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IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

Case No. 80,117
[TFB Case No.91-31,398 (18D)]

v.

WILLIAM F. LAWLESS,

Respondent.

______________________________/

INITIAL BRIEF

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

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

and

JAN K. WICHROWSKI
The Florida Bar
880 North Orange Avenue
Suite 200
Orlando, Florida 32801
(407) 425-5424
Attorney No. 381586

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ISSUE

WHETHER ANY DISCIPLINE LESS THAN A NINETY-ONE (91) DAY SUSPENSION REQUIRING PROOF OF REHABILITATION IS ADEQUATE WHERE THE RESPONDENT RECEIVED A PRIVATE REPRIMAND AND TWO PUBLIC REPRIMANDS WITHIN THE LAST FIVE YEARS.

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SYMBOLS AND REFERENCES

In this brief, the complainant, The Florida Bar, will be referred to as "the bar".

The transcript of the final hearing will be referred to as T- , followed by the referenced page number.

STATEMENT OF THE CASE

On May 6, 1992, the Eighteenth Judicial Circuit Grievance Committee "D" voted to find probable cause against the respondent. The bar filed its formal complaint on July 7, 1992. The respondent filed an answer to the bar's complaint on July 27, 1992. The bar propounded requests for admission on July 30, 1992, and the respondent filed his response on August 31, 1992.

The final hearing was held January 7, 1993. On February 22, 1993, the referee issued a report of referee recommending the respondent be found guilty of the following Rules of Professional Conduct: 4-1.3 for failing to act with reasonable diligence and promptness in representing clients; 4-5.3 for failing to make reasonable efforts to ensure that a nonlawyer employee's conduct is compatible with the professional obligations of the lawyer; and 4-8.4(a) for violating or attempting to violate the Rules of Professional Conduct. The referee recommended the respondent be found not guilty of Rules of Discipline 3-4.3 for engaging in conduct contrary to honesty and justice; and the following Rules of Professional Conduct: 4-8.4(c) for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and 4-8.4(d) for engaging in conduct prejudicial to the administration of justice. The last recommendation was in relation to the referee's finding that the respondent was not guilty of making misrepresentations to the Immigration and Naturalization Service (INS) concerning the Seguins' status regarding their travel between the United States and Canada.

The referee made the following disciplinary recommendations: ninety (90) days suspension followed by a three (3) year period of probation; payment of costs incurred by The Florida Bar; that the respondent remove the words "immigration law" from his letterhead unless he has been certified by The Florida Bar to have special expertise in that area or in any other area of law; that the respondent disassociate himself from supervising any paralegals in his practice in the future; that the respondent refrain from splitting fees with any nonlawyer; that the respondent successfully complete a course in legal ethics during the period of his probation; that the respondent remove his name from the list of lawyers maintained by any lawyer referral service; that the respondent be required to completely reimburse Mr. and Mrs. Seguin for all fees and costs they paid to Charles Aboudraah, said reimbursement to be accomplished during the respondent's three (3) year probationary period. Interest would not be required on this amount totaling $12,546.00.

The Board of Governors of The Florida Bar considered this case at its meeting which ended April 2, 1993. The board voted to appeal the referee's recommendations as to discipline and to seek a suspension requiring proof of rehabilitation in view of the respondent's significant prior discipline history. The bar filed its Petition For Review on April 7, 1993, and the respondent filed a cross-petition for review seeking lesser discipline on April 19, 1993.

STATEMENT OF THE FACTS

Michael and Barbara Seguin retained the respondent on or about January 22, 1987. Although they were Canadian citizens, the Seguins were seeking permanent residency status in the United States. The respondent agreed to seek permanent residency status for Michael Seguin for a flat fee of $5,000.00 plus expenses, T-13-15, Florida Bar Exhibit 1. The Seguins chose the respondent as their attorney because of the three lawyers suggested by a lawyer referral service, the respondent was the only one who expressed confidence in gaining permanent residency status, T-14,72. The Seguins had no expertise regarding the immigration process, T-16,72. The Seguins also paid the respondent $300.00 to set up a corporation as the respondent advised them the corporation was necessary in order to apply for a labor certificate from the Department of Labor for Mr. Seguin, T-27. Mr. Lawless was attempting to gain permanent residency status for Michael Seguin by certifying Mr. Seguin as a specialist in a job position which was unique and of service in the United States. He theorized that Mr. Seguin's wife would automatically be allowed permanent residency status through her husband, T-16. As agreed, the Seguins gave the respondent a check payable in the amount of $2,500.00 for one-half of the retainer on January 22, 1987, T-16. The respondent introduced them to his assistant, Charles Aboudraah. The respondent advised that Mr. Aboudraah was a nonlawyer assistant who had great expertise and knew

influential people in immigration matters. The respondent showed the Seguins many "green cards", in other clients' files in order to demonstrate Mr. Aboudraah's successful track record, T-17 and T-70-71,74. The respondent told the Seguins that they should contact Mr. Aboudraah directly concerning any immigration matters as Mr. Aboudraah would mainly be handling the case, but that the respondent would supervise his progress, T-18. The respondent further advised that the process of obtaining permanent residency would take approximately six (6) to nine (9) months, Florida Bar Exhibit 1.

Thereafter Mr. Aboudraah requested more money from the Seguins. He told them the money was required for filing fees, his traveling expenses, and to generally expedite matters, T-22, T-24-25. On March 19, 1987, the Seguins paid $725.00 in cash directly to Mr. Aboudraah as he advised that a visa application for Barbara Seguin was required, Florida Bar Exhibit 3, T-21-22. On April 3, 1987, $1,472.00 was paid to Mr. Aboudraah from the Seguins' personal money market account, Florida Bar Exhibit 5. On May 28, 1987, $3,000.00 was paid to Mr. Aboudraah by check from the Seguins' personal money market account, Florida Bar Exhibit 2, T-19. In total, from March 19, 1987, to January 18, 1988, the Seguins paid directly to Mr. Aboudraah $5,312.00. Mr. Aboudraah also received half of the $2,500.00 fee already paid the respondent on January 22, 1987. Additionally, the respondent was paid $115.00 and $240.00 for his assistance in setting up a

corporation, T-26, 100, Florida Bar Composite Exhibit 5. In February, 1988, the Seguins paid Mr. Aboudraah a final check in the amount of $7,234.00, Florida Bar Exhibit 4, T-24. Mr. Aboudraah advised the Seguins this was the final payment in their immigration matter and that it included the $2,500.00 balance owed the respondent for the last half of his $5,000.00 fee, T-23-25. At the time of their February, 1988, payment Mr. Aboudraah advised the Seguins that all of their paperwork had been filed with the Immigration and Naturalization Service and that they were merely waiting for the INS to send them the proper visa cards. During the pendency of this immigration process, the Seguins spoke on numerous occasions with the respondent. The Seguins were concerned that the process cost much more and took much longer than the six to nine months originally promised. However, the respondent assured them that Mr. Aboudraah was properly handling their case, T-25, 30-32. The respondent represented to them that he was supervising Mr. Aboudraah's work on their case. The respondent and the Seguins did not specifically discuss Mr. Aboudraah's additional fees, T-24-26, 30-32, 66-67.

In or around January, 1990, the Seguins received a letter from the INS which indicated that their counsel had failed to comply with previous requests for information. They contacted Mr. Aboudraah with great concern about this and were told the matter was being taken care of, T-31-33. The respondent

continued to express his confidence in Mr. Aboudraah's abilities, T-33. He never advised the Seguins to question the fact that their case had taken much longer than he had initially advised them or suggested that they should stop contacting Mr. Aboudraah about their case, T-33-35.

Soon thereafter the Seguins learned that Mr. Aboudraah was being investigated by the INS. Mr. Lawless continued to reassure them, telling them that the INS investigation had found nothing improper regarding Mr. Aboudraah. Mr. Aboudraah became less available to the Seguins and ultimately closed his law office without prior notice, T-35. Mr. Aboudraah was ultimately sentenced in July, 1991, in federal court for providing false information in an immigration matter, T-188, Respondent's Exhibit 8. The Seguins were contacted by the respondent who associated with another nonlawyer, Will Reed, on the case, T-35. The respondent discovered there was no application on file for either Michael or Barbara Seguin and that their applications had been returned by the INS in late 1989, T-36. At this point, the respondent advised the Seguins that the labor certification method was inappropriate and that he would assist them in applying for E-2 investor visas since the Seguins had invested a substantial amount in their business which had been operating in the United States since 1986, T-36. This was a temporary residential status rather than the permanent status suggested earlier. Ultimately the respondent did obtain E-2 visas for the

Seguins. However, the Seguins sought other counsel because the respondent appeared to them to be uninformed about the process, T-38,79.

The Florida Bar charged the respondent with making a misrepresentation to INS in regard to whether the Seguins had traveled between two countries. This was relevant since the Seguins had not left the United States since their original entry and it would have been necessary for them to file for the visas with the Canadian Embassy. Further the Seguins' new attorney felt it was necessary to reapply for the E-2 visas stating the correct facts, that they had not left the country, if the visas were to be legitimate, T-156-158. The referee found the respondent not guilty of misrepresentation in this regard.

The referee found that the respondent failed to adequately supervise his nonlawyer employee and found him guilty of violating Rules of Professional Conduct 4-1.3 for failing to act with reasonable diligence and promptness in representing clients; 4-5.3 for failing to make reasonable efforts to ensure that a nonlawyer employee's conduct is compatible with the professional obligations of the lawyer; and 4-8.4(a) for violating or attempting to violate the Rules of Professional Conduct.

SUMMARY OF THE ARGUMENT

Respondent neglected his clients' immigration case. He failed to supervise his nonlawyer employee while the employee misled the clients about the status of their case and fraudulently procured large sums of money from the clients.

Respondent has a significant prior discipline history. Two of the prior three instances of discipline involve the same nonlawyer employee as in this matter. Respondent has failed to realize the importance of high ethical standards. Nothing less than a ninety-one (91) day suspension, requiring proof of rehabilitation prior to reinstatement, is sufficient in this case.

ARGUMENT

A NINETY-ONE (91) DAY SUSPENSION REQUIRING PROOF OF REHABILITATION IS REQUIRED DISCIPLINE WHERE THE RESPONDENT HAS RECEIVED A PRIVATE REPRIMAND AND TWO PUBLIC REPRIMANDS WITHIN THE LAST FIVE (5) YEARS.

The purposes of attorney discipline are as follows: the protection of the public, administration of justice, protection of the legal profession and protection of the favorable image of the legal profession, The Florida Bar v. Larkin, 447 So. 2d 1340, 1341 (Fla. 1984); The Florida Bar v. Lord, 433 So. 2d 986 (Fla. 1983). If these principles are to be addressed adequately in this case, it is the position of The Florida Bar that nothing less than a ninety-one (91) day suspension, requiring proof of rehabilitation prior to reinstatement, will be sufficient.

The referee's recommended ninety (90) day suspension is inadequate because the respondent has previously received significant discipline, all within the last five (5) years.

The conduct in the case at hand began in 1987 and continued until the clients discharged him in February, 1991. During this period of representation the respondent received a 1989 private reprimand for inadequate preparation of a real estate closing, The Florida Bar v. Lawless, The Florida Bar Case No. 86-17,309 (09C), Appendix, p. A8; a 1990 public reprimand by appearance before the Board of Governors for his misconduct in seeking to

have his client sign a release releasing respondent and Mr. Aboudraah from all liability in connection with their legal representation in an immigration matter. The client was not advised to discuss the matter with outside counsel and return of the client's $1,600.00 in legal fees was contingent upon his signature, The Florida Bar v. Lawless, 564 So. 2d 489 (Fla. 1990), Appendix, p. A15. In early 1991, the respondent received a written public reprimand plus two years probation for incompetence and neglect in the handling of an immigration matter between 1985 and 1988, in which Mr. Aboudraah was also involved, The Florida Bar v. Lawless, 576 So. 2d 293 (Fla. 1991), Appendix, p. A35. Nevertheless, the respondent continued to assure Mr. and Mrs. Seguin between 1987 and early 1990 that all was fine with their immigration case which Mr. Aboudraah was handling. The respondent was so unfamiliar with Mr. Aboudraah's handling of the case that he did not even know that Mr. Aboudraah had fraudulently extracted thousands of dollars from the Seguins over the years. He was unaware that the Immigration and Naturalization Service had denied the Seguins' applications for visas. He was unaware that the labor certification method was inappropriate and an unlikely source of a visa for the Seguins. The respondent was well aware that Mr. Aboudraah had been subject to several INS investigations since 1986, T-186, one of which led to his 1991 imprisonment. The Seguins were not advised otherwise until Mr. Aboudraah closed his office. Although it is to his

credit that the respondent attempted to handle the Seguins' case appropriately after Mr. Aboudraah's 1990 INS investigation, the fact of his previous neglect and his failure to advise the Seguins and protect them from Mr. Aboudraah is untenable.

This is particularly true in view of the respondent's disciplinary history. The Florida Bar initially recommended a ninety (90) day suspension to the referee in this matter. Upon the standard review by the Board of Governors, The Florida Bar has determined that a ninety-one (91) day suspension requiring proof of rehabilitation is required in view of the respondent's significant discipline history. It is well settled that ethical violations warrant more serious discipline where the respondent has such a prior history, The Florida Bar v. Vernell, 374 So. 2d 473 (Fla. 1979); The Florida Bar v. Reese, 421 So. 2d 495 (Fla. 1982); The Florida Bar v. Leopold, 399 So. 2d 978 (Fla. 1981). As this court noted in The Florida Bar v. Bern, 425 So. 2d 526 (Fla. 1983), cumulative misconduct of a similar nature to previous misconduct warrants even more severe discipline than otherwise. Mr. Bern was suspended for a period of three months and one day requiring proof of rehabilitation where he had a disciplinary history of two private reprimands and one public reprimand. Only one of Mr. Bern's previous cases directly involved the same misconduct as the suspension case. In The Florida Bar v. Greene, 515 So. 2d 1280 (Fla. 1987), this court suspended Mr. Greene for ninety-one (91) days for failing to

supervise his nonlawyer employee where he had a prior private reprimand, two prior public reprimands and had been held in contempt for failing to observe the conditions of his probation.

Further, a ninety-one (91) day suspension is warranted due to the pattern of misconduct involved. In The Florida Bar v. Dubbeld, 594 So. 2d 735 (Fla. 1992), the court imposed a public reprimand rather than merely an admonishment of minor misconduct as recommended by the referee where the attorney had two prior admonishments of minor misconduct on his record. As the court noted, the incidents which gave rise to yet another complaint demonstrated a continuing pattern of misconduct upon which the respondent's prior discipline appeared to have had little effect. This is also true in the case at hand where the very same players were present twice previously; only the victims have changed.

In The Florida Bar v. Adler, 589 So. 2d 899 (Fla. 1991), this court imposed an eighteen (18) month suspension where the attorney had commingled his own funds with client trust funds. The court found that the respondent's previous disciplinary history was relevant even where the prior disciplinary proceeding occurred after the instant violations. However it is well settled that "cumulative misconduct can be found when the misconduct occurs near in time with the other offenses, regardless of when discipline is imposed", The Florida Bar v. Golden, 566 So. 2d 1286, 1287 (Fla. 1990).

The Florida Standards for Imposing Lawyer Sanctions also call for a ninety-one (91) day suspension. At Standard 4.42, a suspension is appropriate for (a) a knowing failure to perform client services or (b) pattern of neglect causing injury or potential injury to the client. This is enhanced by the aggravating factors including 9.22(a) prior disciplinary offenses; (c) pattern of misconduct; (h) vulnerability of victim, and (j) indifference to making restitution.

The respondent has clearly failed to take heed of the importance of strict ethical adherence and the importance of diligence in protecting one's clients. Therefore, nothing less than a ninety-one (91) day suspension requiring proof of rehabilitation prior to reinstatement will serve the purposes of attorney discipline in this case.

CONCLUSION

WHEREFORE, The Board of Governors of The Florida Bar respectfully prays that this Honorable Court will review the referee's report and recommendations, and impose a ninety-one (91) day suspension requiring proof of rehabilitation on the respondent, approve the referee's other recommendations, and order the respondent to pay costs in these proceedings currently totaling $2,385.59.

Respectfully submitted,

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

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

and

JAN K. WICHROWSKI
The Florida Bar
880 North Orange Avenue
Suite 200
Orlando, Florida 32801
(407) 425-5424
Attorney No. 381586

BY: Jan Wichel
JAN K. WICHROWSKI
Bar Counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven (7) copies of the foregoing Initial Brief and Appendix have been furnished by Airborne Express mail to the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida, 32399-1927; a copy of the foregoing has been furnished by ordinary mail to John A. Weiss, Counsel for Respondent, at P. O. Box 1167, Tallahassee, Florida 32302-1167; and a copy of the foregoing has been furnished by ordinary mail to Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida, 32399-2300, on this 10th day of May, 1993.

Jan Wichrowski

JAN K. WICHROWSKI
Bar Counsel

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

Case No. 80,117
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v.

WILLIAM F. LAWLESS,

Respondent.
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APPENDIX

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

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

and

JAN K. WICHROWSKI
The Florida Bar
880 North Orange Avenue
Suite 200
Orlando, Florida 32801
(407) 425-5424
Attorney No. 381586

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v.

WILLIAM F. LAWLESS,

Respondent.
_____________________________/

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 Regulating The Florida Bar, hearings were held on January 7, 1993. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits, all of which are forwarded to The Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar - Jan K. Wichrowski

For The Respondent - Robert E. Miller

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

1. On or around January 22, 1987, the respondent was retained by Michael and Barbara Seguin regarding an immigration matter. The Seguins, as Canadian citizens, wanted to acquire permanent residency status in the United States.

2. Initially, the respondent contracted to acquire permanent residency status for only Michael Seguin and quoted the Seguins a flat fee of $5,000.00 plus expenses to perform this service.

3. On January 22, 1987, the Seguins gave the respondent a check payable to his law firm in the amount of $2,500.00 as one-half of the respondent's fee. The Seguins also paid the respondent $300.00 to set up a corporation named "Able Investments". The respondent advised the Seguins the corporation was necessary in order to apply for a labor certificate from the Department of Labor for Mr. Seguin.

2. Thereafter, Mr. and Mrs. Sequin met with the respondent and his assistant Charles Aboudraah. Although Mr. Aboudraah was not an attorney, the respondent advised the Seguins that Mr. Aboudraah would be working with the respondent on their case as he was experienced in immigration matters. The respondent never discussed with the Seguins Mr. Aboudraah's fee for assisting him in the case.

3. On the Seguins' behalf, Mr. Aboudraah was to apply for a labor certificate under Mr. Seguin's corporation and once this certificate was received, he would apply for Mr. Sequin's residency visa. The respondent advised this process would take approximately six to nine months.

4. The respondent told the Seguins they should contact Mr. Aboudraah directly concerning any immigration matters. The respondent further advised that mainly Mr. Aboudraah would be handling their case, but that the respondent would supervise his progress.

5. On March 19, 1987, the Seguins paid $725.00 in cash directly to Mr. Aboudraah purportedly to file a visa application for Barbara Seguin as it was decided that her application should be submitted simultaneously with the application from Mr. Seguin.

6. On April 3, 1987, $1,472.00 was paid to Mr. Aboudraah from the Seguins' personal money market account.

7. On May 28, 1987, $3,000.00 was paid to Mr. Aboudraah by check from the Seguins' personal money market account.

8. On January 18, 1988, $115.00 was paid to the respondent's firm, Lawless and Pfleuger, by check from the Seguins' business account.

9. In total, from March 19, 1987, to January 18, 1988, the Seguins paid directly to Mr. Aboudraah $5,312.00 in addition to the $2,500.00 fee they had paid the respondent on January 22, 1987.

10. With the exception of the $725.00 payment, Mr. Aboudraah requested funds from the Seguins to cover his traveling expenses to handle the immigration matter by making personal appearances at immigration offices out of state. The Seguins believed that paying Mr. Aboudraah directly would expedite the application process and that Mr. Aboudraah was remitting to the respondent "his cut" of the funds they provided to Mr. Aboudraah.

11. On February 11, 1988, the Seguins paid to Mr. Aboudraah from their business account a check in the amount of $7,234.00. The Seguins believed that this was the final payment in the immigration matter and that it consisted of the $2,500.00 balance owed to the respondent as the last half of his flat fee and the additional funds were for Mr. Aboudraah expenses.

12. At the time of the February 11, 1988, payment, Mr. Aboudraah advised the Seguins that all of their paperwork had been filed with the Immigration and Naturalization service (hereinafter referred to as "INS") and that they were waiting for the INS to send them the proper visa cards.

13. During the time Mr. Aboudraah was handling their immigration situation, the Seguins spoke with the respondent on numerous occasions regarding Mr. Aboudraah's progress. The respondent always contacted Mr. Aboudraah to determine the status of their situation with the INS. The Seguins believed that the respondent was receiving funds from the payments they paid Mr. Aboudraah and that he was aware of the status of their case.

14. In or around January, 1990, the Seguins received a letter from the INS sent directly to their business address. The letter indicated the INS was seeking additional information regarding the Seguins' residency status and that they had failed to respond to the previous letters regarding the matter.

15. When the Seguins inquired about the letter from the INS, both Mr. Aboudraah and the respondent advised that Mr. Aboudraah was in communication with his "contacts" within the INS about the Seguins' situation and that the matter was being taken care of.

16. The respondent always expressed confidence in Mr. Aboudraah's abilities and he never advised the Seguins to stop contacting Mr. Aboudraah about their case.

17. Thereafter, the Seguins learned from their

accountant that Mr. Aboudraah was being investigated by the INS. Mr. Aboudraah then became less available to the Seguins and he ultimately closed his office.

18. The Seguins then contacted the respondent who reviewed their file and contacted the INS. The respondent discovered that there was no application on file for either Michael or Barbara Seguins and that applications had been returned by the INS in late 1989. Therefore, the Seguins had been illegally living in the United States since 1986.

19. The respondent determined that Mr. Aboudraah's strategy, i.e. application for labor certificates, was incorrect and that he should have applied for E-2 investor visas since the Seguins had invested a substantial amount of money in their business, which had been operating in the United States since 1986.

20. In April, 1990, the respondent withdrew the applications for the Seguins' labor certificates and then submitted applications for the E-2 visas in May, 1990.

21. In or around April, 1990, the Seguins told the respondent about the payments they had made to Mr. Aboudraah. The respondent claimed that he had only received approximately $3,000.00 in fees, which the Seguins had paid directly to him and that he had not received any payments from Mr. Aboudraah. The respondent further claimed he had no direct contact with Mr. Aboudraah in over two years.

22. In or around February, 1991, the Seguins consulted with another immigration attorney because they did not believe the respondent understood the immigration procedures needed to conclude their case.

23. The Seguins' new attorney determined that at the time the respondent submitted applications for the E-2 visas, the Seguins were "out of status" (had overstayed their visitor visas) and thus, the INS could decline their applications.

24. It is my finding that when the respondent discovered what a damaging situation the Seguins were in, he did what he could to salvage the situation on the Seguins' behalf. Despite the problems with the Seguins' applications to the INS, their E-2 visa applications have been approved. Due to the assistance of their new immigration attorney, the Seguins have obtained E-2 status and can legally live in the United States and operate their business.

25. The respondent failed to adequately supervise Mr. Aboudraah's handling of the Seguins' immigration situation which resulted in the Seguins living in the United States illegally for approximately four years. Due to the respondent's reliance on his non-lawyer assistant, the Seguins' immigration status has taken in excess of five years to resolve.

26. The Seguins have paid the respondent and Mr. Aboudraah in excess of $15,000.00 for legal fees and expenses and have had, in effect, to initiate the immigration procedures all over again in order to obtain legal status in the United States.

III. Recommendations as to whether or not the Respondent should be found guilty: It is the finding of this referee that the evidence presented by the Bar was not only clear and convincing, but was beyond and to the exclusion of a reasonable doubt that the respondent violated the following Rules of Professional Conduct: 4-1.3 for failing to act with reasonable diligence and promptness in representing clients; 4-5.3 for failing to make reasonable efforts to ensure that a non-lawyer employee's conduct is compatible with the professional obligations of the lawyer; and 4-8.4(a) for violating or attempting to violate the Rules of Professional Conduct.

I recommend that respondent be found not guilty of Rule 3-4.3 for engaging in conduct contrary to honesty and justice; 4-8.4(c) for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and 4-8.4(d) for engaging in conduct prejudicial to the administration of justice as I find respondent not guilty in regard to making misrepresentations to INS concerning the Seguins' status.

IV. Recommendation as to Disciplinary measures to be applied:

I recommend that the respondent be suspended from the practice of law for a period of ninety (90) days; that he be placed on a three (3) year period of probation following his suspension; and that he be required to pay the costs incurred by The Florida Bar in bringing this proceeding. I further make the following recommendations pertaining to the respondent's law practice:

1. That the respondent remove the words "Immigration Law" from his letterhead unless he has been certified by The Florida Bar to have special expertise in that area or in any other area of law;

2. That the respondent disassociate himself from supervising any paralegals in his practice in the future;

3. That the respondent refrain from splitting fees with any non-lawyer;

4. That the respondent successfully complete a course in legal ethics during the period of his probation; and

5. That the respondent remove his name from the list of lawyers maintained by any lawyer referral service.

6. In addition to the recommendations listed above, I specifically recommend that the respondent be required to completely reimburse Mr. and Mrs. Seguin for all fees and costs they paid to Charles Aboudraah. Said reimbursement should be accomplished during the respondent's three (3) year probationary period. Interest will not be required on this amount, $12,546.00, only.

It is my finding that had it not been for the respondent, the Seguins would not have been subjected to Charles Aboudraah's misconduct. Therefore, reimbursement should be required of the respondent in the amount of $12,546.00.

V. Personal History and Past Disciplinary Record: After the finding of guilty and prior to recommending discipline to be recommended pursuant to Rule 3-7.5(k)(4), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Age: 59
Date admitted to Bar: December 11, 1980
Prior Disciplinary convictions and disciplinary measures imposed therein:

1. Case No. 86-17,309 (09C) - the respondent received a Supreme Court ordered private reprimand administered by the referee for assisting a non-lawyer in the unlicensed practice of law.

2. The Florida Bar v. Lawless, 564 So. 2d 488 (Fla. 1990) - the respondent received a public reprimand by appearance before the Board of Governors for neglecting an immigration matter. (The Florida Bar Case No. 89-30,348 (18A).

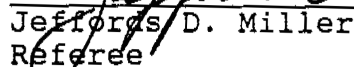
3. The Florida Bar v. Lawless, 576 So. 2d 292 (Fla. 1991) - the respondent received a public reprimand for splitting legal fees with a non-lawyer in an immigration matter. (The Florida Bar Case No. 88-31,499 (18A).

VI. Statement of costs and manner in which costs should be taxed: I find the following costs were reasonably incurred by The Florida Bar.

A.	Grievance Committee Level Costs	
	1. Transcript Costs	$ 0
	2. Bar Counsel/Branch Staff Counsel Travel Costs	$ 16.24
B.	Referee Level Costs	
	1. Transcript Costs	$1,355.50
	2. Bar Counsel/Branch Staff Counsel Travel Costs	$ 4.41
C.	Administrative Costs	$ 500.00
D.	Miscellaneous Costs	
	1. Investigator Expenses	$ 509.44
	TOTAL ITEMIZED COSTS:	$2,385.59

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, and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this 22 day of February, 1993.



Jeffords D. Miller
Referee

Original to Supreme Court with Referee's original file.

Copies of this Report of Referee only to:

Ms. Jan K. Wichrowski, Bar Counsel, 880 North Orange Avenue, Suite 200, Orlando, Florida 32801

Mr. Robert E. Miller, Counsel for Respondent, Raintree Office Park, 990 Douglas Avenue, Altamonte Springs, Florida 32714

Mr. John Berry, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300

RECEIVED
MAY 4 1993
THE FLORIDA BAR
ORLANDO

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No. 72,963
[TFB No. 86-17,309 (09C)]

vs.

WILLIAM F. LAWLESS,

Respondent.

______________________________/

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, a hearing was held on May 1, 1989, at Seminole County Courthouse, Sanford, Florida. The following attorneys appeared as counsel for the parties:

For The Florida Bar: JOHN B. ROOT, JR.
For The Respondent: WILLIAM GLENN ROY, JR.

The Florida Bar and Respondent, William F. Lawless entered into a stipulation agreement which was recited into the record. Pursuant to said agreement, Respondent admitted to violations of Rule 1-10 2(A)(6) and Rule 6-101(A)(2), Code of Professional Responsibility. The Florida Bar agreed to recommend a private reprimand in front of the Referee.

The Florida Bar modified the complaint to one of minor misconduct.

II. Findings of Fact: Respondent is 56 years of age and was admitted to practice law in the State of Florida in 1980. He worked as a trustee in bankruptcy for eight years, and is designated in the area of bankruptcy law.

Respondent has received no previous discipline from the Florida Bar. He initiated contact with the Florida Bar upon discovery of some of the matters which resulted in this grievance action being filed against him.

III. Recommendations: Based upon the stipulation of the Florida Bar and Respondent, I recommend that Respondent be found guilty of engaging in conduct that adversely reflects on his fitness to practice law, in violation of Rule 1-102(A)(2)(6) and of handling a legal matter without adequate preparation in the circumstances,in violation of Rule 6-101(A)(2), and specifically that he inadequately prepared a real estate closing.

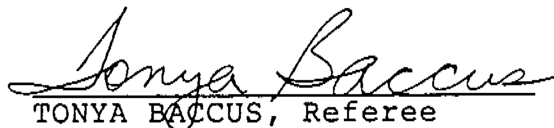
IV. Discipline: I recommend that Respondent be privately reprimanded by the referee as provided in Rule 3-5.1(a), Rules of Discipline.

V. Costs: I find that the following costs were reasonably incurred by the Florida Bar:

A.	Grievance Committee Level Costs:	
	1. Transcript Costs	$ 429.35
B.	Referee Level Costs	
	1. Transcript Costs	$ 159.45
	2. Bar Counsel/Branch Staff Counsel Travel Costs	$ 63.13
C.	Administrative Costs	$ 500.00
D.	Miscellaneous Costs	
	1. Investigator Costs	$ 38.75
	2. Witness Fees	$ 42.32
	3. Service of subpoena	$ 12.00
	TOTAL ITEMIZED COSTS:	$1,245.00

I recommend that the foregoing itemized costs be charged to the Respondent.

Dated this 17 day of May, 1989.



TONYA BACCUS, Referee

Certificate of Service

I Certify that copies of the foregoing were furnished via United States mail this 18 day of May, 1989 to John B. Root, Jr., Bar Counsel; William Glenn Roy, Jr., Respondent's counsel, and to staff counsel, The Florida Bar, Tallahassee, Florida 32301-8226.

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

CASE NO.
(TFB # 86-17309(9C))

v.

WILLIAM F. LAWLESS,

Respondent,
_________________________/

COMPLAINT

The Florida Bar, complainant, files this Complaint against William F. Lawless, respondent, pursuant to Article XI of the Integration Rule of The Florida Bar and the Rules Regulating The Florida Bar and alleges:

1. The respondent, William F. Lawless, is, and at all times hereinafter mentioned 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. Respondent resided and practiced law in Orange County, Florida between 1983 and 1985 during the time of these events.

3. Respondent practiced primarily in the area of bankruptcy law.

4. In 1983, the respondent was retained by Harold Corley to handle a real estate investment transaction concerning two parcels of real property located in Brevard County, Florida, hereinafter referred to as "Parcel A" and "Parcel B."

5. Parcel A was owned in fee simple by a third party. Corlachristi by the documents prepared and transmitted to the investors represented that it held title to Parcel A. Parcel B was a long term ground lease.

6. Harold Corley was an agent for Land and Home Realty, Inc., and stockholder of Corlachristi, Inc.

7. Beginning in February, 1984, respondent prepared documents for real estate closings in escrow concerning both parcels of the Brevard County property.

8. At the time that respondent prepared the closing documents and forwarded them to the investors for signature, he knew: (a) that Corlachristi, Inc., did not have fee simple title to Parcel A, and (b) that there was an undisclosed and unrecorded mortgage as well as undisclosed liens on Parcel B.

9. The respondent received executed documents and funds necessary to close the transactions back from the investors.

10. Knowing that there were no recorded documents conveying title to the investors or their representative, the respondent commenced disbursing funds from escrow.

11. He did not record the executed closing documents received from the investors.

12. Thereafter, respondent continued to solicit additional investors thereby causing injury to current and subsequent investors.

13. Respondent also allowed a mortgage to a third party to be released from his office knowing that if it were recorded that it would constitute a superior lien to that of the investors. Further, this third party mortgage was not disclosed to the investors.

14. Additionally, the closing statements prepared for each transaction revealed that funds were collected in escrow for recording documents. The recording was never done by the respondent or anyone acting in behalf of the investors or Corlachristi.

15. Subsequently, after disbursement of the money, respondent became aware that, concerning Parcel B, the leasehold interest, Corlachristi, Inc., possessed only a forged option document which purported to give Corlachristi, Inc., a leasehold interest. Corlachristi, Inc., did not, in fact, own a valid leasehold interest.

16. After the respondent had begun disbursing the investors' funds from escrow, he no longer could have refunded their money even though he had knowledge at the time of disbursement that their interests were not properly protected.

17. In view of the foregoing, respondent's actions assisted Harold Corley and Corlachristi, Inc., in acts which resulted in losses to the investors and which constituted perpetrating a fraud upon the investor.

18. By reason of the foregoing, respondent has violated the following Disciplinary Rule of The Florida Bar's Code of Professional Responsibility:

a. Rule 1-102(A)(4) for conduct involving dishonesty, fraud, deceit, or misrepresentation;

b. Rule 1-102(A)(6) for conduct that adversely reflects on his fitness as a lawyer; and,

c. Rule 6-101(A)(2) for handling a matter without adequate preparation in the circumstance.

WHEREFORE, The Florida Bar prays respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.

Maura T. Smith

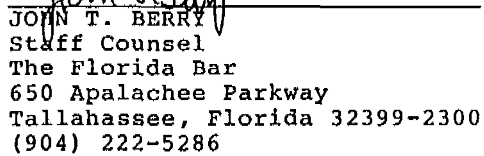
Maura T. Smith, Vice Chairman
[At time of hearing]
Ninth Judicial Circuit
Grievance Committee "C"
Post Office Box 2254
Orlando, Florida 32802
(407) 843-7300

Date: 8/12/88

John B. Root, Jr.

John B. Root, Jr.
Bar Counsel
The Florida Bar
605 East Robinson Street
Suite 610
Orlando, Florida 32801
(407) 425-5424

Date: 8/17/88



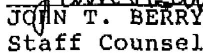
JOHN T. BERRY
Staff Counsel
The Florida Bar
650 Apalachee Parkway
Tallahassee, Florida 32399-2300
(904) 222-5286

and

JOHN F. HARKNESS, JR.
Executive Director
The Florida Bar
650 Apalachee Parkway
Tallahassee, Florida 32399-2300
(904) 222-5286

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served the original of the foregoing Complaint to the Clerk of the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida, 32399-1927; a copy of the foregoing Complaint, by certified mail, return receipt requested, no. P 630 485 719, on Counsel for respondent, William Glen Roy, Jr., at 195 South Westmoreland Drive, Suite P, Altamonte Springs, Florida, 32714; and a copy by ordinary mail to Bar Counsel, The Florida Bar, 605 East Robinson Street, Suite 610, Orlando, Florida, 32801, this 26th day of August, 1988.



JOHN T. BERRY
Staff Counsel

IN THE SUPREME COURT OF FLORIDA

(Before the Board of Governors)

RECEIVED
MAY 4 1993
THE FLORIDA BAR
ORLANDO

THE FLORIDA BAR,

Complainant,

v.

WILLIAM F. LAWLESS,

Respondent.

Case No. 74,761

(TFB No. 89-30,348(18A))

______________________________/

PUBLIC REPRIMAND

Mr. Lawless, by its order of May 24, 1990, the Supreme Court of Florida has ordered you be publicly reprimanded by personal appearance before this Board.

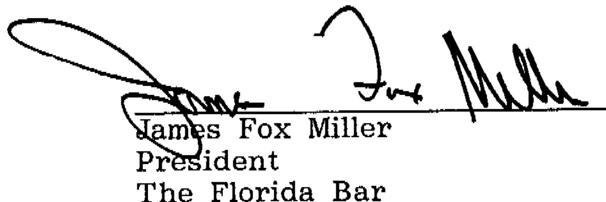
You were retained to obtain immigration status for your client so that he could move with his family to the United States. Your client paid you a fee of $1,600 including $350 for legal fees at a meeting attended by you and your nonlawyer assistant. Subsequently, you agreed to return the $1,600 if your client would sign a general release for you and your assistant for any and all liability in connection with your representation. You told your client that his signature on the release was required to receive the $1,600. You were aware that your client was not independently represented in making the agreement. Your client refused to sign and you therefore refused to refund the money at that time.

Mr. Lawless, lawyers and the legal profession are under unprecedented attack. Your actions serve as grounds for support of that attack and seriously affect our ability to serve the public. Your actions violate your oath as an attorney.

Your actions are unethical, unprofessional, inexcusable, and an embarrassment and disappointment to your fellow lawyers. Your conduct cannot be tolerated by your fellow lawyers and must not be tolerated by you. Pride in your profession and self respect demand that you will not violate your oath again. If you do, your present misconduct will be considered in future disciplinary proceedings.

This public reprimand is now a part of your permanent Bar record. The lawyers of Florida expect your future conduct to always be in compliance with your oath and your obligations to our profession.

DONE AND ADMINISTERED this 5th day of October, 1990.



James Fox Miller
President
The Florida Bar

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No. 74,761
[TFB Case No. 89-30,348 (18A)]

v.

WILLIAM F. LAWLESS,

Respondent.

_______________________________/

RECEIVED
MAY 07 '90
The Florida Bar

AMENDED 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, a hearing was held on March 9, 1990, at Brevard County Courthouse, Melbourne, Florida. The following attorneys appeared as counsel for the parties:

For The Florida Bar: ALANA C. BRENNER
For The Respondent: NONE

The Respondent, William F. Lawless, entered a written conditional guilty plea for Consent Judgment, which was filed with the Referee pursuant to the Rules Regulating the Florida Bar, Rule 3-7.8, and tendered in exchange for the disciplinary measures of a public reprimand to be imposed upon Respondent.

II. **Finding of Fact**: In or about March of 1986, Mr. Derek Powell consulted with the Respondent, William F. Lawless (hereinafter Respondent) regarding the possibility of obtaining immigration status to allow him to move with his family to the United States. Mr. Charles Aboudraah was also present at the meeting in the capacity of a non-lawyer assistant to the Respondent.

In or about April, Mr. Powell paid Respondent a fee of $1,600.00, including $350.00 for legal costs for handling the matter.

Respondent agreet to return the $1,600.00 to Mr. Powell at a later date.

The Powells contacted the Respondent in September and were presented with a general release for their signature, releasing Respondent and Mr. Aboudraah for any and all liability in connection with their representation.

Respondent indicated that their signature on the release was his requirement for returning their $1,600.00. As Respondent was aware, Mr. Powell was not independently represented in making the agreement. Mr. Powell refused to sign the release and Respondent therefore refused to refund the money at that time.

Mr. Powell Has since received a refund of all the money paid to Respondent. In addition, it is noted that Respondent has been disciplined in 1989.

Respondent has entered a conditional plea of guilty for consent judgment. Based upon the foregoing, I find the Respondent guilty of a violation of Rule 4-1.08(h), Rules of Professional Conduct.

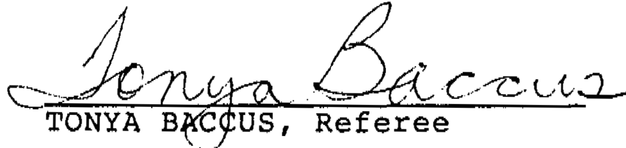
III. Recommendations: Based upon the stipulation of The Florida Bar and the Respondent, I recommend that Respondent be publicly reprimanded with an appearance before the Board of Governors pursuant to the Rules Regulating The Florida Bar, Rule 3-5.1 (d), and payment of costs.

IV. Costs: I find that the following costs were reasonably incurred by The Florida Bar:

A. Grievance Committee Level Costs:	
1. Transcript Costs	$ 500.74
2. Bar Counsel/Branch Staf Counsel Travel Costs	10.10
B. Referee Level Costs:	
1. Transcript Costs	65.85
2. Bar Counsel Travel Costs	48.50
C. Administrative Costs:	500.00
D. Miscellaneous Costs:	
1. Investigator Expenses	316.20
TOTAL ITEMIZED COSTS	**$1,441.39**

I recommend that the foregoing itemized costs be charged to the Respondent.

Dated this 27 day of April, 1990.



TONYA BACCUS, Referee

CERTIFICATE OF SERVICE

I CERTIFY that copies of the foregoing were furnished via United States mail this 30th day of April, 1990, to Alana C. Brenner, Bar Counsel; William F. Lawless, Respondent, and to staff counsel, The Florida Bar, Tallahassee, Florida 32301-8226.

RECEIVED
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The Florida Bar

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No. 74,761
[TFB Case No. 89-30,348 (18A)]

v.

WILLIAM F. LAWLESS,

Respondent.

______________________________/

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, a hearing was held on March 9, 1990, at Brevard County Courthouse, Melbourne, Florida. The following attorneys appeared as counsel for the parties:

For The Florida Bar: ALANA C. BRENNER
For The Respondent: NONE

The Respondent, William F. Lawless, entered a written conditional guilty plea for Consent Judgment, which was filed with the Referee pursuant to the Rules Regulating the Florida Bar, Rule 3-7.8, and tendered in exchange for the disciplinary measures of a public reprimand to be imposed upon Respondent.

II. Finding of Fact: In or about March of 1986,Mr. Derek Powell consulted with the Respondent, William F. Lawless (hereinafter Respondent) regarding the possibility of obtaining immigration status to allow him to move with his family to the United States. Mr. Charles Aboudraah was also present at the meeting in the capacity of a non-lawyer assistant to the Respondent.

In or about April, Mr. Powell paid Respondent a fee of $1,600.00, including $350.00 for legal costs for handling the matter.

Thereafter, Mr. Aboudraah, who is not a member of The Florida Bar or an attorney, undertook the processing of the immigration case. Based upon his advice, confirmed by Mr. Lawless, Mr. Powell moved his family to the United States in or about August of 1988.

Respondent failed to adequately supervise Mr. Aboudraah's work in the immigration matter.

Mr. Aboudraah advised Mr. Powell that the case had been filed and was progressing satisfactorily. However, in or about August of 1988, Mrs. Powell had an opportunity

to review their file at Mr. Aboudraah's office. She learned that the case had not been filed at all, and was not progressing satisfactorily, contrary to the previous statements of Mr. Aboudraah and Respondent.

When confronted with this information in September, 1988, Respondent requested that Mr. Aboudraah bring his file to his office. Respondent agreed that nothing had been filed and agreed to return the $1,600.00 to Mr. Powell at a later date.

The Powells contacted the Respondent approximately one week later and were presented with a general release for their signature, releasing Respondent and Mr. Aboudraah for any and all liability in connection with their representation. Respondent indicated that their signature on the release was his requirement for returning their $1,600.00. As Respondent was aware, Mr. Powell was not independently represented in making the agreement. Mr. Powell refused to sign the release and Respondent therefore refused to refund the money at that time.

Mr. Powell Has since received a refund of all the money paid to Respondent. In addition, it is noted that Respondent has been disciplined in 1989.

Respondent has entered a conditional plea of guilty for consent judgment.

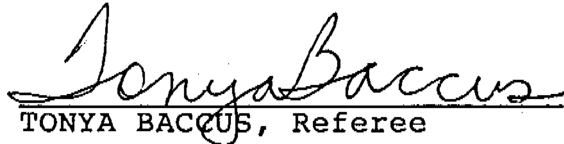
III. <u>Recommendations</u>: Based upon the stipulation of The Florida Bar and the Respondent, I recommend that Respondent be publicly reprimanded with an appearance before the Board of Governors pursuant to the Rules Regulating The Florida Bar, Rule 3-5.1 (d), and payment of costs.

IV. <u>Costs</u>: I find that the following costs were reasonably incurred by The Florida Bar:

A. Grievance Committee Level Costs:	
1. Transcript Costs	$ 500.74
2. Bar Counsel/Branch Staf Counsel Travel Costs	10.10
B. Referee Level Costs:	
1. Transcript Costs	65.85
2. Bar Counsel Travel Costs	48.50
C. Administrative Costs:	500.00
D. Miscellaneous Costs:	
1. Investigator Expenses	316.20
TOTAL ITEMIZED COSTS	**$1,441.39**

I recommend that the foregoing itemized costs be charged to the Respondent.

Dated this 3 day of April, 1990.



TONYA BACCUS, Referee

CERTIFICATE OF SERVICE

I CERTIFY that copies of the foregoing were furnished via United States mail this 3rd day of April, 1990, to Alana C. Brenner, Bar Counsel; William F. Lawless, Respondent, and to staff counsel, The Florida Bar, Tallahassee, Florida 32301-8226.

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant, Case No. 74,761
[TFB Case No. 89-30,348 (18A)]

v.

WILLIAM F. LAWLESS,

Respondent.
_____________________________/

FIRST AMENDED COMPLAINT

The Florida Bar, complainant, files this Complaint against William F. Lawless, respondent, pursuant to Article XI of the Integration Rule of The Florida Bar and the Rules Regulating The Florida Bar and alleges:

1. The respondent, William F. Lawless, is and at all times hereinafter mentioned, 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. Respondent resided and practiced law in Seminole County, Florida at all times material.

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MAR 07 '90
The Florida Bar

3. In or about March of 1986, Mr. Derek Powell consulted with the Respondent, William F. Lawless (hereinafter Respondent) regarding the possibility of obtaining immigration status to allow him to move with his family to the United States. Mr. Charles Aboudraah was also present at this meeting in the capacity of a non-lawyer assistant to the Respondent.

4. In or about April, Mr. Powell paid Respondent a fee of $1600.00, including $350.00 for legal costs for handling the matter.

5. Thereafter, Mr. Aboudraah, who is not a member of The Florida Bar or an attorney, undertook the processing of the immigration case. Based upon his advice, confirmed by Mr. Lawless, Mr. Powell moved his family to the United States in or about August of 1988.

6. Respondent failed to adequately supervise Mr. Aboudraah's work in the immigration matter.

7. Mr. Aboudraah advised Mr. Powell that the case had been filed and was progressing satisfactorily. However, in or about

August of 1988 Mrs. Powell had an opportunity to review their file at Mr. Aboudraah's office. She learned that the case had not been filed at all, and was not progressing satisfactorily, contrary to the previous statements of Mr. Aboudraah and Respondent.

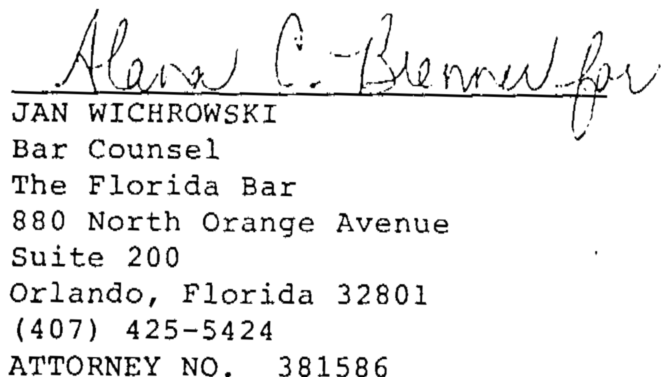
8. When confronted with this information in September, 1988, Respondent requested that Mr. Aboudraah bring his file to his office. Respondent agreed that nothing had been filed and agreed to return the $1600.00 to Mr. Powell at a later date.

9. The Powells contacted the Respondent approximately one week later and were presented with a general release for their signature, releasing Respondent and Mr. Aboudraah for any and all liability in connection with their representation. A copy of this release is attached and incorporated herein as Exhibit A. Respondent indicated that their signature on the release was his requirement for returning their $1600.00. As Respondent was aware, Mr. Powell was not independently represented in making the agreement. Mr. Powell refused to sign the release and Respondent therefore refused to refund the money at that time.

10. By reason of the foregoing, Respondent has violated the following Rules of Professional Conduct: Rule 4-1.8(h), Conflict of Interest: for making an agreement prospectively limiting the lawyer's ability to a client for malpractice where the client is not independently represented in making the agreement.

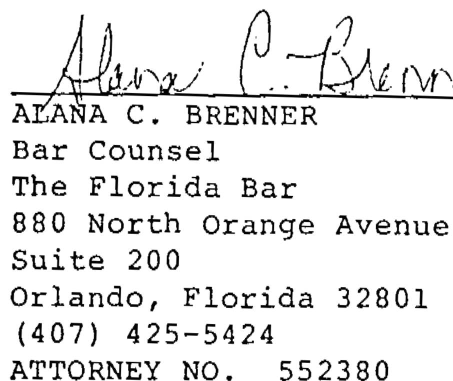
WHEREFORE, The Florida Bar prays respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.

Respectfully submitted,



JAN WICHROWSKI
Bar Counsel
The Florida Bar
880 North Orange Avenue
Suite 200
Orlando, Florida 32801
(407) 425-5424
ATTORNEY NO. 381586

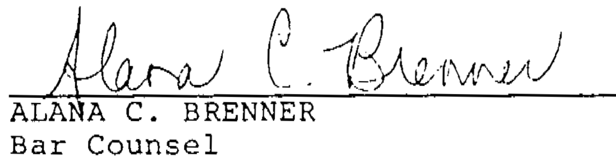
and



ALANA C. BRENNER
Bar Counsel
The Florida Bar
880 North Orange Avenue
Suite 200
Orlando, Florida 32801
(407) 425-5424
ATTORNEY NO. 552380

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served the original of the foregoing First Amended Complaint to the Honorable Tonya L. Baccus, Referee, 50 South Neiman Avenue, Melbourne, Florida, 32901, at Final Hearing; a copy of the foregoing by hand delivery on respondent, William F. Lawless at Final Hearing; and a copy by ordinary mail to Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida, 32399-2300, on this 5th day of March, 1990.



ALANA C. BRENNER
Bar Counsel

GENERAL RELEASE

RAMCO FORM 22

(8)

Know All Men By These Presents:

That I (I, We)

DERREK POWELL

first party, for and in consideration of the sum of $10.00 Dollars, or other valuable considerations, received from or on behalf of

WILLIAM F. LAWLESS
CHARLES ABOUDRAAH

second party, the receipt whereof is hereby acknowledged,

(Wherever used herein the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

HEREBY remise, release, acquit, satisfy, and forever discharge the said second party, of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which said first party ever had, now has, or which any personal representative, successor, heir or assign of said first party, hereafter can, shall or may have, against said second party, for, upon or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the day of these presents.

In Witness Whereof, I have hereunto set my hand and seal this 21st day of September , A. D., 19 88

Signed, sealed and delivered in presence of:

.... (L.S.)

DEREK POWELL

.... (L.S.)

A28

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant, Case No. 89-30,348 (18A)

v.

WILLIAM F. LAWLESS,

Respondent.
_______________________________/

COMPLAINT

The Florida Bar, complainant, files this Complaint against William F. Lawless, Respondent, pursuant to Article XI of the Integration Rule of The Florida Bar and the Rules Regulating The Florida Bar and alleges:

1. The Respondent, William F. Lawless, is and at all times hereinafter mentioned, 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. Respondent resided and practiced law in Seminole County, Florida at all times material.

3. In or about March of 1988, Mr. Derek Powell consulted with the Respondent, William F. Lawless (hereinafter Respondent) regarding the possibility of obtaining immigration status to allow him to move with his family to the United States. Mr. Charles Aboudraah was also present at this meeting in the capacity of a non-lawyer assistant to the Respondent.

4. In or about April, Mr. Powell paid Respondent a fee of $1600.00, including $350.00 for legal costs for handling the matter.

5. Thereafter, Mr. Aboudraah, who is not a member of The Florida Bar or an attorney, undertook the processing of the immigration case. Based upon his advice, confirmed by Mr. Lawless, Mr. Powell moved his family to the United States in or about August of 1988.

6. Respondent failed to adequately supervise Mr. Abroudaah's work in the immigration matter.

7. Mr. Aboudraah advised Mr. Powell that the case had been filed and was progressing satisfactorily. However, in or about

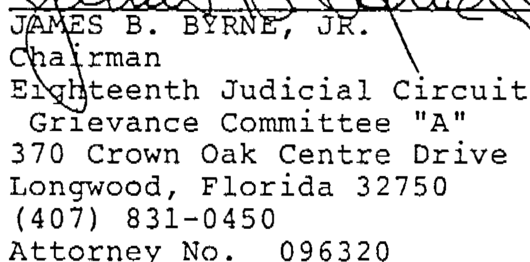
August of 1988 Mrs. Powell had an opportunity to review their file at Mr. Aboudraah's office. She learned that the case had not been filed at all, and was not progressing satisfactorily, contrary to the previous statements of Mr. Aboudraah and Respondent.

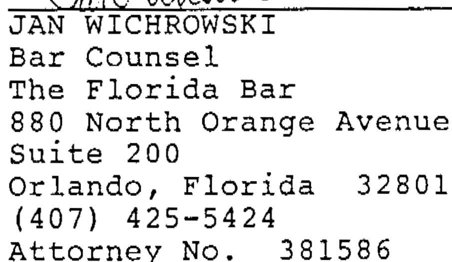
8. When confronted with this information in September, 1988, Respondent requested that Mr. Aboudraah bring the file to his office. Respondent agreed that nothing had been filed and agreed to return the $1600.00 to Mr. Powell at a later date.

9. The Powells contacted the Respondent approximately one week later and were presented with a general release for their signature, releasing Respondent and Mr. Aboudraah for any and all liability in connection with their representation. A copy of this release is attached and incorporated herein as Exhibit A. Respondent indicated that their signature on the release was his requirement for returning their $1600.00. As Respondent was aware, Mr. Powell was not independently represented in making the agreement. Mr. Powell refused to sign the release and Respondent therefore refused to refund the money at that time.

10. By reason of the foregoing, respondent has violated the following Rules of Professional Conduct: Rule 4-1.8(h), Conflict of Interest: for making an agreement prospectively limiting the lawyer's liability to a client for malpractice where the client is not independently represented in making the agreement; and Rule 4-5.3(b) Responsibilities Regarding Non-Lawyer Assistants: for failing to adequately supervise Mr. Aboudraah to ensure that his conduct was compatible with the professional obligations of the lawyer.

WHEREFORE, The Florida Bar prays respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.



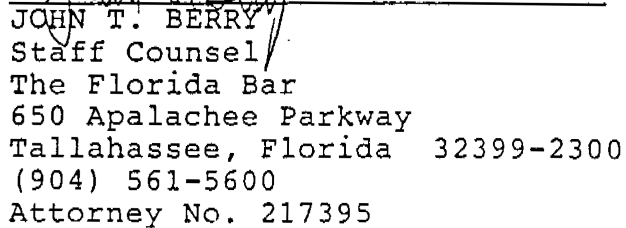


JAMES B. BYRNE, JR.
Chairman
Eighteenth Judicial Circuit
Grievance Committee "A"
370 Crown Oak Centre Drive
Longwood, Florida 32750
(407) 831-0450
Attorney No. 096320

Date: 9/5/89

JAN WICHROWSKI
Bar Counsel
The Florida Bar
880 North Orange Avenue
Suite 200
Orlando, Florida 32801
(407) 425-5424
Attorney No. 381586

Date: 9/8/89



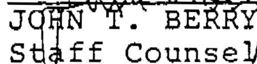
JOHN T. BERRY
Staff Counsel
The Florida Bar
650 Apalachee Parkway
Tallahassee, Florida 32399-2300
(904) 561-5600
Attorney No. 217395

and

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served the original of the foregoing Complaint to the Clerk of the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida, 32399-1927; a copy of the foregoing Complaint, by certified mail, return receipt requested, no. P 034 462 382, on Counsel for respondent, William G. Roy, Jr., 195 South Westmonte Drive, Suite 15, Altamonte Springs, Florida 32714; and a copy by ordinary mail to Bar Counsel, The Florida Bar, 880 North Orange Avenue, Suite 200, Orlando, Florida, 32801, on this 21st day of September, 1989.



JOHN T. BERRY
Staff Counsel

A33

Know All Men By These Presents:

That I (I, We)

DEREK POWELL

first party, for and in consideration of the sum of $10.00 Dollars, or other valuable considerations, received from or on behalf of

WILLIAM F. LAWLESS
CHARLES ABOUDRAAH

second party, the receipt whereof is hereby acknowledged.

(Wherever used herein the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

HEREBY remise, release, acquit, satisfy, and forever discharge the said second party, of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which said first party ever had, now has, or which any personal representative, successor, heir or assign of said first party, hereafter can, shall or may have, against said second party, for, upon or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the day of these presents.

In Witness Whereof, I have hereunto set my hand and seal this 21st day of September, A. D., 19 88

Signed, sealed and delivered in presence of:

.... L.S.

DEREK POWELL

.... L.S.

RECEIVED
MAY 4 1993
THE FLORIDA BAR
ORLANDO

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

Case No. 76,281
[TFB Case No. 88-31,499 (18A)]

WILLIAM F. LAWLESS,

Respondent.
______________________________/

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 Regulating The Florida Bar, a hearing was held on November 9, 1990. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits all of which are forwarded to The Supreme Court of Florida with this report, constitutes the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar   Jan Wichrowski

For The Respondent   In pro se

The respondent, William F. Lawless, entered a written Conditional Guilty Plea for Consent Judgment which was filed with the Referee pursuant to the Rules Regulating the Florida Bar, Rule 3-7.9, and tendered in exchange for disciplinary measures of a public reprimand by letter from the president of the Florida Bar followed by a two year period of probation requiring the submission of bi-annual caseload reports to be imposed upon the respondent. The Designated Reviewer of the Board of Governors of The Florida Bar has approved this consent judgement.

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

1. In or around early 1985, Leon Darcyl and his wife consulted with the respondent concerning obtaining permanent residency in the United States for their daughter, Ondina. Mr. and Mrs. Darcyl were residents of Argentina. Ondina was attending law school in Massachusetts while working for Latin American Network, Inc. Ondina's father owned the company which was based in Argentina but had an office in Orlando, Florida. Ondina was employed as a translator

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review videotapes which the company sent to her in Massachusetts. She was also to determine whether or not a particular film would be marketable in South America.

2. The respondent elected to pursue a schedule A, Group IV application for alien labor certification pursuant to 20 C.F.R. Section 656.10(d)(1). The success of such a petition depended entirely on being able to prove that at the time that Ondina entered the United States she was eligible for L-1 status as defined by 8 U.S.C.S. Section 1101(a)(15)(Law-Co-op. 1987), meaning that she must have worked as a manager or executive for Latin American Network's foreign parent or affiliate corporation for one year prior to applying for admission to the United States and would continue in that same capacity with Latin American Network's Orlando office. In fact, this was not the nature of Ondina's job.

3. The respondent prepared an application for alien employment certification (a.k.a. Form ETA 750) which was signed by Ondina on February 14, 1986. The respondent's description of Ondina's job failed to indicate that she was employed in any managerial or executive capacity as defined by 8 C.F.R. Section 214.2(1)(ii)(A) and (B). The job description merely indicated that she was employed to translate videotapes. Furthermore, the respondent indicated that Ondina would not supervise any employees. He also indicated on the form that Ondina had never worked for the foreign parent or affiliate of Latin America Network, Inc. despite the fact that this was a requirement in pursuing a schedule A, Group IV application for alien labor certification pursuant to 20 C.F.R., Section 656.10(d)(1).

4. The case was fraught with delay due in part to the fact that Ondina was not cooperative in providing the respondent with information. The respondent finally turned the matter over to a non-lawyer, Charles Aboudrah, who prepared the application for alien employment certification. Mr. Aboudrah then advised the respondent that he had filed the completed application when in fact this was not true. The application was not filed until after Leon Darcyl came to Orlando and met with the respondent. The respondent did not thoroughly review the application which was prepared Mr. Aboudrah prior to it being filed.

5. Thereafter, Ondina decided to retain an attorney in New York. He wrote the respondent and requested Ondina's file on May 16, 1988. He included a letter from Ondina terminating the respondent's services. The letter, which was sent certified mail, return receipt requested, was received by the respondent on May 19, 1988. On June 1, 1988, Ondina's New York attorney called and spoke with the respondent and again asked for the file. He did not receive the complete file until in or around September, 1988, after complaining to The Florida Bar.

6. The respondent charged Mr. and Mrs. Darcyl a total of $10,000 to handle the matter. They paid $5,000 up front with the balance due when Ondina attained permanent residency status.

III. Recommendations as to whether or not the Respondent should be found guilty: I recommend the respondent be found guilty and specifically that he be found guilty of violating the following disciplinary rules of The Florida Bar's Code of Professional Responsibility: 1-102(A)(6) for engaging in any other conduct that reflects adversely on his fitness to practice law; 6-101(A)(1) for handling a legal matter which he knew or should have known he was not competent to handle without associating with a lawyer who was competent to handle it; 6-101(A)(2) for handling a legal matter without preparation adequate in the circumstances; and Rule 4-1.1 of the Rules of Professional Conduct for failing to provide competent representation to his client.

IV. Recommendation as to Disciplinary measures to be applied: Based upon the stipulation of The Florida Bar and respondent, I recommend that the respondent be publicly reprimanded by letter from the president of The Florida Bar and be placed on probation for a period of two years. Terms of the probation recommended are as follows: The respondent shall be required to submit bi-annual reports of his caseload to The Florida Bar.

V. Personal History and Past Disciplinary Record: After the finding of guilty and prior to recommending discipline to be recommended pursuant to Rule 3-7.5(k)(4), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Age: 57
Date admitted to Bar: December 11, 1980
Prior Disciplinary convictions and disciplinary measures imposed therein: The Florida Bar v. Lawless, Case No. 86-17,308 - private reprimand for lack of preparation in a real estate transaction The Florida Bar v. Lawless, 564 So.2d 488 (Fla.1990) - conditional guilty plea for consent judgment for making an agreement prospectively limiting his liability to a client for malpractice where the client was not independently represented by other counsel.

I note that the misconduct for which the respondent was publicly reprimanded took place prior to the time of the misconduct in the pending matter and should not be considered in aggravation.

VI. Statement of costs and manner in which costs should be taxed: I find the following costs were reasonably incurred by The Florida Bar.

A.	Grievance Committee Level Costs	
	1. Transcript Costs	$291.00
	2. Bar Counsel/Branch Staff Counsel Travel Costs	$ 9.60
B.	Referee Level Costs	
	1. Transcript Costs	
	2. Bar Counsel/Branch Staff Counsel Travel Costs	
C.	1. Administrative Costs	$500.00
D.	Miscellaneous Costs	
	1. Investigator Expenses	$ 26.25
	2. Telephone Costs	$-0-
	3. Witness Fees	$-0-
	TOTAL ITEMIZED COSTS:	$826.85

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, and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this _______ day of _________________, 19____.

____
Referee

Copies to:

Jan Wichrowski, Bar Counsel, The Florida Bar, 880 North Orange Avenue, Suite 200, Orlando, Florida 32801

William F. Lawless, Counsel for Respondent, Lawless & Pflueger, 994 Douglas Avenue, Suite 100, Altamonte Springs, Florida 32714-2068

Mr. John T. Berry, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No. 76,281
[TFB Case No. 88-31,499 (18A)]

v.

WILLIAM F. LAWLESS,

Respondent.
_______________________________/

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned respondent and files this Conditional Guilty Plea to the Complaint filed and incorporated herein as Attachment One. This Conditional Guilty Plea is filed pursuant to the Rules Regulating The Florida Bar, Rule 3-7.9(b) and tendered in exchange for the following disciplinary measures to be imposed upon respondent to wit:

A public reprimand by letter from the President of The Florida Bar followed by a period of two years probation, requiring respondent to submit biannual reports of his caseload to The Florida Bar pursuant to Rules Regulating The Florida Bar, Rules 3-5.1(c) and 3-5.1(d).

If this Conditional Guilty Plea is not finally accepted by the Board of Governors and the Referee, then it shall be of no effect and may not be used against respondent in any way.

If this Plea is accepted, then respondent agrees that all

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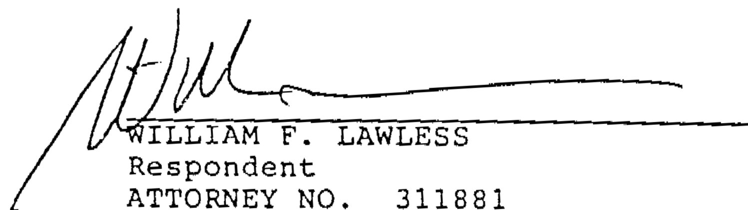
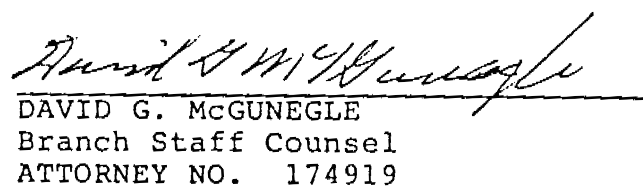
costs in the grievance committee proceedings to which this Plea relates and all costs at the referee level shall be paid by the respondent, including $500.00 administrative costs as provided in the Rules Regulating The Florida Bar, Rule 3-7.6(k)(1)(5). Such costs currently total $826.85.

Dated this 1 day of October, 1990.



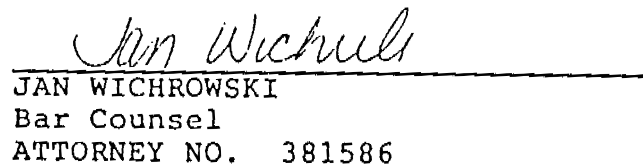
WILLIAM F. LAWLESS
Respondent
ATTORNEY NO. 311881

Approved this 9th day of October, 1990.



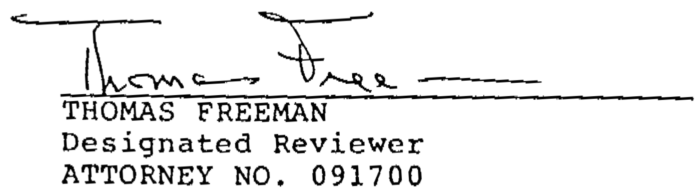
DAVID G. McGUNEGLE
Branch Staff Counsel
ATTORNEY NO. 174919

Approved this 4th of October, 1990.



JAN WICHROWSKI
Bar Counsel
ATTORNEY NO. 381586

Approved this 17th of October, 1990.



THOMAS FREEMAN
Designated Reviewer
ATTORNEY NO. 091700

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No. 88-31,499 (18A)

v.

WILLIAM F. LAWLESS,

Respondent.
_____________________________/

COMPLAINT

The Florida Bar, complainant, files this Complaint against William F. Lawless, respondent, pursuant to Article XI of the Integration Rule of The Florida Bar and the Rules Regulating The Florida Bar and alleges:

1. The respondent, William F. Lawless, is and at all times hereinafter mentioned, 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. Respondent resided and practiced law in Seminole County, Florida, at all times material.

3. In or around early 1985, Leon Darcyl and his wife consulted with the respondent concerning obtaining permanent

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residency in the United States for their daughter, Ondina. Mr. and Mrs. Darcyl were residents of Argentina. Ondina was attending law school in Massachusetts while working for Latin America Network, Inc. Ondina's father owned the company which was based in Argentina but had an office in Orlando, Florida. Ondina was employed as a translator to review videotapes which the company sent to her in Massachusetts. She was also to determine whether or not a particular film would be marketable in South America.

4. The respondent charged Mr. and Mrs. Darcyl a total of $10,000 to handle the matter. The Darcyls paid $5,000 with the balance due when Ondina attained permanent residency status.

5. The respondent elected to pursue a schedule A, Group IV application for alien labor certification pursuant to 20 C.F.R. Section 656.10(d)(1). The success of such a petition depended entirely on being able to prove that at the time that Ondina entered the United States, she was eligible for L-1 status as defined by 8 U.S.C.S. Section 1101(a)(15)(Law- Co-op. 1987), meaning that she must have worked as a manager or executive for Latin American Network's foreign parent or affiliate corporation for one year prior to applying for admission to the United States

and would continue in that same capacity with Latin American Network's Orlando office.

6. The respondent prepared an application for alien employment certification (a.k.a. Form ETA 750) which was signed by Ondina on February 14, 1986. The respondent's description of Ondina's job failed to indicate that she was employed in any managerial or executive capacity as defined by 8 C.F.R. Section 214.2(l)(ii)(A) and (B). The job description merely indicated that she was employed to translate videotapes from English to Spanish and Spanish to English. Furthermore, the respondent indicated that Ondina would not supervise any employees.

7. The respondent also indicated on the form that Ondina had never worked for the foreign parent or affiliate of Latin America Network, Inc. despite the fact that this was a requirement in pursuing the schedule A, Group IV application for alien labor certification pursuant 20 C.F.R., Section 656.10(d)(1).

8. The case was fraught with delay in part due to the fact that Ondina was not cooperative in providing the respondent with

information. The respondent finally turned the matter over to his non-lawyer employee, Charles Aboudrah, who prepared the application for alien employment certification.

9. Mr. Aboudrah advised the respondent that he had filed the completed application for alien employment certification when in fact this was not true. The application was not filed until after Mr. Leon Darcyl came to Orlando and met with respondent.

10. The respondent did not thoroughly review the application which was prepared by his non-lawyer employee prior to it being filed.

11. Ondina decided to retain a New York attorney, Theodore Ruthizer, who wrote the respondent and requested Ondina's file on May 16, 1988. He included a letter from Ondina terminating the respondent's services. The letter was sent certified mail, return receipt requested, and received by the respondent on May 19, 1988.

12. On June 1, 1988, Mr. Ruthizer and spoke with the respondent and again asked for the file. He did not receive the complete file until in or around September, 1988, after complaining to The Florida Bar.

13. The respondent continued to monitor the case despite being fired by Ondina. Allegedly, he elected to do this because a review of the file maintained at the Immigration and Nationalization Service in Dallas, Texas, by his non-lawyer employee in July, 1988, indicated that Mr. Ruthizer had not filed the required form G-28 to become attorney of record. Mr. Ruthizer filed a G-28 on May 17, 1988.

14. By reason of the foregoing, respondent has violated the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility: 1-102(A)(6) for engaging in any other conduct that reflects adversely on his fitness to practice law; 6-101(A)(1) for handling a legal matter which he knew or should have known he was not competent to handle without associating with him a lawyer who was competent to handle it; 6-101(A)(2) for handling a legal matter without preparation adequate in the circumstances; and Rule 4-1.1 of the Rules of Professional Conduct for failing to provide competent representation to a client.

WHEREFORE, The Florida Bar prays respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.

JAMES B. BYRNE, JR.
Chairman
Eighteenth Judicial Circuit
Grievance Committee "A"
370 Crown Oak Centre Drive
Longwood, Florida 32750
(407) 831-0450
Attorney No. 096320

Date: 6/25/90

JAN WICHROWSKI
Bar Counsel
The Florida Bar
880 North Orange Avenue
Suite 200
Orlando, Florida 32801
(407) 425-5424
Attorney No. 381586

Date: 6-27-90

JOHN T. BERRY
Staff Counsel
The Florida Bar
650 Apalachee Parkway
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Attorney No. 217395

and

JOHN F. HARKNESS, JR.
Executive Director
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Attorney No. 123390

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served the original of the foregoing Complaint to the Clerk of the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida, 32399-1927; a copy of the foregoing Complaint, by certified mail, return receipt requested, no. P 304 381 767, on respondent, William F. Lawless, 994 Douglas Avenue, Suite 100, Altamonte Springs, Florida, 32714-2068; and a copy by ordinary mail to Bar Counsel, The Florida Bar, 880 North Orange Avenue, Suite 200, Orlando, Florida 32801, on this 6th day of July, 1990.

JOHN T. BERRY