

1. Respondent failed to maintain a separate cash receipts and disbursements journal.

2. During 1988 and 1989, respondent failed to include the reasons for disbursements and receipts column in the cash receipts and disbursements journal.

3. Respondent was missing at least one ledger card for the 1989 period.

4. Respondent failed to include in his records the identity of some of the clients or matters concerning funds received, disbursed or transferred.

5. Respondent failed to date when some of the trust funds were received, disbursed or transferred.

6. Respondent failed to include check numbers for all disbursements.

7. Respondent failed to include reasons for which trust funds were received, disbursed or transferred.

8. On or about February 9, 1989, respondent received \$150 from Beverly K. Fetty, and deposited money in account number 00260.

9. On or about February 16, 1989, this \$150 check was returned.

10. On or about February 17, 1989 respondent withdrew \$100 from account number 00260.

11. Respondent disbursed the \$100 in uncollected funds.

12. During 1989 respondent negligently handled the service charges on his trust account.

13. Respondent's trust account reflects shortages in 1989.

III. As to each count of the complaint I make the following recommendations as to guilt or innocence:

I recommend that the respondent be found guilty and specifically that he be found guilty of the following violations of the Rules Regulating Trust Account, to wit:

5-1.1(d)(2) (all nominal or short-term funds belonging to clients or third persons which are placed in trust with any member of The Florida Bar practicing from an office or other business location within the State of Florida shall be deposited into one or more interest-bearing trust accounts for the benefit of the Foundation, except as provided in Rule 4-1.15 with respect to funds maintained other than in a bank account, or as provided in Rule 5-1.22(a). Only trust funds which are nominal or short-term shall be deposited into an IOTA account. The member shall certify annually, in writing, that the member is in compliance with, or is exempt from, the provisions of Rule 5-1.1(d), 5-1.2(b)(5) (the minimum trust accounting records which shall be maintained are: A separate cash receipts and disbursements journal., including columns for receipts, disbursements, transfers, and the account balance, and containing at least (a) the identification of the client or matter for which the funds were received, disbursed, or transferred; (b) the date on which all trust funds were received, disbursed, or transferred; (c) the check number for all disbursements; and (d) the reason for which all trust funds were received, disbursed or transferred), 5-1.2(b)(6) (the minimum trust accounting records which shall be maintained are: A separate file or ledger with an individual card or page for each client or matter, showing all individual receipts, disbursements, or transfers and any unexpended balance, and containing: (a) the identification of the client or matter for which trust funds were received, disbursed or transferred; (b) the date on which all trust funds were received, disbursed or transferred; (c) the check number for all disbursements; and (d) the reason for which all trust funds were received, disbursed or transferred) and 5-1.1(f) (a lawyer generally may not use, endanger,

or encumber money held in trust for a client for purposed of carrying out the business of another client without the permission of the owner given after full disclosure of the circumstances... A lawyer may not disburse funds held for a client or on behalf of that client unless the funds held for that client are collected funds) of the Rules Regulating Trust Accounts of The Florida Bar.

IV. I recommend that the respondent be suspended for 91 days and be required to prove rehabilitation at a hearing prior to his readmittance to the practice of law.

V. After finding of guilty and prior to recommending discipline to be recommended pursuant to Rules 3-7.6(k)(1)(4), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Age: 45 years
Date admitted to Bar: 1981
Disciplinary measures have been previously imposed by the State of Florida,
Case No. 76,707

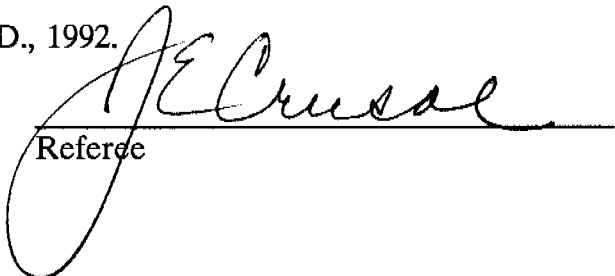
VI. I find the following costs were reasonably incurred by The Florida Bar.

Referee Level

Administrative costs, pursuant to Rule 3-7.6(k)(1), Rules of Discipline Court	\$ 500.00
Reporter Fees	256.96
Transcripts	280.00
Auditor	651.36
In House Copy Charges	<u>71.25</u>
	<u>\$1,759.57</u>

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.

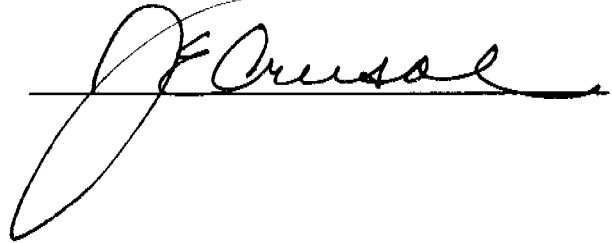
Date this 8 day of December, A.D., 1992.



Referee

Certificate of Service

I hereby certify that a copy of the above report of referee has been served on The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300; and William C. Nesbitt, P. O. Box 900175, Atlanta, GA 30329, this 8 day of December, A.D., 1992.

A handwritten signature in cursive script, appearing to read "J. A. Russell", is written over a horizontal line. The signature is fluid and somewhat stylized, with a large loop at the beginning.