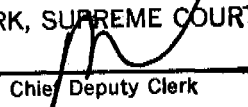


FILED

SID J. WHITE

JAN 7 1993

CLERK, SUPREME COURT

By  Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

T.MICHAEL PRICE,

Respondent.

REFEREE'S AMMENDED REPORT

I. Summary of Proceedings: The undersigned was duly appointed as referee to conduct disciplinary proceedings according to the Rules of Discipline and hearings were held on the following dates: March 20, 1992, March 25, 1992, April 16, 1992, August 14, 1992 and October 5, 1992.

The following attorneys appeared as counsel for the parties:

For the Florida Bar John B. Root, Jr.

For the Respondent Scott K. Tozian

The Respondent waived venue in Orange County and agreed to conduct the hearing in Osceola County.

II. Findings of Fact as to Each Item of Misconduct with which the Respondent is charged: After considering the pleadings, memoranda and evidence before me, pertinent portions of which are commented upon below, I find:

As to the Bar's allegation that the Respondent is guilty of violation of Rule of Professional Conduct 4-1.3 for failing to act with reasonable diligence and promptness in representing a client see Complaint Paragraph 20, Respondent's admission in his Answer and Record p 103 et seq; Complaint Paragraph 21 and Respondent's admission in his Answer; Complaint Paragraph 22, Respondent's admission in his Answer and Bar's Exhibit #2, p 20; Complaint paragraph 24 and Bar's Exhibit #2, p 20; Complaint paragraph 26, Record page 106, line 11 through page 108, line 3; Complaint paragraph 27 and Record p.95 - p.96 and Respondent's Exhibit #1, page 25, line 5 - 22 and Complaint paragraph 28 and Bar's Exhibit # 3 and Record page 106, line 11 to page 108, line 3 and Complaint paragraph 29 and Bar's Exhibit #2, page 21, line 15; Complaint paragraphs 32-36 which were admitted except for the part that the Bar failed to prove; namely that someone detected an alcohol odor on the Respondent's breath as alleged in paragraph 34 and Respondent's current practice as alleged in paragraph 37.

As to assertions that the Respondent violated Rule 4-1.16, the Bar abandoned them.

As to assertions that the Respondent violated Rule 4-3.5(c) by engaging in conduct intended to disrupt the Court by his failure to appear for scheduled hearings requiring rescheduling see Complaint Paragraph 13 and Bar's Exhibit #3; Complaint Paragraph 14, Respondent's admission in his Answer and Respondent's Exhibit #1, p 21 et.seq.; Complaint Paragraph 15, Respondent's admission in his Answer and Record page 42, line 19-page 43, line 3 and Record page 43, line 11-19; Complaint paragraph 17, Respondent's Admission in his Answer and Bar's Exhibit #2, pp. 10-11; Complaint paragraph 18, Bar's Exhibit #2, page 10, line 16-page 11, line 20.

As to the Bar's complaint that the Respondent violated Rule 4-8.4 (d), the Referee finds no proof.

The Referee further finds as follows:

1. The Respondent is and was a member of the Florida Bar subject to the jurisdiction of the Supreme Court of Florida and the Rules regulating the Florida Bar.
2. The Respondent resided in Seminole County and practiced law in Orange and Seminole Counties, Florida.

III. RECOMMENDATION AS TO WHETHER OR NOT THE RESPONDENT SHOULD BE FOUND GUILTY: I recommend that the Respondent be found guilty as alleged of violating 4-1.3 and 4-3.5(c) of the Rules of Professional Conduct for the reasons stated above. I further recommend that the Respondent be found not guilty of violating Rule 4-8.4(d) and Rule 4-1.16 for the reasons stated above.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

I recommend that the Respondent receive a public reprimand and that he be suspended for ninety-one days and until he shall show that he has completed an appropriate evaluation and any recommended treatment program for any problem he may have with any drug(s) including alcohol and until he has paid the costs of these proceedings.

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD: After finding the Respondent to be guilty and prior to recommending discipline, I considered the following personal history and disciplinary record of the Respondent:

Age and maturity of the Respondent

Prior disciplinary convictions and disciplinary measures imposed therein: Florida Bar v. Price 569 So2d 1261.

Other personal data: The testimony of Charles Hagan, Jr., former Executive Director of the Florida Lawyers' Assistance Program, indicating that he recommends that Respondent be evaluated for treatment for alcohol/drug abuse (Pages 13, 14 of the October 5, 1992 hearing). Respondent was offered an opportunity to produce the results of an evaluation recommended by Mr. Hagan in return for which the Referee would consider a lesser recommendation and he failed to do so. Recently Respondent furnished an evaluation indicating that he suffers from a difficulty with the use of alcohol and has perhaps agreed to undergo the treatment recommended.

VI. STATEMENT OF COSTS AND TO WHOM THEY SHOULD BE TAXED: I find that the following costs were reasonably incurred by the Florida Bar:

Costs incurred at the Grievance Committee Level as reported by Bar Counsel	\$ 388.75
Administrative costs	\$ 500.00
Witness fees	\$ 18.05
Investigator Expenses	\$ 1,957.06
Court Reporter/Transcript costs	\$ 1,511.40
Bar Counsel travel costs	\$ 120.28
TOTAL:	\$ 4,495.54

Other costs may have reasonably been incurred and I recommend that all reasonably incurred costs and expenses together with those itemized herein be charged to the Respondent.

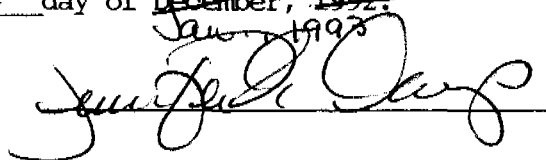
Dated this 4 day of ~~December~~ ^{January} 1993.



Referee

Certificate of Service

I hereby certify that the above report of the Referee has been mailed by Regular U.S. Mail to John Root, Esq., at The Florida Bar, 880 N. Orange Ave., Ste 200, Orlando, FL 32801-1085, bar counsel, and Scott K. Tozian, Esq., 109 North Brush Street, Ste 150, Tampa, FL 33602, Respondent's counsel, and Staff Counsel, The Florida Bar 650 Apalachee Parkway, Tallahassee, FL 32399-2300 this 4 day of ~~December~~, ^{January} 1993.



John Root