IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

STEVEN NECKMAN,

Respondent.

SUPREME COURT CASE NO. 78,489
THE FLORIDA BAR CASE NO. 92-70,218(11N)

INITIAL BRIEF OF THE FLORIDA BAR

JACQUELYN P. NEEDELMAN
Bar Counsel
Attorney No. 262846
The Florida Bar
444 Brickell Avenue
Suite M-100
Miami, Florida 33131
(305) 377-4445

JOHN T. BERRY
Staff Counsel
Attorney No. 217395
The Florida Bar
650 Apalachee Parkway
Tallahassee, Fl 32399-2300
(904) 561-5600

JOHN F. HARKNESS, JR.
Executive Director
Attorney No. 123390
The Florida Bar
650 Apalachee Parkway
Tallahassee, FL 32399-2300
(904) 561-5600

TABLE OF CONTENTS

TABLE OF AUTHORITIES

STATEMENT OF THE CASE AND FACTS

The Florida Bar filed its Petition for Order To Show Cause on August 26, 1991. On September 4, 1991, this Court issued its Order To Show Cause. The Respondent obtained an extension of time and submitted his Answer To Order To Show Cause on October 14, 1991. The Florida Bar submitted its reply to Respondent's answer on November 12, 1991.

On November 20, 1991, The Honorable Peter Blanc was appointed Referee in this cause. A pretrial conference was held on April 16, 1992.

A final hearing was held on August 10, 1992 and the Referee issued his Report on September 14, 1992 finding the Respondent guilty of the unauthorized practice of law as to the second incident referenced in The Florida Bar's Petition for Order to Show Cause. The Referee found the Respondent not guilty as to the first incident.

A hearing was held on October 2, 1992 before the Referee as to recommended disciplinary measures. The Referee issued a Supplemental Report of Referee dated October 12, 1992 wherein he recommended that the Respondent receive a private reprimand and immediately be placed on probation until such time as the Respondent is eligible to apply for readmission to The Florida Bar. Conditions of the recommended probation were 1.) that the Respondent perform a minimum of ten (10) hours of community service work per month, 2.) Continue his counseling and treatment under the direction of the Florida Lawyers Assistance, Inc.

Program and 3.) Pay the costs reasonably incurred by The Florida Bar.

The Board of Governors of The Florida Bar at its November 1992 meeting voted to file a Petition for Review seeking disbarment in this cause.

On or about December 20, 1990, Respondent, Steven Neckman, petitioned the Supreme Court of Florida for leave to resign from The Florida Bar in Case Number 77,107. Respondent's petition was unopposed by The Florida Bar.

At the time of filing said petition, two disciplinary actions were pending against Respondent. Both cases involved allegations that Respondent had misappropriated client funds.

This Honorable Court approved Respondent's petition by Order dated January 24, 1991. Respondent's resignation was approved effective February 25, 1991 with leave to apply for readmission after five (5) years.

On August 26, 1991, The Florida Bar filed a Petition for Order To Show Cause why Respondent should not be held in contempt of court. The basis of the Bar's petition was Respondent's unauthorized practice of law in violation of this Honorable Court's Order dated January 24, 1992 to proceedings on the Rule to Show Cause.

At the August 10, 1992 final hearing, The Florida Bar presented evidence that Respondent had engaged in the unauthorized practice of law on two distinct occasions.

Specifically, evidence was presented to show that Respondent represented one Robert Gottron in an employment dispute with one

Peter Leighton after Respondent's resignation from The Florida Bar had become effective. In an unrelated matter, evidence was submitted that Respondent had acted as attorney for one Karen Brooks in a real estate transaction.

The Referee found that Respondent had engaged in the unauthorized practice of law in his representation of Robert Gottron. The Referee further found that the allegation that Respondent engaged in the unauthorized practice of law in representation of Karen Brooks was not supported by clear and convincing evidence.

The Referee specifically found as follows regarding the Gottron matter:

AS TO INCIDENT TWO

14. In July, 1991, the Respondent was contacted by Bob Gottron, a former client, regarding a collection matter involving Gottron's former employer.

15. As a result of Gottron's request for assistance, the Respondent made certain phone calls to James Lobel and Peter Leighton on behalf of Gottron.

16. James Lobel testified that in July or August, 1991, he received a call from a person who identified himself as Bob Gottrons's attorney.

17. Mr. Lobel was unable to recall the name of the person who had called as Gottron's attorney.

18. Mr. Lobel referred the caller to Peter Leighton.

19. The Respondent acknowledged calling Mr. Lobel on Mr. Gottron's behalf. However, the Respondent denied representing himself as an attorney.

20. In July, 1991, Peter Leighton was contacted by the Respondent regarding the same debt to Bob Gottron that was the subject of the Respondent's conversation with Jim Lobel.

21. Before speaking to the Respondent, Mr. Leighton had received a telephone message that Mr. Gottron's attorney had contacted him and that he would call back.

22. Shortly thereafter the Respondent called back and left his pager number.

23. Mr. Leighton called the number and spoke with the Respondent.

24. After their initial conversation, Mr. Leighton received information that the Respondent was not an attorney.

25. Thereafter, the Respondent again contacted Leighton by phone. Leighton confronted the Respondent and asked him if he was Gottron's attorney. The Respondent informed him that he was in fact Gottron's attorney.

26. Leighton then told the Respondent that he was aware that he was not a practicing attorney. At that point the Respondent denied ever indicating that he was Gottron's attorney.

27. Bob Gottron testified on behalf of the Respondent. Mr. Gottron witnessed certain telephone conversations between the Respondent, Mr. Lobel, and Mr. Leighton. Gottron testified that he never heard the Respondent represent himself as an attorney.

28. In other respects Gottron's recollection of the telephone conversations was inconsistent with the Respondent's recollection. Gottron testified that the conversation between Respondent and Lobel got a little nasty. On the other hand, the Respondent testified that he had a very amicable telephone conversation with Mr. Lobel. The Respondent testified that he made at least two calls to Mr. Leighton. Originally, Mr. Gottron's recollection was also that two phone calls were made to Mr. Leighton. However, later in his testimony Mr. Gottron stated that the Respondent made only one call to Mr. Leighton.

29. Mr. Gottron's testimony made it clear that he did not perceive what the Respondent was doing as legal work.

30. The Respondent specifically denied ever holding himself out as a practicing attorney. *(See* Report of Referee, Findings of Fact).

The Respondent presented witnesses as to his character and rehabilitation.

The Referee stated the following in the Recommendation portion of his Report as to incident two, the Gottron/Leighton matter:

AS TO INCIDENT TWO

> I recommend that the Respondent be found guilty of the unauthorized practice of law and that specifically he be found guilty based upon his representation to Peter Leighton in July, **1991,** that he **was** an attorney representing Bob Gottron. Although evidence also indicates that the Respondent represented himself as an attorney to Jim Lobel, Mr. Lobel's testimony was insufficient to establish by clear and convincing evidence that the Respondent actually made that representation.
>
> Although the Respondent testified that his contact with Peter Leighton was exclusively as a collection agent for Bob Gottron and not **as** his attorney, there is clear and convincing evidence to establish that the Respondent attempted to represent himself as an attorney to Mr. Leighton. In fact, it should be noted that the debt being sought by Respondent was not properly a collection matter pursuant to Florida Statute ***559.72.*** (Report of Referee Recommendations)

The Referee recommended that the Respondent receive a private reprimand and probation. The Referee recommended against disbarment.

The Florida Bar submits that disbarment is warranted based upon the facts of this cause and **case** law.

SUMMARY OF ARGUMENT

I. The Referee's recommendation that Respondent receive a mere private reprimand (Admonishment for practicing law while resigned for pending disciplinary proceedings from The Florida Bar is erroneous, and Respondent should be disbarred for his misconduct.

The appropriate discipline in this cause is disbarment. The Referee's recommendation of a mere private reprimand (admonishment) for unauthorized practice of law while under a disciplinary resignation is erroneous. Standard 8.4 of the Florida Standards for Imposing Lawyer Sanctions provides that an "[a]dmonishment is not an appropriate sanction when a lawyer violates the terms of a prior disciplinary order."

Respondent resigned amidst serious allegations of misappropriation and avoided the imposition of serious discipline. Attorneys have been disbarred for long periods or permanently for practicing law after being suspended or resigned. The Florida Bar v. Winter, 549 So. 2d 188 (Fla. 1989), The Florida Bar v. Bauman, 558 So. 2d 994 (Fla. 1990), and The Florida Bar v. Greene, 589 So. 2d 282 (Fla. 1991). Respondent was disbarred notwithstanding the Referee's recommendation of suspension. In this case, the mitigating factors are not sufficient to warrant a discipline less than disbarment for a period of five (5) years. Accordingly, disbarment is required in this cause wherein the Respondent practiced law while under a disciplinary resignation.

ARGUMENT

I. The Referee's recommendation that Respondent receive a mere private reprimand (admonishment) for practicing law while resigned pending disciplinary proceedings from The Florida Bar is erroneous, and Respondent should be disbarred for his misconduct.

The Referee's recommendation that Respondent receive a mere private reprimand (admonishment) for his unauthorized practice of law while resigned from The Florida Bar is erroneous. As stated in Standard 8.4 of the Florida Standards for Imposing Lawyer Sanctions,

> "Admonishment is **not** an appropriate sanction when a lawyer violates the terms of a prior disciplinary order or when a lawyer has engaged in the same or similar misconduct in the past." (Emphasis added).

Respondent was permitted to resign amidst serious allegations that Respondent misappropriated client funds. By the terms of this Honorable Court's Order approving Respondent's resignation, Respondent was not permitted to accept any new business. Respondent's representation of Robert Gottron in an employment dispute was in direct contravention of this Honorable Court's Order, and private reprimand (admonishment) is inappropriate.

Respondent's conduct evidences a total disregard of this Honorable Court and warrants the discipline of disbarment.

In The Florida Bar v. Winter, 549 So.2d 188 (Fla. 1989), Winter was found guilty of twenty-one (21) counts of engaging in the practice of law after resigning from The Florida Bar. Evidence was also presented that Winter had misrepresented his reasons for resigning as health related.

In recommending that Winter be disbarred, the Referee noted disbarment was appropriate so that the stigma of disbarment would be attached to Winter's record. Similarly, Respondent admitted at the final hearing that he told Peter Leighton when confronted regarding his status as an attorney that he had resigned from The Florida Bar for health reasons. (TR 117). This Honorable Court agreed and imposed the sanction of permanent disbarment.

Although Winter's twenty-one (21) acts of practicing law were certainly more egregious than Mr. Neckman's single act of unauthorized practice of law, the Winter case in instructive. Winter's numerous acts of misconduct warranted permanent disbarment without leave to ever reapply. The Florida Bar contends that Respondent's single act of misconduct warrants no less than a five (5) year disbarment. Furthermore, Respondent, like Winter, was permitted to resign while disciplinary proceedings were pending against him. Respondent has disregarded the Order of this Honorable Court and misrepresented the reasons for his resignation to the public. (TR 117). Therefore, disbarment is appropriate.

This Honorable Court has imposed the sanction of disbarment on numerous attorneys who engaged in the practice of law in contravention of prior disciplinary arders. In The Florida Bar v. Bauman, 558 So. 2d 994 (Fla. 1990), Bauman was found guilty of practicing law while suspended. Rejecting the Referee's recommendation that Bauman be suspended for three years, this Honorable Court imposed the discipline of disbarment. See also

The Florida Bar v. Jones, 571 So. 2d 426 (Fla. 1990) and The Florida Bar v. Hartnett, 398 So. 2d 1352 (Fla. 1981).

In support of his recommendation that Respondent be admonished for his misconduct, the Referee placed much emphasis on evidence that Respondent's actions were more motivated by a desire to help his friends than by a desire for financial reward, that there was no actual inquiry to any party, no financial gain, that the violations are unrelated to the original problem and respondent's rehabilitation from substance abuse is progressing rapidly. (SR recommendation as to Disciplinary Measures to Be Applied), The Florida Bar respectfully submits that such mitigation is wholly inadequate to reduce the appropriate discipline from disbarment to an admonishment (private reprimand). In The Florida Bar v. Greene, 589 So. 2d 282 (Fla. 1991), Greene was found guilty of practicing law while under suspension. Despite evidence that Greene did not charge a fee and was a personal friend of those for whom he performed legal services, this Court rejected the Referee's recommendation that Greene's suspension be extended for two years and ordered that Greene be disbarred.

The Referee considered as aggravating factors the serious error in judgment displayed by the Respondent in the Gottron matter, the apparent statutory violation committed by the Respondent when he attempted to portray himself as an attorney; and the Respondent's lack of candor at trial in denying any inappropriate behavior on his part.

The Referee felt that the mitigating factors outweighed the aggravating factors.

However this is not a case of an isolated first violation. This case involves the practicing of law and violation of this Court's Order accepting his resignation after having been allowed to resign in lieu of likely serious disciplinary sanctions. Respondent was in effect let off easy by being allowed to resign when misappropriation charges where pending and after the mitigation was presented that Respondent had a substance abuse problem. After being allowed to resign, Respondent then disregarded this Court's Order accepting his resignation and continued to practice and hold himself out as an attorney.

Based upon his resignation, Respondent will have to apply for readmission through the Florida Board of Bas Examiners. While his rehabilitation efforts are noteworthy, Respondent will have an opportunity to present such information to the Board of Bar Examiners. Respondent's character witnesses were impressive, but, same is not sufficient to outweigh Respondent's serious transgression and the Referee's finding of a lack of candor. Instead of being on his best conduct after being let off easy and being allowed to resign, Respondent committed a serious violation, engaging in the unauthorized practice of law. The public would perceive of the Respondent receiving a private reprimand after being a resigned attorney pending serious disciplinary proceedings as a slap on the wrist.

Respondent was given a chance to avoid serious discipline by being allowed to resign. Respondent then violated this Court's

Order and continued to practice law. Accordingly, disbarment for a period of five (5) years is appropriate, not a private reprimand.

CONCLUSION

For the foregoing reasons, The Florida Bar respectfully requests this Honorable Court to uphold the Referee's findings of fact and recommendation as to guilt and to impose disbarment for a period of five (5) years as discipline, and tax the *costs* of these proceedings against Respondent in the amount of $2,570.16.

Respectfully submitted,

JACQUELYN P. NEEDELMAN
Bar Counsel
Attorney No. 262846
The Florida Bar
444 Brickell Avenue
Suite M-100
Miami, Florida 33131
(305) 377-4445

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven copies of The Florida Bar's Initial Brief was sent *to* Sid J. White, Clerk of The Supreme Court, Supreme Court Building, Tallahassee, Florida 32399-8197; and a copy was mailed via certified mail to Richard Marx, Attorney for Respondent, *at* 7900 Red Road, Suite 9, South Miami, Florida 33143; and a copy was mailed to John T. Berry, Staff Counsel, The Florida Bar, Tallahassee, Florida 32399-2300 this 5th day *of* January, 1993.

Jacquelyn P. Needelman

JACQUELYN P. NEEDELMAN
Bar Counsel

INDEX TO APPENDIX

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA *BAR*,

Complaintant,

CASE NO: 78,489

vs.

STEVEN NECKMAN,

Respondent.

SUPPLEMENTAL 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, hearings were held on the following dates:

A. Pretrial Conference - April 16, 1992

The following attorneys appeared as counsel for the parties:
For the Florida Bar: Jacquelyn P. Needelman, Esq.
For the Respondent: Richard J. Diaz, Esq.

B. Trial - August 10, 1992

The following attorneys appeared as counsel for the parties:
For *the* Florida Bar: Jacquelyn P. Needelman, Esq.
For the Respondent: Richard B. Marx, Esq.

C. Disciplinary recommendation hearing - October 2, 1992

The following attorneys appeared as counsel for the parties:
For the Florida Bar: Jacquelyn P. Needelman, Esq.
For the Respondent: Richard B. Marx, Esq.

II. The Florida Bar in its Petition for Order to Show Cause alleged two separate incidents involving the Respondent which the Bar contended each constituted the unlawful practice *of* law. The *two* separate incidents were alleged as two parts of one count. Those incidents occurred on or about the following dates:

Incident one - March/April, 1991

Incident two - July, 1991

This report will address those two separate incidents individually.

urged her to write a letter to the sellers indicating that they must vacate the property being purchased by Ms. Brooks or, in the alternative, pay Ms. Brooks a penalty for storage, hotel room, etc. (R-33/34) Ms. Vaughn testified that the Respondent became angry with her when she refused to write the letter he had requested. She further testified that the actions of the Respondent raised a question in her mind regarding whether or not the Respondent was actually an attorney. (R-34)

8. Ms. Vaughn contacted the Florida Bar and was advised that the Respondent was not an attorney in good standing. Thereafter, she had no further contact with him. (R-34/35)

9. The Respondent's recollection of his conversation with Betty Vaughn was in striking contrast to Vaughn's testimony. The Respondent stated, "All I said to her was, 'You promised Karen that you would do something. Now do it. Don't get me involved. I'm not here to represent her.'" (R-85)

10. Ms. Brooks described the Respondent's actions as follows, "I would say he sort of held my hand and helped me through it." (R-68)

11. Ms. Vaughn acknowledged that the Respondent never identified himself as an attorney for Ms. Brooks. (R-38)

12. The Respondent neither negotiated terms *of* the contract nor advised Ms. Brooks regarding those terms. (R-70)

13. There is no evidence that the Respondent ever gave legal advice, prepared a document, or sought any type of fee in connection with his involvement in the real estate transaction in question. (R-110-112)

AS TO INCIDENT TWO

14. In July, 1991, the Respondent was contacted by Bob Gottron, a former client, regarding a collection matter involving Gottron's former employer.

15. As a result of Gottron's request for assistance, the Respondent made certain phone calls to James Lobel and Peter Leighton on behalf of Gottron. (R-114-117)

16. James Lobel testified that in July or August, 1991, he received a call from a person who identified himself as Bob Gottron's attorney. (R-25)

17. Mr. Lobel was unable to recall the name of the person who had called as Gottron's attorney. (R-27)

18. Mr. Lobel referred the caller to Peter Leighton. (R-26)

19. The Respondent acknowledged calling Mr. Lobel on Mr. Gottron's behalf. However, the Respondent denied representing himself as an attorney. (R-115)

20. In July, 1991, Peter Leighton was contacted by the Respondent regarding the same debt to Bob Gottron that was the subject of the Respondent's conversation with Jim Lobel. (R-48)

21. Before speaking to the Respondent, Mr. Leighton had received a telephone message that Mr. Gottron's attorney had contacted him and that he would call back. (R-47)

22. Shortly thereafter the Respondent called back and left his pager number.

23. Mr. Leighton called the number and spoke with the Respondent. (R-48)

24. After their initia conversat on, Mr. Leighton received information that the Respondent was not an attorney. (R-50)

25. Thereafter, the Respondent again contacted Leighton by phone. Leighton confronted the Respondent and asked him if he was

Gottron's attorney. The Respondent informed him that he was in fact Gottron's attorney. (R-49)

26. Leighton then told the Respondent that he was aware that he was not a practicing attorney. At that point the Respondent denied ever indicating that he was Gottron's attorney. (R-49)

27. Bob Gottron testified on behalf of the Respondent. Mr. Gottron witnessed certain telephone conversations between the Respondent, Mr. Lobel, and Mr. Leighton. Gottron testified that he never heard the Respondent represent himself as an attorney. (R-138)

28. In other respects Gottron's recollection of the telephone conversations was inconsistent with the Respondent's recollection. Gottron testified that the conversation between Respondent and Lobel got a little nasty. (R-137) On the other hand, the Respondent testified that he had a very amicable telephone conversation with Mr. Label. (R-122) The Respondent testified that he made at least two calls to Mr. Leighton. (R-114-116) Originally, Mr. Gottron's recollection was also that two phone calls were made to Mr. Leighton. (R-135) However, later in his testimony Mr. Gottron stated that the Respondent made only one call to Mr. Leighton. (R-148/149)

29. Mr. Gottron's testimony made it clear that he did not perceive what the Respondent was doing as legal work. (R-135)

30. The Respondent specifically denied ever holding himself out as a practicing attorney. (R-92)

IV. Recommendation as to Whether or Not the Respondent Should be Found Guilty: As to each allegation of the Complaint I make the following recommendations as to guilt or innocence:

AS TO INCIDENT ONE

I recommend that the Respondent be .found not guilty of the unauthorized practice of law. Although the Respondent is guilty of

a serious error in judgment in not immediately advising Ms. Brooks and Ms. Vaughn that he was not a practicing attorney, the Respondent took no action in connection with the real estate transaction that could not have been lawfully attempted by a layperson. The Respondent sought no reimbursement for his assistance to Ms. Brooks. The Respondent gave no legal opinions, negotiated no terms of the contract, or specifically represented himself as an attorney to either Ms. Brooks or Ms. Vaughn. Clearly, the better practice would have been for the Respondent *to* advise both Ms. Brooks and Ms. Vaughn immediately that he was not an attorney. However, since the Respondent took no affirmative steps to mislead either Ms. Vaughn or Ms. Brooks regarding his standing with the Bar and since his participation did not rise to a level to sufficiently constitute the practice of law, I recommend a finding of not guilty.

AS TO INCIDENT TWO

I recommend that the Respondent be found guilty of the unauthorized practice of law and that specifically he be found guilty based upon his representation to Peter Leighton in July, 1991, that he was an attorney representing Bob Gottron. Although evidence also indicates that the Respondent represented himself as an attorney to Jim Lobel, Mr. Lobel's testimony was insufficient to establish by clear and convincing evidence that the Respondent actually made that representation.

Although the Respondent testified that his contact with Peter Leighton was exclusively as a collection agent for Bob Gottron and not as his attorney, there is clear and convincing evidence to establish that the Respondent attempted to represent himself a5 an attorney to Mr. Leighton. In fact, it should be noted that the debt being sought by Respondent was not properly a collection matter pursuant to Florida Statute 559.72.

V. Recommendation as to Disciplinary Measures to Be Applied: I recommend that the Respondent receive a private reprimand and immediately be placed on probation which would continue until such time that the Respondent is eligible to apply for readmission to the Florida Bar. Because of his prior resignation the Respondent would be unable to practice law during the probationary period. As a condition of probation the Respondent should be required to perform a minimum of ten (10) hours of community service work per month. The community service work should be performed in an area related to the field of addiction and, if possible, should be directed toward other professionals with addiction problems.

Additionally, as a condition of probation the Respondent should continue his counseling and treatment under the direction of the Florida Lawyers Assistance, Inc. program. It is suggested that both the Respondent's personal counseling and community service work could be directed by the Florida Lawyers Assistance, Inc. program.

The final recommended condition of probation would be for the Respondent to pay the costs reasonably incurred by the Florida Bar in connection with this proceeding.

This Court is mindful of the recommendation of the Florida Bar that the Respondent be disbarred. However, this Court is convinced that the actions of the Respondent herein do not rise to a level of egregiousness which would justify disbarment.

Factors this Court has considered in aggravation include the obvious, serious error in judgment displayed by the Respondent in connection with the collection matter on behalf of Bob Gottron; the apparent statutory violation committed by the Respondent when he attempted to portray himself as an attorney; and the Respondent's

lack of candor at trial in denying any inappropriate behavior on his part. The seriousness of these aggravating factors cannot be minimized.

However, this Court feels that the mitigating factors under this unique set of circumstances clearly outweigh those factors in aggravation. First, there was no actual injury to any party. Second, financial gain was not a motivating factor in the mind of the Respondent. His actions were more motivated by a desire to help his friends than by a desire for financial reward. Third, the violations alleged are unrelated to the Respondent's original problems. There are no allegations of misappropriation of funds or of substance abuse. Finally, the Respondent's rehabilitation seems to be in order and seems to be progressing rapidly. The testimony presented at the October 2 hearing has convinced this Court that the Respondent is aware of the seriousness of his violations and, consequently, there is little or no likelihood of repetition. Therefore, it would seem appropriate to avoid further damage to the Respondent's reputation when future ethical violations seem unlikely.

Based upon the circumstances of this particular case this Court strongly recommends against disbarment. It is the belief of this Court that the Respondent has the ability to enhance and not damage the reputation of the Bar despite his prior addiction and resulting violations. The Respondent should be given the opportunity, through supervision, to establish that he can be a benefit and not a detriment to the Florida Bar.

VI. Personal History and Past Disciplinary Record: After finding of guilty and prior to recommending discipline to be recommended pursuant to Rule 3-7.6(k)(1)(4), I considered the following personal history and prior disciplinary record of the Respondent, to wit:

Age: 33
Date admitted to Bar: October, 1985
Prior disciplinary convictions and disciplinary measures imposed therein: None
Other personal data: See Disciplinary Recommendation

VII. Statement of Costs and Manner in Which Cost Should be Taxed. I find the following costs were reasonably incurred by the Florida Bar.

Administrative Costs:	$ 500.00
Court Reporter Costs:	
Deposition (Genovese and Pallant) 6/23/92	223.95
Deposition (Pallant) 6/23/92	33.75
Deposition (Blutstein) 7/2/92	50.00
Referee Hearing 8/10/92	706.35
Final Hearing 10/2/92 (Approx. costs)	428.75
Miscellaneous:	
Bar Counsel's Pre-trial Conf. Travel Expenses	18.50
Witness Peter Leighton's Travel Expenses	562.00
Bar Counsel's Travel Expenses to 10/2/92 Hrg.	46.86
TOTAL ITEMIZED COSTS	**$2,570.16**

It is apparent that other costs have or may be incurred. It *is* recommended that all such *costs* and expenses together with the foregoing itemized costs be charged to the Respondent. It is further recommended that these *costs* be paid as a condition of probation.

DATED this 6th day of October, 1992.

PETER D. BLANC
Referee

I HEREBY CERTIFY that a copy of the above report of referee has been served on the following:

JACQUELYN P. NEEDELMAN, Bar Counsel, The Florida Bar, 444 Brickell Avenue, Suite M-100, Miami, FL 33131

JOHN T. BERRY, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399-2300

JOHN F. HARKNESS, JR., Executive Director, The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399-2300

RICHARD J. DIAZ, ESQ., Attorney for Respondent, 3730 Southeast Financial Center, 200 South Biscayne Boulevard, Miami, FL 33131

RICHARD B. MARX, ESQ., Co-Counsel for Respondent, 7900 Red Road, Suite 9, South Miami, FL 33143

on this 6th day of October, 1992.

Stefanie A. Lee

STEFANIE A. LEE
Judicial Assistant