, Respondent was also suspended from practicing before the U.S. District Court for the Southern District of Florida in 1967.

b. The cumulative nature of Respondent's misconduct, including several instances of misconduct involving dishonesty, fraud, deceit and misrepresentation. This further demonstrates Respondent's unfitness as a lawyer.

c. As a suspended attorney, Respondent was prohibited from having direct contact with clients or handling trust funds or property. See Rule 3-6.1(c) of the Rules of Discipline. Respondent clearly violated this provision while engaging in the misconduct involving unethical banking practices (Count I).

VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED:

I find that the following costs were reasonably incurred by The

Florida Bar.

Administrative Costs
[Rule 3-7.6(k)(1), Rules of Discipline] \$ 500.00

Court Reporter:

Grievance Committee hearing (5/31/89) 520.55

Hearing before Referee (1/25/91)

84.50

Final Hearing before Referee (4/18/91)

230.75

Miscellaneous and Investigative Costs:

Bank Records 2,008.75

Document Examiner
(Report and testimony before
Grievance Committee)

~~906.35~~

~~906.75~~

995.75

Subpoenaes

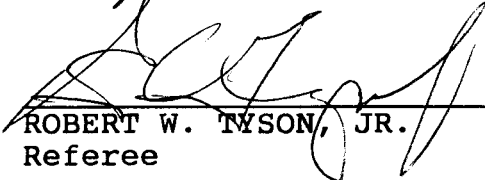
~~56.00~~

4340.30

TOTAL

It is recommended that the foregoing costs be assessed against Respondent. It is further recommended that execution issue with interest at the rate of twelve percent (12%) to accrue on all costs assessments not paid within thirty (30) days of entry of the Supreme Court's final order, unless the time for such payment is extended by the Board of Governors of The Florida Bar.

Dated this 29 day of May, 1991.


ROBERT W. TYSON, JR.
Referee

Copies furnished to:

Patricia S. Etkin, Bar Counsel
Norman F. Solomon, Respondent