IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR, Complainant-Appellant, v. RONALD T. SPANN, Respondent-Appellee.	Supreme Court Case Nos. 79,345; 81,631; and 83,455 The Florida Bar File Nos. 89-52,306(17D), 90-50,701(17D), 93-50,112(17B), 93-50,228(17B), and 94-50,282(17B)

THE FLORIDA BAR'S INITIAL BRIEF

KEVIN P. TYNAN, #710822
Bar Counsel
The Florida Bar
5900 N. Andrews Avenue
Suite 835
Fort Lauderdale, FL 33309
(305) 772-2245

JOHN T. BERRY, #217395
Staff Counsel
The Florida Bar
650 Apalachee Parkway
Tallahassee, FL 32399-2300
(904) 561-5839

JOHN F. HARKNESS, JR., #123390
Executive Director
The Florida Bar
650 Apalachee Parkway
Tallahassee, FL 32399-2300
(904) 561-5839

TABLE OF CONTENTS

TABLE OF CASES AND CITATIONS

CASES--CONT. PAGE(S)

FLORIDA STANDARDS FOR IMPOSING LAWYER SANCTIONS

PRELIMINARY STATEMENT

The Florida Bar, Appellant, will be referred to as "the bar" or "The Florida Bar". Ronald T. Spann, Appellee, will be referred to as "respondent". The symbol "RR" will be used to designate the report of referee and the symbol "TT" will be used to designate the transcript of the final hearing. Lastly, the symbol "PTS" will refer to the parties joint pretrial stipulation.

STATEMENT OF CASE AND FACTS

The referee's report in this case encompasses three distinct formal complaints filed by The Florida Bar, which complaints cover five separate client grievances. These cases were assigned to the referee on March 17, 1992, April 27, 1993 and April 7, 1994. The oldest case, case number 79,345 was stayed at respondent's request from September 14, 1992 through October 1, 1993, as respondent was defending a then ongoing criminal prosecution for charges directly related to the bar's complaint. Trial was held on case numbers 79,345 and 81,631 on December 3, 1993 and May 5, 1994, with written closing argument being submitted by both sides. Prior to the referee ruling on these cases, the bar filed case number 83,455, which case, by agreement of the parties, was consolidated for sanction purposes with the aforementioned cases after the referee, on September 16, 1994, granted summary judgement in the bar's favor. On August 3, 1995 the referee served his report of referee, in which he finds respondent guilty of twenty counts of unethical conduct, not guilty of four counts and recommended that respondent be suspended for three years on case number 79,345[1] and three years on case number 81,631 with the suspensions to run consecutively.

---

[1] The referee's report incorrectly identifies case number 79,345 as case number 78,720.

The Board of Governors at its September 1995 meeting considered the referee's recommendation and has authorized this appeal to seek disbarment.

Two different client complaints were at issue in case number 79,345. The first grievance was filed by Steven Amburgey and it concerns respondent's representation of Amburgey during a workers' compensation case. Counts I through IX[2] pertain to Amburgey's complaint. The second and most serious grievance, the Leonard Champagne complaint, encompasses counts X through XIV and discusses respondent's representation of Champagne for wrongful discharge from Southern Bell. Case number 81,631 likewise covers two distinct client grievances. The first three counts relate to respondent's representation of Edward Jenkins[3] and the second three counts relate to respondent's professional relationship with Craig Reese. The third and last case filed against respondent, is a one count complaint regarding respondent's decision not to represent Star Lite Pools. While the lengthy report of referee and the

---

[2] The referee found respondent not guilty of counts III, IV and XVI of case number 79,345. The bar only takes issue with the referee as to his sanction recommendation and therefore the bar will not discuss the facts of these particular counts of misconduct.

[3] Respondent was found not guilty of count III of case number 81,631.

detailed joint pretrial stipulation describes all of the particulars of these five grievances, specific comment must be made to highlight respondent's more egregious misconduct.

Respondent's representation of Leonard Champagne commenced in the summer of 1989. RR 6. In June of that year, respondent, through his nonlawyer employees, Norman Ganz and Vivien Keller, engaged in settlement negotiations and was able to secure an agreement between counsel to settle the case. RR 6. The problem was that Champagne could not be found to conclude the case[4]. RR 7. The settlement releases were sent to respondent and Champagne was not available to execute them, so respondent instructed Ganz to sign Champagne's name to the release. RR 7. Ganz signed Champagne's name to this release(PTS tab H)and, for reasons not really explained at trial, Ganz signed Champagne's name to a second signature page (PTS tab I). RR 7. Respondent then notarized both of Ganz's "Champagne" signatures knowing full well that Ganz had written the signatures and that Champagne had not authorized anyone to execute the settlement release on his behalf. RR 7. The referee, while noting that respondent had plead to a misdemeanor

---

[4] Champagne testified that he did not authorize this settlement, but the referee chose to believe the testimony of two of respondent's nonlawyer employees that he had agreed to the settlement. RR 6.

notary violation, found that respondent's actions in notarizing a known forgery to be felonious. RR 7-8.

Southern Bell's counsel upon being advised that Champagne had not signed the release, demanded that respondent obtain court approval of the procedures taken by respondent to settle the case. RR 8. Accordingly respondent filed a petition for an order to deposit funds into the court registry (PTS tab J) and the matter was scheduled for an evidentiary hearing before Judge Dale Ross for September 18, 1989. RR 8. The referee found that:

> During the hearing, respondent only introduced the original release that did not reveal that Ganz had signed on Champagne's behalf. (PTS tab H). That original release is the only release in the court file. Judge Ross testified, via transcript (TFB Ex. 3), that he has no recollection that anyone told him that Champagne did not sign the release. In fact Judge Ross opined that he surely would have remembered such an event and that in no way would he have authorized or approved the execution of a release in this manner. The orders eventually entered by Judge Ross (PTS tabs K & L) in no way approve or condone respondent's and Ganz's act of forgery and felonious notarization. Respondent's failure to properly explain what had really happened during the execution of the release perpetrated a fraud upon the court. RR 8-9.

Respondent then directed that a letter be sent to Southern Bell (PTS tab M) that mislead Southern Bell into believing that the court had approved respondent's execution of the release and the

settlement funds were sent to respondent. RR 9. Once the funds arrived, respondent took an excessive fee in that his poorly drafted retainer agreement (PTS tab G) called for a $1,000.00 up front retainer (previously paid by Champagne) and then a third contingency fee of any settlement. RR 9. The retainer was silent as to any 40 percent contingent fee, but respondent took 40 percent of the pretax settlement[5]. RR 9. Thus of the actual monies paid to respondent, $7,622.32, respondent took fees of $5,206.00, which left Champagne with a net settlement of $2,257.32. RR 10.

The last aspect of the Champagne grievance concerns a recurring theme throughout the report of referee. The referee found that:

> As a regular course of conduct, respondent allowed his nonlawyer employees to engage in the unlicensed practice of law. They signed letters "for the firm". His legal assistants sent demand letters and handled negotiations. In fact for some unexplained reason, someone even placed advertisements in the phone book for Ganz, a not yet admitted lawyer. RR 10. (Citations and references to exhibits omitted.)

The Amburgey, Jenkins, Reese and Star Lite Pool complaints likewise contain findings that respondent failed to properly supervise his

---

[5] This was a wrongful discharge case and the settlement, ostensibly for back wages, had to take into account the usual and customary payroll taxes.

nonlawyer employees. In fact the referee specifically noted that he "found a total lack of supervision by respondent over his staff". RR 10.

The Amburgey complaint also contains significant misconduct. Respondent's representation of Amburgey commenced on or about December 12, 1988 when Amburgey executed a retainer agreement with the firm concerning his workers' compensation case. RR 2. As is customary and required by statute, respondent had his fee agreement approved by the deputy commissioner who authorized respondent to withhold certain monies in trust as a fund to draw his fees against, when approved by the court, and the compensation carrier commenced making payments on Amburgey's behalf to respondent. RR 2-3. The workers' compensation statutes and the court's order specifically require that all attorneys' fees and costs must be approved by the court prior to withdrawal from trust by the lawyer. RR 2-3. In fact it is a misdemeanor not to secure such approval prior to disbursal. RR 2. Notwithstanding this requirement, respondent took fees and costs prior to court approval, took fees and costs over and above what was approved and otherwise did not follow the court's directive on how these trust monies were to be handled. RR 2-4.

When respondent realized he should not have made such disbursals to himself, he restored most of the money to trust (all but $171.14) and sought court permission to take a fee. RR 3. Upon seeking a fee, respondent, in his pleading (PTS tab C) failed to disclose to the court that he had removed these funds from trust and that he only later restored the same to trust. RR 3. The referee found this to be a misrepresentation by omission. RR 3.

The referee also found that respondent failed to adequately communicate with Amburgey, failed to timely withdraw upon discharge, forced Amburgey to acquiesce to an extortionate demand relative his weekly sustenance checks and lastly that he had failed to render competent representation. RR 4-6.

We now turn to case number 81,631 and the Jenkins grievance. Other than the lack of supervision count discussed above, the referee found that "respondent's retainer agreement (PTS tab T) had a penalty clause in that Jenkins could have been forced to pay respondent certain monies 'immediately' upon discharge even though this was a contingency fee case and the contingency might never be met." RR 11.

The factual underpinnings of the Reese complaint starts on November 19, 1991 when Reese met with respondent concerning a potential wrongful termination action. PTS 26. Reese did not

retain respondent, yet respondent performed legal services on behalf of Reese and charged Reese for such services and as the referee pointed out, even charged interest on the bill. RR 12. The referee further found that respondent, while communicating with third parties about Reese and his legal problems, breached confidences learned during the November consultation without Reese's permission or consent. RR 12. The last item of misconduct found by the referee concerned respondent's unethical defense of the grievance filed by Reese. The referee in his report noted that:

> Respondent and his staff both contacted Reese and left messages on his phone answering machine. Both respondent and his nonlawyer employee told Reese that he must withdraw his grievance or respondent would keep trying to collect the fees that he had charged Reese. I find this to be grossly unethical. Certainly, respondent could have called Reese in an attempt to solve Reese's complaint, but the moment the threat was made -- withdraw your complaint or else -- respondent committed an unethical act. RR 12-13.

The referee concluded his report by discussing that he had found respondent guilty of numerous breaches of the Rules of Professional Conduct. Candidly, the bar agrees with the referee that some of these violations were technical in nature and standing alone would not warrant significant sanction. "However, taken as a whole respondent has demonstrated a SEVERE lack of attentiveness"

to the rules that govern our profession. RR 14 (original emphasis). As such, the bar now petitions this court to increase the referee's recommendation of two consecutive three year suspensions to disbarment.

SUMMARY OF ARGUMENT

Disbarment is reserved for those individuals who have demonstrated a total disregard for the Rules of Professional Conduct. This respondent has clearly demonstrated his lack of professional ethics. He comes before this court, not only guilty of very serious fraud allegations, but guilty of twenty separate counts of misconduct arising from five client cases. The referee specifically noted that "taken as a whole, respondent has demonstrated a SEVERE lack of attentiveness to the Rules of Professional Conduct." RR 14 (original emphasis).

At issue in this appeal is whether the referee's recommended sanction of two consecutive three year suspensions is a sufficient sanction for respondent's misdeeds. In the bar's view, disbarment is the only appropriate sanction for several of respondent's actions standing alone. When this court considers the magnitude and breadth of respondent's unethical conduct and the significant aggravating factors present in this case, this court should likewise find that disbarment is the only appropriate disciplinary sanction for this respondent.

ARGUMENT

I. THE CUMULATIVE MISCONDUCT IN THIS CASE WARRANTS DISBARMENT.

Serious cumulation misconduct warrants serious sanction by this court. In the bar's view, the referee found very serious unethical conduct and while he recommends a significant sanction in his recommended two consecutive three year suspension, the referee does not recommend the appropriate sanction for this case--disbarment. The bar in this appeal seeks to convince the court that this respondent, who stands convicted of twenty counts of misconduct, inclusive of misuse of trust monies, misrepresentations to a court, instructing a nonlawyer to forge a client's signature and then feloniously notarizing same and who has a prior disciplinary record, must be disbarred.

A) Fraud on the Court Warrants Disbarment

Respondent engaged in fraud on the court in both the Amburgey representation and the Champagne representation. In the former, respondent removed monies from an account where they were to be held in trust for attorney's fees. Respondent then petitioned the court to collect the fees without disclosing that he had already taken them. In the Champagne representation, respondent urged one of his own employees to forge Mr. Champagne's signature, notarized

it himself, and then submitted that document to the court, without disclosing the true nature of the document.

The Supreme Court has severely sanctioned attorneys for committing a fraud on the court. In The Florida Bar v. MacMillan, 600 So. 2d 457 (Fla. 1992), the court found that MacMillan removed $4,500.00 from a guardianship account he had set up only to replace it two weeks later. MacMillan never disclosed this transaction to the court either orally or in pleadings. MacMillan was suspended for two years by the Supreme Court, citing substantial mitigation. The referee found absence of a prior disciplinary record, a cooperative attitude toward the proceedings, a timely good faith effort to make restitution, and good character and reputation. Respondent, like MacMillan, engaged in the identical misconduct. He withdrew funds which did not yet belong to him and lied to the court about it. MacMillan is identical to the Amburgey complaint, except there is no mitigation in the case at bar, and therefore the discussion of discipline should start at least at a two year suspension.

In The Florida Bar v. Salnik, 599 So. 2d 101 (Fla. 1992), the Supreme Court of Florida found that the attorney had used a judge's rubber stamp and affixed the judge's signature on two proposed final judgments in eviction proceedings. Salnik then mailed one of

the fictitious documents to the tenants in a plain white envelope. Salnik also sent threatening letters to the tenants warning of the sheriff's involvement, and stating that a judgment against them would affect renewal of their driver's licenses. Salnik compounded matters during the grievance process by trying to disguise his handwriting when asked by the bar to submit a handwriting sample.

The Salnik court stated:

> We cannot overlook the magnitude of this misconduct and Salnik's failure to correct it. Although ultimately no one was injured by his actions, the potential harm to the opposing party was substantial. It was only because the tenant believed that she had actually paid her rent that she went to the judge to question the entry of the judgment. If not for this fortuitous circumstance, the forgery would never have been revealed and the tenants would have been bullied and tricked into leaving the premises in violation of their rights and despite the lack of any true legal obligation to do so. Resorting to forgery when legal attempts to obtain relief are unsuccessful is completely contrary to the most basic ideas of the legal procession. We agree with the bar that his conduct warrants disbarment.

Salnik at 103.

In The Florida Bar v. O'Malley, 534 So. 2d 1159 (Fla. 1988), the court succinctly stated:

> When a lawyer testifies falsely under oath, he defeats the very purpose of legal inquiry. Such misconduct is grounds for disbarment.

O'Malley at 1162.

Regretfully, other lawyers have come before this court who have engaged in similar misconduct to respondent's in the forging of a signature, notarizing it and then using the document to further that lawyer's purposes. One such example is The Florida Bar v. Gold, 203 So. 2d 324 (Fla. 1967). In Gold, the lawyer personally forged two names to a satisfaction of mortgage, witnessed and secured a second person to witness the forgery, took the acknowledgment and then recorded the satisfaction so he could financially benefit. Id. at 325. Another lawyer was disciplined for, among other things, fraudulently notarizing a signature on a warranty deed and recording same in the public records. The Florida Bar v. Dubow, 636 So. 2d 1287 (Fla. 1994). Another similar case is The Florida Bar v. Blum, 515 So. 2d 194 (Fla. 1987). In Blum the lawyer "signed his client's name to a general release and settlement draft without authority, improperly affixed his signature as notary public to a general release" and committed other acts of misconduct. Each of these cases bear striking resemblance to respondent's fraudulent acts in the Champagne case. In Dubow and Gold the lawyers were disbarred and in Blum the lawyer was suspended for three years. The respondent in this case not only committed similar misconduct to these three lawyers, but also

committed various other significant breaches of the Rules of Professional Conduct.

The bar maintains in the instant case that respondent has committed a fraud on the court in both the Amburgey and the Champagne representations. Respondent had the judge believe that he had not yet received his fee in the Amburgey case and that Champagne had signed the documents submitted to the court in the Champagne matter. Salnik's, Dubow's, Gold's and O'Malley's conduct warranted disbarment, as does respondent's.

B) Criminal Misconduct Warrants Disbarment

Respondent has engaged in numerous acts which violate Florida's criminal codes. He has been criminally prosecuted for one of his crimes.

When respondent knowingly notarized the forged signature of Mr. Champagne, he violated F.S. 117.09(1) and/or 117.09(2), which states that any notary who fraudulently makes a certificate as a notary is guilty of a third degree felony. The Supreme Court has held attorneys accountable with respect to improper notarization of documents with various levels of discipline based upon the circumstances of each individual case. In The Florida Bar v. Mike, 428 So. 2d 1386 (Fla. 1983), the attorney was charged with various allegations including neglect of a client's case and practicing law

while suspended. He was also charged with offering to have a notary notarize a signature outside the presence of the person whose signature was to be notarized. The referee recommended and the court approved a two month suspension for Mike.

In The Florida Bar v. Story, 529 So. 2d 1114 (Fla. 1988), Story was suspended for thirty days in connection with the preparation of a client's will. When the client executed the will, the signatures of the witnesses purporting to attest to the client's signature had already been obtained. The notarized statement that the witnesses had signed in the presence of the client had been executed prior to the client's execution of the will.

For the most part, however isolated instances of improper notarization have warranted a public reprimand. The Florida Bar v. Day, 520 So. 2d 581 (Fla. 1988); The Florida Bar v. Bell, 493 So. 2d 457 (Fla. 1986); The Florida Bar v. Sireci, 589 So. 2d 294 (Fla. 1991); The Florida Bar v. Farinas, 608 So. 2d 22 (Fla. 1992).

In the instant case, respondent's improper notarization is not merely a public reprimand offense. The public reprimand cases involved notarizing a signature when the signatory was not present. Not only was the signatory not in respondent's presence but his signature was forged at respondent's behest. Whereas improper

notarization may warrant only a public reprimand, notarizing a forgery, however, is a much more serious matter. In fact, forgery itself can be grounds for disbarment.

The Supreme Court has succinctly stated that forgery warrants disbarment. In The Florida Bar v. Kickliter, 559 So. 2d 1123 (Fla. 1990) the Supreme Court found that Kickliter had drafted a revised will for a client who died hours before he was to execute it. Kickliter forged the client's name, had two of his employees witness the signature and then notarized the self-authenticating clause himself. He then submitted the forged will for probate. The court in Kickliter found:

> The preamble in chapter 4 of the Rules Regulating The Florida Bar states: "Lawyers are officers of the court and they are responsible to the judiciary for the propriety of their professional activities." In taking the oath of admission to the bar one must swear to "never seek to mislead the judge or jury by any artifice or false statement of fact or law." Kickliter's forging his client's signature on the will was serious misconduct. He compounded his misconduct by having two of his employees witness the forgery, thereby compromising them as well as himself. Submitting the will for probate was even more egregious. By that act, Kickliter violated the precepts quoted above and committed fraud on the court. (1124).

Kickliter at 1124.

The court later reiterated its position that forgery calls for disbarment. The Florida Bar v. Solomon, 589 So. 2d 286 (Fla. 1991).

While respondent did not himself forge the signatures in question, he instructed that it be done and then notarized the signatures himself. While Mr. Kickliter's motives may have been pure (a desire to see his client's last wishes fulfilled), this respondent's intentions were not, as all he wanted to do was close out the file and get paid.

Respondent also engaged in conduct which can be characterized as extortion by forcing Mr. Amburgey to sign a power of attorney in order to receive his workers' compensation benefits. Additionally, threatening Reese to withdraw his bar grievance or continue to be billed for legal fees may also fit this definition.

The court reviewed a case involving similar conduct in The Florida Bar v. Hayden, 583 So. 2d 1016 (Fla. 1991). Hayden was found to have extorted his fee from his client by use of a threatened contempt proceeding. The referee recommended a six month suspension and the court agreed noting:

> This is not an instance of a momentary lapse or negligent action. Respondent pursued contempt proceedings in derogation of his client's wishes and after being advised that a settlement had been reached. He did so to use

> the legal system in an improper attempt to effectuate the recovery of his own fee. The intentional nature of respondent's conduct, coupled with the selfish motivation which prompted the filing of a frivolous proceeding, combined to make his misconduct far more egregious than a negligent act.

Hayden at 1017.

As with Hayden, respondent's motives were also selfish and the act intentional. And finally, respondent's actions in the Amburgey case clearly violate Florida Statute 440.34(6)(a) which states,

> Any person who receives any fees or other consideration or any gratuity on account of services rendered, unless such consideration or gratuity is approved by the judge of compensation claims or the court, is guilty of a misdemeanor of the second degree.

By removing his attorney's fees prior to the Judge's order allowing him to do so, respondent has violated this Statute. The commission of a crime warrants discipline. The Florida Standards for Imposing Lawyer Sanctions Section 5.11 states in part:

> Disbarment is appropriate when:
> (b) a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft.

Of this laundry list of violations, respondent has committed no less than five of them: false swearing, misrepresentation,

fraud, extortion, and theft of client funds. Taken as a whole respondent's criminal actions warrant disbarment.

C) Cumulative Misconduct Warrants Enhanced Discipline

The cumulative nature of respondent's actions in the instant case warrants disbarment. The Florida Bar v. Williams, 604 So. 2d 447 (Fla. 1992) addresses cumulative misconduct. The court found Williams to have made misrepresentations to the grievance committee, issued a worthless check, committed trust account violations including shortages and commingling, retention of trust account's earned interest, and neglecting two client matters. The court held that Williams' cumulative misconduct demonstrates an attitude and course of conduct that is inconsistent with Florida's Standards for Professional Conduct and thus warrants disbarment.

The Williams court refers to The Florida Bar v. Mavrides, 442 So. 2d 220 (Fla. 1983) wherein it was found that the cumulative effect of an attorney's misconduct demonstrated an unfitness to practice law, and thus warranted disbarment.

Respondent's actions include fraud on the court, theft of client funds, forgery, felonious notarization, extortion, workers' compensation statute violations, negligent supervision of employees, and aiding in the unlicensed practice of law. The fact that most of these defalcations occurred in 1988 means that they

can be considered together as cumulative misconduct. The Florida Bar v. Golden, 566 So. 2d 1286 (Fla. 1990).

D) Aggravating Factors also Enhance Sanction

Of particular importance in any case is a discussion of aggravating and mitigating factors that may be present in the case. The Florida Standards for Imposing Lawyer Sanctions, Rule 9.1 (hereinafter referred to as the Standards) sets forth several aggravating factors. They are:

(a) prior disciplinary offenses;
(b) dishonest or selfish motive;
(c) a pattern of misconduct;
(d) multiple offenses;
(e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;
(f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process;
(g) refusal to acknowledge wrongful nature of conduct;
(h) vulnerability of victim;
(i) substantial experience in the practice of law;
(j) indifference to making restitution.

A comparison of the foregoing leads to the inescapable conclusion that the following should be considered in aggravation:

1. Dishonest Motive

Rule 9.22(b) of the Standards allows an increase in discipline when a dishonest motive exists. At the very core of respondent's problems with the bar is greed. Greed motivated respondent to

commit fraud, fraud when respondent removed his fees prematurely and fraud when he extorted his fees from Amburgey. And, of course, there is also the fraud in the Champagne matter wherein respondent notarized a signature he knew was forged so he could get paid.

2. Pattern of Misconduct

In respondent's case, one violation led to another. When Norman Ganz forged Champagne's signature, only respondent could then notarize it because any other notary would have asked for identification or refused based on their oath as a notary public.

When respondent improperly removed his fees prior to a court order in the Amburgey matter, he then had two choices. He could either reveal his misconduct or file a false and fraudulent claim for fees. Respondent chose the latter, revealing a pattern of misconduct.

3. Multiple Offenses

Respondent has been charged with sixteen counts of ethical misconduct which allege numerous violations of the Rules of Professional Conduct, including: excessive fee, misrepresentation, failure to remit client funds, failure to withdraw from representation when requested, incompetence, negligent supervision of employees, forgery, felonious notarization, and aiding unlicensed practice of law. The Supreme Court has considered

multiple offenses an aggravating factor and disbarred the attorney in question. Mavrides.

4. Bad Faith Obstruction of the Disciplinary Proceeding

The bar believes this court should accept respondent's actions in attempting to compel Reese to withdraw his grievance as fitting this aggravating factor.

5. Prior Disciplinary Record

As the referee correctly pointed out, respondent was privately reprimanded in 1987 and was admonished for minor misconduct in 1993. Both cases related to legal fees, either charged or collected.

The referee found no mitigation and found four aggravating factors[6]. On balance then, the aggravation present in this case remains a significant factor to consider in reaching a sanction.

---

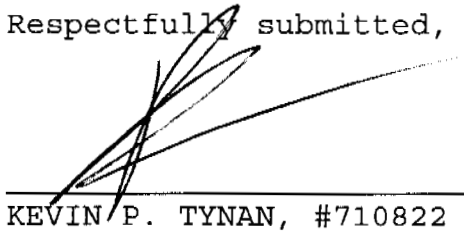
[6] The referee found (a) prior disciplinary offenses, (b) selfish motive, (c) substantial pattern of misconduct and multiple offense as well as (d) substantial experience in the practice of law. RR 15.

CONCLUSION

Respondent, by his actions, has evidenced a total disregard for the Rules of Professional Conduct. The referee has recommended a significant sanction in his two consecutive three year suspensions. However, it is not the length of time that is at issue here. It is whether this respondent should be allowed the privilege to call himself a member of The Florida Bar. The bar respectfully urges this court to find this respondent unworthy of wearing the mantle of our profession by entering an order of disbarment.

WHEREFORE, The Florida Bar respectfully request this court to reject the referee's sanction recommendation and enter an order disbarring respondent, Ronald T. Spann.

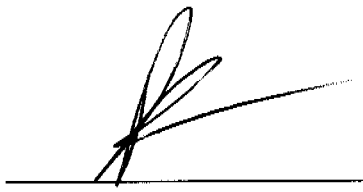
Respectfully submitted,



KEVIN P. TYNAN, #710822
Bar Counsel
The Florida Bar
5900 N. Andrews Avenue, #835
Fort Lauderdale, FL 33309
(305) 772-2245

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing initial brief of The Florida Bar has been furnished via regular U.S. to Fred Haddad, Esq., attorney for respondent, at One Financial Plaza, Suite 2612, Fort Lauderdale, FL 33394; and to John A. Boggs, Director of Lawyer Regulation, at The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399-2300 on this 10th day of October, 1995.



KEVIN P. TYNAN