

IN THE SUPREME COURT OF FLORIDA
BEFORE A REFEREE

THE FLORIDA BAR,

Complainant,

v.

HARRY WINDERMAN,

Respondent,


Case No. 78,226

FILED

SID J. WHITE

APR 13 1992

CLERK, SUPREME COURT

By 
Chief Deputy Clerk

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

The undersigned was appointed as referee to preside in the above disciplinary action by order of this court dated July 23, 1991. The pleadings, transcript of final hearing and all other papers filed with the undersigned, **which** are forwarded to the court with this report, constitute the entire record in **this** case.

The final hearing **was** held on March 23 and 24, 1992. Respondent appeared in person. **The** bar was represented by David M. Barnovitz, Assistant Staff Counsel,

11. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH THE RESPONDENT IS CHARGED:

After hearing all of the testimony and evidence presented to me, I find as follows with respect to each of the counts alleged in the **bar's** complaint:

AS TO ALL COUNTS

1. Respondent is, and at all times hereinafter mentioned, was, a member of The Florida Bar subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida. (Admitted in response to request for admissions.)

COUNT I

2. Heretofore, in or about February, 1989, respondent undertook representation of one Donald F. Wells ("Wells") in connection with a claim by Wells against Security and Investment Corporation of the Palm Beaches, Willis B. Mall, Phyllis V. Mall, Gaylee C. Gulley, Darryl Mall and Richard T. Stierer. Hereafter, Security and Investment Corporation of the Palm Beaches will be called "Security" and the other above referenced defendants will be called "defendants". (Admitted in response to request for admissions.)

3. The gravamen of Wells' claim was that he had invested money with Security and that Security and the other defendants had improperly induced such investment and improperly dealt with it after the investment was made, thereby causing Wells to lose his investment. (Admitted in response to request for admissions.)

4. Respondent, upon accepting Wells as a client for purposes of suing Security and the defendants, represented to Wells that respondent was possessed of the requisite knowledge, skill and expertise to prosecute a civil action against Security and the defendants. (Admitted in response to request for admissions.)

5. Thereafter, in **March, 1989**, respondent filed a summons and complaint and various discovery pleadings in an action commenced on behalf of Wells against Security and the defendants, venued in the Circuit Court, Fifteenth Judicial Circuit bearing case number 89-2394AE. (Admitted in response to request for admissions.)

6. By motion filed **March 31, 1989**, Security and the defendants sought an order dismissing the complaint. (Admitted in response to request for admissions.)

7. **Respondent** filed a first amended complaint on **May 26, 1989**. (Admitted in response to request for admissions.)

8. By motion filed **June 23, 1989**, Security and the defendants sought an order dismissing the first amended complaint. (Admitted in response to request for admissions.)

9. Respondent filed a second amended complaint on **July 21, 1989**. (Admitted in response to request for admissions.)

10. By motion filed **August 10, 1989**, Security and the defendants sought an order dismissing the **second** amended complaint. (Admitted in response to request for admissions.)

11. An order dismissing the second amended complaint **was** duly entered on **August 31, 1989**. (Admitted in response to request for admissions.)

12. Respondent filed a seven (7) count third amended complaint on **September 7, 1989**. (Admitted in response to request for admissions.)

13. By order entered **November 6, 1989**, counts three, five and seven of the third amended complaint were dismissed, with prejudice **and** counts one, two, four and six were dismissed, without prejudice. (Admitted in response to request for admissions.)

14. Respondent filed a five (5) count fourth amended complaint on November 21, 1989, (Admitted in response to request for admissions.)

15. By motions dated November 29, 1989 and January 8, 1990, Security and the defendants sought an order dismissing the fourth amended complaint. (Admitted in response to request for admissions.)

16. By order entered May 3, 1990, with a copy thereof duly furnished to respondent, counts three, four and five of the fourth amended complaint were dismissed, with prejudice, with Wells being afforded an opportunity to file a fifth amended complaint on or before May 26, 1990. (Admitted in response to request for admissions.)

17. Respondent failed to file a fifth amended complaint and failed to take any other action to pursue Wells' claims. (Admitted by respondent at November 20, 1991 deposition.)

18. By motion filed June 22, 1990, with a copy thereof duly served on respondent, the defendants filed a motion seeking an order dismissing Wells' action due to the lack of filing of a fifth amended complaint. (Except for the date, respondent admitted this finding at his November 20, 1991 deposition. The date, June 22, 1990, was established by the bar's Exhibit 10 in evidence.)

19. Respondent failed to appear upon the return of the motion to dismiss and there was no appearance on behalf of Wells at such hearing. (Respondent admitted his lack of appearance in his November 20, 1991 deposition. Wells' lack of appearance was established by the bar's Exhibit 12 in evidence where the Court specifically notes Wells' absence.)

20. By order and judgment dated June 26, 1990, a copy of which was duly furnished to respondent, all claims by Wells against the defendants were dismissed, with prejudice, and judgment was rendered

in favor of the defendants, accordingly. (Admitted to by respondent at his November 20, 1991 deposition.)

21. By motion filed June 14, 1990, a copy of which was duly served upon respondent, the defendants moved for an order taxing attorney's fees and costs against Wells. (Respondent denied this finding in his answer but, at his November 20, 1991 deposition, denied only that he had a recollection that the motion was received. The bar's Exhibit 13 in evidence, establishes, by certificate of service, that the motion was mailed to respondent.)

22. Respondent failed to address such application and failed to appear on the return thereof. (Admitted by respondent at his November 20, 1991 deposition).

23. By order filed June 26, 1990, a copy of which was furnished to respondent, an order was entered taxing attorney's fees and costs against Wells in an amount of \$12,080.50. (Admitted by respondent at his November 20, 1991 deposition).

COUNT II

24. By letter dated May 24, 1990 respondent informed Wells that respondent was withdrawing as counsel. (Admitted in response to request for admissions. See bar's Exhibit 1 in evidence.)

25. Respondent had not, prior to the May 24, 1990 letter (Exhibit 1) informed Wells regarding the filing of amended complaints, dismissals thereof nor the time afforded to Wells to file a fifth amended complaint. (Respondent insisted that he had made full disclosure to his clients regarding the progress of the litigation. The testimony from his clients, however, sharply disputes such contention. Except for Vera

Harrington, who clearly was confused regarding what she knew and when she knew it, all other clients testified that they were totally uninformed. I have resolved this sharp issue of credibility against the respondent. Firstly, the demeanor of the witnesses was such to cause me to believe the clients' testimony. Secondly, the respondent could not produce even a single piece of correspondence addressed to any of his clients on any subject matter relating to the litigation during the entire course of the proceedings except for his **May**, 1990 notice of withdrawal. Respondent's credibility was further damaged by his statement in his opening remarks that Brian Joslyn, Esq., who represented the defendants in the various litigations, had represented to respondent that the defendants would not seek to recover attorney's fees and costs. Mr. Joslyn testified that no such representation or conversation ever took place and that, to the contrary, it had always been his clients' intent to seek recovery of attorney's fees and costs. Respondent's credibility was additionally damaged by his representation to the Court, upon his application to withdraw, that he made such application at the express request of Mr. Wells, when, in fact, Mr. Wells had made no such request.)

26. Respondent did not, subsequent to his **May 24**, 1990 letter, inform Wells regarding the filing and respondent's receipt of the motion to dismiss for failure to serve a fifth amended complaint and the **June 26**, 1990 order and judgment dismissing Wells' action. (Admitted by respondent at his **November 20**, 1991 deposition.)

27. Respondent did not, subsequent to his **May 24**, 1990 letter, inform Wells regarding the filing and respondent's receipt of the **June 14**, 1990 motion for an order taxing attorney's fees and costs against Wells. (Respondent denied this finding in his answer, admitted it in

his November 20, 1991 deposition and then modified his admission by claiming **lack** of recollection. **Mr.** Wells testified that he heard nothing from respondent regarding the filing and receipt by respondent of the referenced motion,)

COUNT III

28. By motion filed June 19, 1990, respondent moved to withdraw from representation of Wells. (See bar's Exhibit 2 in evidence.)

29. Paragraph 1 of the motion to withdraw recites **as** follows:

Plaintiff has requested Counsel to withdraw;

(Admitted by respondent at his November 20, 1991 deposition. See bar's Exhibit 2 in evidence.)

30. In truth and in fact, Wells never, prior to respondent's filing of **such** motion to withdraw, **or** upon the filing thereof by respondent, requested **of** respondent that respondent withdraw, (Admitted to **by** respondent at his November 20, 1991 deposition.)

31. Respondent knew that his client, Wells, had made no request of respondent that respondent withdraw from representation when respondent filed his motion to withdraw and knew that his representation that such request had been made, was false. (The most respondent would have the Court **believe is** that he **assumed** that Wells wished **him** to withdraw. Respondent conceded that Wells had **never** expressly stated a request that respondent withdraw. Wells disputed that he **had** ever requested that respondent withdraw. Respondent's **express** representation to the Court simply had no basis.)

COUNT IV

32. After respondent's undertaking representation of Wells and through June 12, 1990, respondent failed to communicate with Wells regarding the status of Wells' **case and** failed to explain the case and the proceedings relating thereto to Wells to an extent reasonably necessary to permit Wells to make informed decisions regarding the representation, (The cumulative evidence consisting of testimony from all of respondent's clients, when coupled with a total lack of any correspondence or other documentation from respondent to dispute such testimony, establishes this finding.)

33. After respondent's undertaking representation of Wells and through June 12, 1990, respondent failed to respond to communications directed to **him by** Wells wherein and whereby Wells sought information regarding the status of his case. (See bar's Exhibits 16, 17, 18 and 19 in evidence, none of which were answered by respondent. Though respondent insists that he replied to his clients' inquiries, the totality of the evidence, witness **demeanor** and issues of credibility as related in my finding 25 resolved the issue against the respondent.)

COUNT V

34. Subsequent to **his** undertaking representation of Wells, as aforesaid, respondent, in or about July and August, 1989, was retained by and undertook representation of John Coonsy and Bettie L. Coonsy ("Cooneys"), and Vera Harrington ("Harrington") in connection with such clients' claims against Security and the defendants. (Admitted in response to request for admissions,)

35. The gravamen of each of such client's claim was essentially the **same as** that of Wells as recited and set forth in paragraph 3 of **these findings**. (Admitted in response to request for admissions.)

36. Respondent filed a complaint on behalf of Cooneys against Security and the defendants on August 17, 1989 venued in the Circuit Court, Fifteenth Judicial Circuit bearing case number 89-2394AE. (Admitted in response to request for admissions.)

37. Respondent filed a complaint on behalf of Harrington in or about August, 1989 venued in the Circuit Court, Fifteenth Judicial Circuit bearing case number **89-8341AH**. (Admitted in response to request for admissions.)

38. By order filed May 2, 1990, the actions filed on behalf of Cooneys and Harrington were consolidated with the Wells action. (Admitted in response to request for admissions.)

39. By order entered **May 3, 1990**, with a copy thereof duly furnished to respondent, the Cooneys **and** Harrington **were** afforded an opportunity to file an amended complaint provided that they did so on **or before May 26**, 1990. (Admitted in response to request for admissions.)

40. Respondent failed to file an amended complaint on behalf of the Cooneys or on behalf of Harrington. (Admitted in response to request for admissions.)

41. Respondent agreed with counsel for the defendants that the Wells case would be used **as a** test case and that all of the consolidated cases would be determined by the Wells case in order to eliminate the necessity of multiple hearings on identical issues and provide for consistency in rulings. (Admitted by respondent at **his** November 20, 1991 deposition and stipulated to at the final hearing.)

COUNT VI

42. By letters dated May 24, 1990, one to **Cooneys** and the other to Harrington, respondent informed such individuals that he was withdrawing **as** counsel. (Admitted in response to request for admissions. See the **bar's** Exhibits 3 and 4 in evidence.)

43. Respondent had not, prior to the May 24, 1990 letters (Exhibits 3 and 4) informed either the Cooneys or Harrington regarding the various filings in the Wells' action nor the time afforded to the Cooneys and to Harrington to file an amended complaint on or before May 26, 1990 as referenced above. (See bar's Exhibits 20, 21, 22 and 23, none of which **were** answered by respondent. Coupled with the reasons set forth in my finding 25, I have resolved this issue against respondent.)

44. Respondent did not, subsequent to his May 24, 1990 letter, inform the Cooneys or Harrington regarding his agreement to have the motion to dismiss filed June 22, 1990 in the Wells' **action**, apply to the Cooneys' action and to the Harrington action. (I make this finding on the same basis as expressed in finding 43.)

45. Respondent did not, subsequent to his May 24, 1990 letters (Exhibits 3 and 4) inform the Cooneys or Harrington regarding the June 26, 1990 order and judgment dismissing Wells' action, **which** order, a copy of which is attached hereto as Exhibit 5, provided, inter alia, **as** follows:

3. If and when the Defendants named herein are served with **process** in any of **the** other five (5) consolidated cases, the Court shall entertain Defendant's Motion to Dismiss those claims with prejudice. (Admitted by respondent at **his** November 20, 1991 deposition.)

COUNT VII

46. Subsequent to his undertaking representation of Wells, **as aforesaid**, respondent, in or about July or August, 1989, **was** retained by and undertook representation of Olive Woodard in connection with Woodard's **claim** against Security and the defendants. (Admitted in response to request for admissions.)

47. The gravamen of Woodard's claim was essentially the same as that of Wells as recited and set forth in paragraph 3 of these findings. (Admitted in response to request for **admissions**.)

48. Respondent took no action on behalf of Woodard. (Admitted in response to request for admissions.)

COUNT VIII

49. After respondent's undertaking representation of the Cooneys, Harrington and Woodard, respondent failed to communicate with such clients **regarding** the status of their respective cases and failed to explain such cases and the proceedings relating thereto to **any** of such clients to an extent reasonably necessary to permit such clients to make informed decisions regarding the representation. (I make this finding on the same basis as expressed in my findings 25 and **43**.)

50. After respondent's undertaking representation of the Cooneys, Harrington and Woodard, respondent failed to respond to communications directed to him **by** such clients wherein and whereby such clients sought information regarding the status of their respective **cases**. (I make this finding on the same basis as expressed in my findings **25** and 43.)

COUNT IX

51. Heretofore, one Betty Phillips ("Phillips") inquired of respondent in or about June, 1989, to ascertain whether or not respondent would represent Phillips in a claim against Security and the defendants, the gravamen of which was essentially the **same** as that of Wells **as** recited and set forth in paragraph 3 of these findings. (Admitted in response to request for admissions.)

52. Respondent answered Phillips' inquiry by forwarding to her a proposed retainer agreement on or about June 7, 1989. (Admitted in response to request for admissions.)

53. Respondent thereafter forwarded to Phillips additional proposed retainer agreements on or about June 12, 1989, July 10, 1989 and July 19, 1989. (Admitted in response to request for admissions.)

54. Phillips determined not to retain respondent and did not sign **any** of the proposed retainer agreements, request of respondent that he represent Phillips nor advance to respondent any retainer payments. (Respondent **could** not produce a written retainer agreement which he had in all other cases nor receive any retainer payment **as** in all other **cases**. In addition, Phillips confirmed the foregoing by her deposition testimony admitted into evidence **as** the bar's Exhibit 27.)

55. Respondent, in or about August, 1989, filed a complaint on behalf of Phillips against Security and the defendants venued in the Circuit Court, Fifteenth Judicial Circuit bearing case number 8-8339AD. (Admitted by respondent at his November 20, 1991 deposition.)

56. By order entered **May 3**, 1990, with a copy thereof duly furnished to respondent, Phillips was afforded an opportunity to file **an** amended complaint provided that such amended complaint was filed on or before **May 26**, 1990. (Admitted to by respondent at his **November 20**, 1991 deposition.)

57. Respondent failed to file an amended complaint on **behalf of** Phillips. (Admitted in response to request for admissions.)

58. Respondent **agreed** with counsel for the defendants that the motion to dismiss filed **June 22**, 1990 duly served upon respondent, addressed to the Wells' action as recited in paragraph 18 of these requests, would apply to the **Phillips'** action as well. (Admitted in response to request for admissions.)

59. By letter dated **May 24**, 1990 to Phillips, respondent informed Phillips that he was withdrawing as counsel. (Admitted in response to request for admissions. See bar's Exhibit 6 in evidence.)

60. Between the outset of his purported representation of Phillips and his **May 24**, 1990 letter to Phillips withdrawing from such purported representation, respondent did **not** communicate with Phillips in **any** manner. (Admitted by respondent at **his** **November 20**, 1991 deposition.)

61. By letter dated **July 13**, 1990 to respondent, Phillips advised respondent :

If I do not **hear from** you immediately that you are removing **my any** court records, I shall contact **The** Florida Bar and ask them for assistance in this matter (sic). (Admitted **by** response at **his** **November 20**, 1991 deposition. See bar's Exhibit 7 in evidence.)

62. By letter dated July 18, 1990, respondent advised Phillips as follows:

Please be advised that the above case was dismissed. At this time I am not representing you in any matters. (Admitted by respondent at his November 20, 1991 deposition. See bar's Exhibit 8 in evidence.)

63. By letter to respondent dated July 21, 1990, Phillips requested specific information concerning respondent's actions on her behalf. (Admitted by respondent at November 20, 1991 deposition. See bar's Exhibit 9 in evidence.)

64. Respondent failed to respond to Phillips' July 21, 1990 letter (Exhibit 9). (Admitted to by respondent at November 20, 1991 deposition.)

ADDITIONAL FINDINGS OF FACT

65. Throughout this proceeding respondent insisted that he rendered competent legal services to **his** clients; that **his** inability to articulate a cause or causes of action on behalf of his clients was **due**, not to **his** lack of competence, but to the caprice of the trial **judge**. Such position is belied by the fact that, even after approximately a **year** of unsuccessful attempts to **express a** sustainable cause of action, the trial judge, by order dated **May** 3, 1990 continued to afford to respondent leave to file an amended complaint. **See** bar's Exhibit 10 in evidence. Presumably, the trial judge regarded it as feasible that a cause **or** causes of action could be articulated. Brian Joslyn, **Esq.** an attorney specializing in commercial and securities litigation, described

respondent's representation as "woeful" and opined that respondent could have, at very least, framed a sustainable cause of action for breach of contract had he been possessed of the most rudimentary skill. In the trial court's June 26, 1990 judgment (bar's Exhibit 12 in evidence), the trial judge took pains to specify various failings on respondent's part. In the undersigned's view, respondents' failure to take any action to ward off the dismissal of his clients' claims, with prejudice, in itself, constitutes an alarming lack of competence. Coupled with the testimony of Mr. Joslyn and the tenor of the trial judge's above referenced order and judgment, I find that respondent did not bring to his clients the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

66. After the judgment for costs and attorney's fees in the approximate sum of \$12,000.00 was entered against Mr. Wells, respondent refused to reimburse his client necessitating the institution of a litigation. While this is disturbing enough, it is even more distressful that upon settling such litigation, the respondent insisted, as a quid pro quo, that Mr. Wells execute and deliver to the bar a formal withdrawal of his complaint.

67. In addition to the application for costs and attorney's fees resulting in a \$12,000.00 judgment against Mr, Wells, respondent's clients, Cooney, Woodard and Harrington also faced similar applications, which, although successfully defended, necessitated their employment of counsel and the expenditure by them of expense all attributable to respondent's inadequate representation.

111. RECOMMENDATIONS AS TO WHETHER OR NOT THE RESPONDENT SHOULD BE FOUND GUILTY:

I recommend that the respondent be found to have committed the following violations :

1. By undertaking representation of the various parties respondent claimed to represent in the action against Security and the other defendants without the knowledge, skill, thoroughness or preparation necessary to permit **him** to file a legally sufficient complaint, respondent violated **Rule 4-1.1**, Rules of Professional Conduct which provides that a lawyer shall provide competent representation to a client.

2. By failing to file a fifth amended complaint, by failing to appear upon the return of the motion to dismiss and by failing to address the application for an order taxing attorneys' fees and costs thereby permitting the dismissal of his clients' claims, with prejudice, and permitting a judgment to be entered taxing attorneys' **fees** against Wells, respondent violated **Rule 4-1.3**, Rules of Professional Conduct which provides that a lawyer shall act with reasonable diligence and promptness in representing a **client**.

3. By failing to inform **his** clients regarding the motion to dismiss, the time within which a fifth amended complaint could be filed, the application for a judgment taxing costs and failing to render status reports and failing to comply with requests for information and by failing to explain the matters pertaining to the litigations to an extent reasonably necessary to permit the clients to make informed decisions, respondent violated **Rules 4-1.2(a), 4-1.4(a) and 4-1.4(b)**, Rules of Professional Conduct which provide, respectively, that a lawyer shall

abide by a client's decisions concerning the objectives of the representation, a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information and a lawyer shall explain a matter to the extent reasonably **necessary** to permit the client to make informed decisions regarding the representation.

4. By failing to inform **his** clients regarding the filing of a motion seeking an order dismissing the litigations due to the lack of filing of a fifth amended complaint, by failing to appear upon the return of such motion to dismiss, by permitting a judgment to be entered dismissing **his** clients' claims, with prejudice, by failing to inform **his client**, Wells, of the application for an order taxing attorney's fees and costs against Wells, by failing to address such application and **failing** to appear on the return thereof and by permitting an **order** to be entered taxing attorney's fees and costs against Wells, respondent thereby violated Rule 4-1.16(d), Rules of Professional Conduct **which** provides that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest.

5. By representing to the court in **his** motion to withdraw from representation of Wells that he (respondent) had **been** requested by Wells to withdraw, when, in fact, no **such** request **was made**, respondent violated Rules 3-4.2 and 3-4.3, Rules of Discipline, **which** provide, respectively, that violation of the Rules of Professional Conduct **is** a cause for discipline and that the commission by a lawyer of any act which is unlawful or contrary to honesty and justice may constitute a **cause for** discipline. In addition, such misrepresentation

constituted violations by respondent of Rules 4-3.3, 4-8.4(c) and 4-8.4(d) which provide, respectively, that a lawyer shall not knowingly make a false statement of material fact or law to a tribunal, that a lawyer shall not engage in conduct constituting dishonesty, fraud, deceit or misrepresentation and that a lawyer shall not engage in conduct that is prejudicial to the administration of justice.

6. While not charged within the four corners of the bar's complaint, I, upon the authority of The Florida Bar v. Stillman, 401 So.2d 1306 (Fla. 1981), find that respondent misrepresented to this Court that he was informed by Brian Joslyn, Esq. that no costs or attorney's fees would be sought against respondent's clients. I also find, as aforesaid, that respondent's insistence upon the withdrawal of the Wells complaint to the bar as a quid pro quo for reimbursing Mr. Wells was totally inappropriate. Both actions constitute violations of Rules 3-4.2 and 3-4.3, Rules of Discipline, which provide, respectively, that violation of the Rules of Professional Conduct is a cause for discipline and that the commission by a lawyer of any act which is unlawful or contrary to honesty and justice may constitute a cause for discipline.

7. By purporting to represent Phillips, when, in fact, respondent had not been retained by Phillips and by failing and refusing to take any action to inform the court that respondent had no authority to represent Phillips respondent violated Rules 3-4.2 and 3-4.3, Rules of Discipline which provide, respectively, that a violation of the Rules of Professional Conduct is a cause for discipline and the commission by a lawyer of any act which is unlawful or contrary to honesty and justice may constitute a cause for discipline. In addition,

such conduct on respondent's part constitutes violations of Rules 4-3.3 and 4-8.4(d), Rules of Professional Conduct which provide, respectively, ' that a lawyer shall not knowingly **make** a false statement of material fact or law to a tribunal and a lawyer shall not **engage** in conduct that is prejudicial to the administration of justice.

IV. RECOMMENDATIONS AS TO DISCIPLINARY MEASURES TO BE APPLIED:

I recommend that as a result of the violations as hereinabove enumerated, respondent be suspended from the practice of law for a period of two (2) years and pursuant to Rule 3-5.1(e), Rules of Discipline, thereafter until respondent shall establish **his** rehabilitation and fitness to resume the practice of law in accordance with Rule 3-7.10, Rules of Discipline.

V. PERSONAL HISTORY:

Respondent **is** 44 years of age and has been a member of **The** Florida Bar since February 2, 1976.

VI. STATEMENT AS TO PAST DISCIPLINE:

Respondent has no disciplinary record,

VII. STATEMENT OF COSTS OF THE PROCEEDING AND

RECOMMENDATIONS:

The costs of these proceedings were as follows:

Administrative Costs (Rule 3-7.5(k)(5)) ---	\$ 500.00
Grievance Committee Court Reporter -----	85.00
Court Reporter Costs (depositions of Wells, Harrington, Woodard and Cooney) -----	479.80
Court Reporter Costs (deposition of Harry Winderman) -----	219.60
Court Reporter Costs (deposition of Betty Phillips) -----	139.40
Witness Travel (Wells) -----	35.62
Service of Subpoenas -----	114.44
Trial Court Reporter Costs -----	897.75
Photocopies - Court File -----	19.70

TOTAL \$2,491.31

I recommend that such costs be taxed against the respondent.

RENDERED THIS 9th day of April, 1992 at Broward County,
Florida.



ROBERT COLLINS, Referee

cc: David M. Barnovitz, Esq., Bar Counsel
Harry Winderman, Esq., Respondent