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AUG 12 1991

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

Case No. 77,269
TBF No. 91-10,887(13A)

LORETTA B. ANDERSON,

Respondent.

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as Referee to conduct disciplinary proceedings herein according to the Rules of Discipline, a hearing was held on June 25, 1991. The following attorneys appeared as counsel for the parties:

For the Florida Bar - Thomas E. Deberg

For the Respondent - Delano Stewart

II. Findings of Fact as to Each Item of Misconduct of Which the Respondent is Charged: The facts which caused criminal charges to be made against the Respondent are not in dispute and are as follows:

While employed as an Executive Assistant with the Tampa Housing Authority, Respondent forged signatures on two (2) Tampa Housing Authority checks, then converted the money. She also submitted three (3) money orders purchased by the Tampa Housing Authority to pay her personal credit card debts. The total

amount of money converted to the Respondent's own use was \$4,500.00. On June 20, 1990, Respondent pled no contest to Grand Theft Third Degree and Uttering a Forged Instrument. Adjudication was withheld and Respondent was placed on three (3) years probation. She was also ordered to make restitution and pay court costs.

III. Recommendation as to Whether or Not the Respondent Should be Found Guilty: As to the allegations in the complaint, I recommend that the Respondent be found guilty of the following violations of the Rules of Discipline.

1. Rule 3-4.3 (commission of acts which are unlawful and contrary to honesty);
2. Rule 4-8.4(b) (commission of criminal acts); and
3. Rule 4-8.4(c) (conduct involving dishonesty or fraud).

Although the Florida Bar also requested that the Respondent be found guilty of Rule 5-1.1 relating to trust accounts, I do not deem the acts committed by the Respondent a "Trust Account" violation.

IV. Recommendation as to Disciplinary Measures to be Applied: I recommend that the Respondent be suspended for a fixed period of three (3) years, and for an indefinite period until Respondent shall pay the cost of these proceedings.

The Florida Bar has demanded the Respondent be disbarred, citing The Florida Bar v. Shuminer, 567 So.2d 430 (Fla. 1990) and

The Florida Bar v. Shanzer, 572 So.2d 1382 (Fla. 1991). In rebuttal, the Respondent, while acknowledging the seriousness of the forgeries and misappropriations she committed, urges the Referee to consider the fact that they were not a result of her status as a practicing attorney but were committed while she worked as an employee of the Tampa Housing Authority, and therefore, her conduct does not rise to the level of the Shuminer and Shanzer cases where the attorneys were found guilty of misusing client's funds. I agree with the Respondent's contention.

Although the Florida Bar equates Respondent's conduct here to stealing from a client, I feel her status as an attorney had nothing to do with her forgeries and conversion. Specifically, the money was not entrusted to her in her capacity as an attorney.

I have considered several mitigating factors in reaching my recommendations and am aware that "in the overwhelming number of recent cases, we have disbarred attorneys for misappropriation of funds notwithstanding the mitigating evidence presented." (The Florida Bar v. Shuminer)

Among the mitigating factors considered was the age of the Respondent (48) and the Respondent's lack of any prior disciplinary measures or convictions as a member of the Florida Bar for fifteen (15) years. I also considered the relationship of the Respondent to the victims.

Another consideration taken into account has been the Respondent's efforts to make, and in fact making, \$3,500.00 in restitution prior to criminal charges being filed. As noted earlier, she did not misappropriate money entrusted to her by clients.

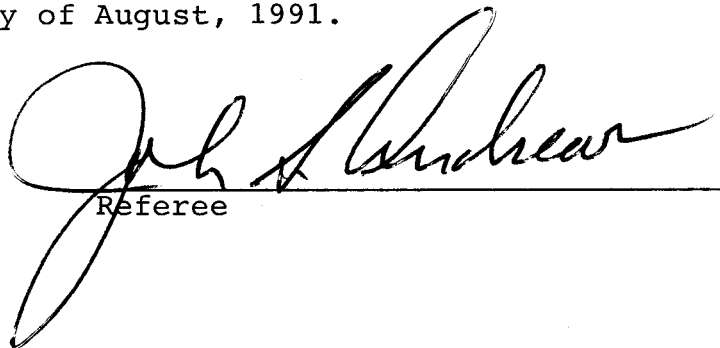
Other mitigating evidence which carried great weight was the Respondent's remorsefulness. She is without a doubt truly remorseful. Although the Respondent attributes emotional problems as perhaps a reason for her conduct, I do not believe she views it as an excuse for the criminal acts she committed.

The Respondent has alluded to her status as a member of a minority group as an explanation for her current problems with the Florida Bar. I find her testimony as to the problems she may have encountered as a practitioner irrelevant to the charges to which she has been found guilty and decline to consider her race or gender as mitigating factors.

Considering the gravamen of the offenses and the mitigating circumstances a three (3) year suspension is appropriate.

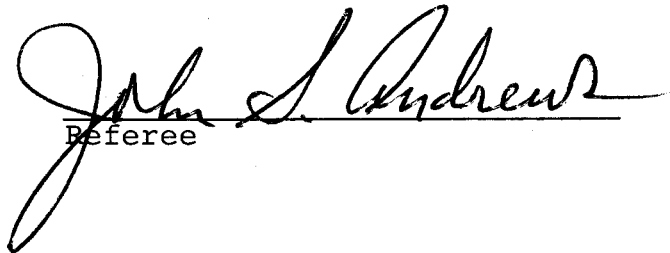
The Respondent is directed to pay costs of this action.

Dated this 8th day of August, 1991.


Referee

Certificate of Service

I hereby certify that a copy of the above report of referee has been served on Thomas E. Deberg, Esq., Assistant Staff Counsel, The Florida Bar, Suite C-49, Tampa Airport, Marriott Hotel, Tampa, Florida 33607; Delano Stewart, Esq., 400 East Buffalo Avenue, Suite 103, P.O. Box 1393, Tampa, Florida 33603; and John T. Berry, Esq., Staff Counsel, The Florida Bar, 600 Appalachian Parkway, Tallahassee, Florida 32399 this 8th day of August, 1991.


Referee