

**FILED**

SID J. WHITE

JUL 12 1993

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

CASE NO. 80-963

v.

TERRANCE PATRICK MCNAMARA,  
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, hearings were held on the following dates: May 17, 1993; June 10, 1993

The following attorneys appeared as counsel for the parties:

For The Florida Bar	David R. Ristoff
For The Respondent	Scott K. Tozian

**As to Count I**

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 upon below, I find:

1. Respondent is and at all times mentioned herein was a member of the Florida Bar subject to the jurisdiction of the Supreme Court of Florida.

2. Respondent on May 17, 1993 entered a plea of no contest to the underlying allegations of the Bars' Complaint (T-3). In lieu of proceeding to a trial on the merits, a subsequent hearing was held on June 10, 1993 as to the appropriate discipline.

3. Respondent was admitted to the Florida Bar in July 1988. (T-6,8,9)

4. Respondent practiced as a member of a firm for approximately two years. He entered into a sole proprietorship in late 1989 for some two years. (T-6,7)

5. Respondent closed his practice in January, 1992 due to the circumstances surrounding the complaint herein. (T-7)

6. Respondent has not previously been disciplined by the Florida Bar. (T-7)

7. The clients money which forms the basis for the complaint herein was returned in July, 1992 coincidentally with the Bars filing of a petition for an emergency suspension. (T-7,9)

8. Respondent knowingly used the clients money for his operating expenses.

III. Recommendation as to Whether or Not the Respondent Should Be Found Guilty: As to each count of the complaint I make the following recommendations as to guilt or innocence:

I recommend that the Respondent pursuant to the plea of no contest and based on the record herein be found guilty of the violations as alleged in the complaint.

IV. Recommendation as to Disciplinary Measures to be Applied:

I recommend that the Respondent be suspended for a period of thirty six (36) months retroactive to January 1992, and thereafter until Respondent shall prove rehabilitation as provided in Rule 3-5.1(e), Rules of Discipline.

V. Statement of Costs and Manner in Which Cost Should be Taxed:

It is recommended that all costs and expenses be charged to the Respondent.

Dated this 9th day of July, 1993.

Marva J. Crenshaw  
Referee

Certificate of Service

I hereby certify that a copy of the above report of referee has been served on David R. Ristoff, Branch Staff Counsel at The Florida Bar, Suite C-49, Tampa Airport, Marriott Hotel, Tampa, Florida 33607, Scott K. Tozian, Esquire, Smith & Tozian, 109 N. Brush Street, Tampa, Florida 33602, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300, this 9th day of July, 1993.

Kim Vasquez  
Kim Vasquez, Judicial Assistant  
for Judge Marva L. Crenshaw