

**FILED**

SID J. WHITE

SEP 29 1993

CLERK, SUPREME COURT

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

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

v.

LOUIS JEFFREY WEINSTEIN,  
Respondent.

Supreme Court Case  
No. 81,290

The Florida Bar File  
Nos. 92-51,509 (17F),  
92-51,532 (17F),  
92-51,554 (17F),  
and 93-50,088 (17F)

REPORT OF REFEREE

I. Summary of proceedings:

The undersigned was appointed to preside in the above disciplinary action by order of the Supreme Court of Florida dated March 1, 1993. The final hearing was held on Friday, August 13, 1993.

The pleadings and all other papers filed with the undersigned, which are forwarded to the Court with this report, constitute the entire record in this case.

During the course of these proceedings, the respondent was represented by Richard A. Greenberg. The Florida Bar was represented by Kevin P. Tynan, Bar Counsel.

II. Findings of fact as to misconduct of which the respondent is charged:

Based on the pleadings and testimony presented to me, I find as follows:

1. The parties entered into a joint pretrial stipulation, which sets forth the parties' agreed facts. I hereby incorporate these agreed facts into my report and attach the pretrial stipulation (PTS) as Exhibit "A".

As to Count I

2. A comparison of the reconciled balances of account #159 50240 36, entitled "Louis J. Weinstein Trust Account" maintained at the Family Bank of Hallandale, with the schedule of client liabilities at a given date reveals the following shortages in respondent's trust account:

<u>DATE</u>	<u>RECONCILED BANK BALANCE</u>	<u>CLIENT LIABILITIES</u>	<u>SHORTAGE</u>
5/31/91	\$22,442	\$35,699	\$13,257
6/30/91	19,387	36,599	17,212
7/31/91	30,645	58,669	28,024
8/31/91	7,277	34,458	27,181
9/30/91	6,483	34,458	27,975

I find that The Florida Bar's list of client liabilities to be accurate. See Exhibit "A" to the PTS. I reach this conclusion based upon respondent's admissions at trial (i.e. respondent's admission that he owes the monies still in his trust account either to Garcia or the health care providers) and the overwhelming evidence on other liabilities (the simple computation on Pickerill to reduce the total settlement by checks clearing prior to the dates in controversy).

3. These shortages were caused at least in part, if not all, by the issuance of the following checks drawn against respondent's trust account:

<u>DATE</u>	<u>CHECK #</u>	<u>PAYEE</u>	<u>AMOUNT</u>
5/31/91	1091	Louis J. Weinstein	\$5,000.00
6/7/91	1094	Louis J. Weinstein	4,250.00
6/17/91	1093	Louis J. Weinstein	2,000.00
6/26/91	1097	Louis J. Weinstein	2,000.00
7/2/91	1098	Louis J. Weinstein	9,000.00
7/24/91	1104	Louis J. Weinstein	2,000.00
8/1/91	1109	Louis J. Weinstein	750.00
8/5/91	1110	Louis J. Weinstein	760.00
8/13/91	Temporary	Louis J. Weinstein	2,000.00
8/16/91	1113	Louis J. Weinstein	2,000.00
8/27/91	1114	Louis J. Weinstein	1,000.00
8/30/91	Temporary	Louis J. Weinstein	300.00

Respondent does not refute this point. In addition the Bar's auditor was able to demonstrate a correlation between the monthly shortages and the foregoing checks.

4. Respondent's use of client monies for his own purposes, rather than the purpose for which they were entrusted constitutes misappropriation of client funds.

5. I specifically find that respondent purposefully and intentionally used client monies. I base this decision on the following:

A. The checks that cause the shortages all went to respondent with no notation as to a client matter. See The Florida Bar v. Schiller, 537 So. 2d 992 (Fla. 1989); The Florida Bar v. Simring, 612 So. 2d 561, 564-565 (Fla. 1993).

B. These checks are not drawn against commingled funds, as these commingled funds were depleted prior to the months of May 1991 through August 1991. See the Bar auditor's testimony that there was only approximately \$5,000.00 of unidentifiable monies at the outset of May 1991 and that had respondent's alleged amount of commingled monies still have been in the trust account, this would have reduced the cash on hand available for client use. See Simring at 566; The Florida Bar v. McShirley, 573 So. 2d 807 (Fla. 1991).

C. The Bar was able to demonstrate that on two occasions respondent paid his payroll taxes from his trust account. Of note on this point is respondent's initial assertion, during his deposition, that he paid these payroll taxes only once from his trust account and the fact that the only two missing checks, from the checks produced for audit, were these two checks to the IRS. See Simring at 566.

D. Respondent admits to having personal financial problems during 1990 and 1991, inclusive of several foreclosure actions, one on June 20, 1991 (\$34,114.17 judgement) and one on October 23, 1991 (\$83,422.92 judgement). See The Florida Bar v. Shanzer, 572 So. 2d 1382, 1383-1384 (Fla. 1991).

E. Lastly, respondent's July 2, 1993 payment to Dr. Vinsant of \$1,500.00 from his personal funds clearly demonstrates that he removed from trust all monies to pay Theresa Garcia's medical bills. Also see the October 11, 1990 agreement executed by respondent that Garcia would not be responsible to pay her medical bills and that respondent assumed personal responsibility for same.

6. I am not persuaded by respondent's defense of unintentional misuse of client monies by his failure to maintain proper trust accounting records or follow proper trust accounting techniques. While it is true that respondent's outside bookkeeper, Roy Adams, did little more than balance the trust account checkbook every month [Adams' deposition p. 20, l. 6-14], respondent apparently did not train Mr. Adams how to meet the requirements of the Rules Regulating Trust Accounts, nor inquired if Adams understood the same. More importantly, in 1987, respondent was disciplined for failing to keep proper trust accounting records. Thus respondent clearly knew what was required in this regards. His failure to keep proper records can be considered nothing less than intentional misconduct. Simring at 566. I have carefully read Mr. Adams deposition and nowhere do I find Adams testifying that he approved every check respondent took for attorney's fees. In fact, when Bar counsel attempted to inquire along these lines, respondent objected.

The following exchange occurred during Mr. Adams' deposition while under direct examination by Bar Counsel.

Q. You're aware that Mr. Weinstein's been accused of misappropriating client's monies?

A. No.

Q. You're not aware of that?

A. I know he's suspended.

Q. Are you aware that Mr. Weinstein is -- one of his defenses to that charge is claiming that he had sloppy records in bookkeeping, and, therefore, he had no knowledge of the true status of his trust account?

A. Well, that's, you know -- You know, I did the best --

Q. Are you aware that's one of his defenses?

A. I am now.

Q. You are now. Are you aware that Mr. Weinstein to some extent blames you?

MR. WEINSTEIN: I'm going to object to this if Richard isn't.

MR. TYNAN: Mr. Greenberg, I believe you're the lawyer here not Mr. Weinstein. If you want to make an objection on behalf of Mr. Weinstein, I have no objection.

MR. GREENBERG: Well, I don't know if it's correct to say Mr. Weinstein is blaming Mr. Adams.

MR. TYNAN: Let me rephrase it this way, and I'm not trying to cause any ill will between these two gentlemen.

MR. WEINSTEIN: No, you're doing the effect of. It is to cause ill will.

MR. TYNAN: I'm trying to get to the bottom of this.

MR. WEINSTEIN: Yeah, right.

As to Count II

7. On numerous occasions respondent deposited into his trust account funds received from insurance companies for personal injury settlements or from third parties and did not promptly remit said funds to his clients or third parties. A schedule of payments and disbursements is attached as appendix C to the PTS. The retention of the Garcia funds (\$12,282) for several years, along with other client's monies, gave respondent extra monies to meet client liabilities and prevent checks from bouncing.

8. Respondent's failure to promptly remit the monies referenced in the above schedule is without justifiable excuse and appears to be consistent with conduct in 1987 which led to his private reprimand.

As to Count III

9. The compliance audit conducted by The Florida Bar revealed that on numerous occasions respondent retained earned legal fees in his trust account. In fact, respondent's defense to the theft of client monies was that he had retained legal fees in his trust account. Respondent's testimony that he did not commingle is clearly without merit.

10. Failure to timely remove earned legal fees from a trust account when due is commingling.

As to Count IV

11. Respondent failed to maintain the minimum required trust accounting records and did not follow the minimum required trust accounting procedures. See paragraph 20 of the PTS which I incorporate herein by reference. It is important to note that respondent's defense to the theft in this case was that he maintained improper records.

As to Count V

12. Respondent's trust account #1595024036 at the Family Bank of Hallandale was a non-interest bearing bank account.

13. Respondent deposited short term and nominal funds being held for clients or third parties into said account.

14. Respondent failed to deposit these funds into an interest bearing trust account with the interest earned thereon being made payable to The Florida Bar Foundation.

III. Recommendations 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:

As to Count I

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following rules regulating The Florida Bar: Rules 3-4.2 [Violation of the Rules of Discipline is cause for discipline.] and 3-4.3 [The commission of any act which is contrary to honesty and justice may be cause for discipline.] of the Rules of Discipline and Rules 4-1.15(b) [A lawyer shall promptly deliver to the client or third person funds which they are entitled to receive.], 4-1.15(d) [A lawyer shall comply with the Rules Regulating Trust account.], 4-8.4(a) [A lawyer shall not violate the Rules of Professional Conduct.], 4-8.4(b) [A lawyer shall not commit a criminal act.], and 4-8.4(c) [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.] of the Rules of Professional Conduct and Rule 5-1.1 [Money entrusted for a specific purpose must only be used for that purpose.] of the Rules Regulating Trust Accounts.

### As to Count II

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following rules regulating The Florida Bar: Rules 3-4.2 [Violation of the Rules of Discipline is cause for discipline.] and 3-4.3 [The commission of any act which is contrary to honesty and justice may be cause for discipline.] of the Rules of Discipline and Rules 4-1.15(b) [A lawyer shall promptly deliver to the client or third party funds which they are entitled to receive.], and 4-8.4(a) [A lawyer shall not violate the Rules of Professional Conduct.] of the Rules of Professional Conduct.

### As to Count III

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following rules regulating The Florida Bar: Rules 3-4.2 [Violation of the Rules of Discipline is cause for discipline.] and 3-4.3 [The commission of any act which is contrary to honesty and justice may be cause for discipline.] of the Rules of Discipline and Rules 4-1.15(a) [A lawyer shall not commingle.] 4-1.15(c) [Legal fees shall be withdrawn from trust within a reasonable time after they become due.], and 4-8.4(a) [A lawyer shall not violate the Rules of Professional Conduct.] of the Rules of Professional Conduct.

### As to Count IV

I recommend that respondent be found guilty and specifically that he be found guilty of violating the following rules regulating The Florida Bar: Rule 3-4.2 [Violation of the Rules of Discipline is cause for discipline.] of the Rules of Discipline and Rules 4-1.15(d) [A lawyer shall comply with the Rules Regulating Trust Accounts.] and 4-8.4(a) [A lawyer shall not violate the Rules of Professional conduct.] of the Rules of Professional Conduct, as well



as Rules 5-1.1(d) and 5-1.2 [A lawyer shall maintain certain minimum required trust accounting records and shall follow certain minimum required trust accounting procedures.] of the Rules Regulating Trust Account.

As to Count V

I recommend that the respondent be found guilty of violating the following rules regulating The Florida Bar: Rule 3-4.2 [Violation of the Rules of Discipline is cause for discipline.] of the Rules of Discipline and Rules 4-1.15(d) [A lawyer shall comply with the Rules Regulating Trust Accounts.] and 4-8.4(a) [A lawyer shall not violate the Rules of Professional Conduct.] of the Rules of Professional Conduct, and Rule 5-1.1(d) [All nominal or short term funds belonging to clients or third parties deposited in a trust account shall be deposited into an interest bearing trust account for the benefit of The Florida Bar Foundation.

IV. Recommendation as to disciplinary measures to be applied:

The Supreme Court of Florida has frequently stated that the misuse of client funds is one of the most serious offenses a lawyer can commit. The Florida Bar v. McIver, 606 So. 2d 1159 (Fla. 1992); The Florida Bar v. MacMillan, 600 So. 2d 457 (Fla. 1992); The Florida Bar v. Neu, 597 So. 2d 266 (Fla. 1992); The Florida Bar v. Schiller, 537 So. 2d 992 (Fla. 1989). Disbarment is presumed to be the appropriate mode of discipline where it is demonstrated that an attorney engaged in the misuse or misappropriation of client funds. Schiller. Respondent has offered no credible evidence to rebut this presumption.

Respondent's defense that he knew not what he did is without merit. He was disciplined in 1987 for failing to keep proper records and clearly knew what was required under the Rules Regulating Trust Accounts. His

intentional decision not to keep proper records, or at least insure that his bookkeeper did more than balance his trust account's checkbook, certainly should be no defense to his intentional use of client monies for his own purposes. The Florida Bar v. Simring, 612 So. 2d 561 (Fla. 1993).

In considering a disciplinary sanction a referee must weigh the mitigation and aggravation present in a case. Respondent has offered nothing credible to mitigate his offense and I find no mitigating factors present in this case. While respondent has offered certain medical records into evidence, he clearly stated he was in no way impaired during the events at issue. On the other hand, the Bar has presented much in aggravation of respondent's defalcations. I find the following aggravating factors to be present:

1. Prior disciplinary offense (Respondent was privately reprimanded in 1987 for failure to keep adequate trust account records and for failing to promptly remit funds to clients.);
2. Dishonest or selfish motive;
3. Pattern of misconduct (The conduct occurred over at least a five month period of time.);
4. Multiple offenses (5 counts of misconduct);
5. False statements and other deceptive practices during the disciplinary process [Respondent's failure to produce the two IRS checks and his untruthful testimony during deposition on the same; his untruthful answers to several matters raised at trial (i.e. payment of the Garcia medical bills) and his answer to The Florida Bar's first request for production which includes copies of two checks that were never negotiated but were represented as final payment of certain matters];

6. Refusal to acknowledge wrongful nature of misconduct;
7. Substantial experience in the practice of law (admitted in 1975);
8. Indifference to making restitution.

Due to the frequency and severity of respondent's trust account violations and the vast amount of aggravation I recommend that respondent be disbarred from the practice of law in Florida.

V. Personal history and past disciplinary record:

After finding of guilty and prior to recommending discipline to be recommended I considered the following personal history and prior disciplinary record of the respondent:

Age: 42

Date admitted to Bar: October 23, 1975

Respondent was privately reprimanded in 1987 for failing to keep adequate trust account records, failing to follow the minimum required trust account records and for failing to promptly remit monies to the beneficiaries of an estate. Additionally, in matters related to this case, respondent presently is serving an emergency suspension and was indefinitely suspended and later reinstated, nunc pro tunc the date of the suspension, for failing to comply with a grievance committee subpoena for the production of records.

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

<u>Administrative Costs [Rules 3-7.6(k)]</u>	\$ 500.00
<u>Court Reporter Costs</u>	
Deposition of Rick Morse on 6/22/93	189.75
Deposition of respondent on 6/22/93	187.00
Deposition of William Luongo on 7/14/93	279.00
Deposition of Roy Adams on 7/28/93	141.25
Final Hearing on 8/13/93	748.75
<u>Miscellaneous Costs</u>	
Auditor's Costs	1,430.75
Investigative Costs	422.51
Great Western (research and copying costs)	67.00
Copy Costs (518 copies @ \$0.25)	<u>129.50</u>
<b>TOTAL (to date)</b>	<b>\$4,095.51</b>

I recommend that the above costs and those costs yet to be determined, but listed above, be taxed against the respondent.

Rendered this 24<sup>th</sup> day of Sept, 1993 at Miami, Dade County, Florida.

  
 \_\_\_\_\_  
 ROBERT H. NEWMAN, Referee

Copies furnished to:

ROBERT H. NEWMAN

Richard A. Greenberg, Attorney for Respondent, at P.O. Box 925, Tallahassee, FL 32302

Kevin P. Tynan, Bar Counsel, at The Florida Bar, 5900 N. Andrews Ave., Suite 835, Fort Lauderdale, FL 33309

John A. Boggs, Director of Lawyer Regulation, at The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399-2300

IN THE SUPREME COURT OF FLORIDA  
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THE FLORIDA BAR,  
Complainant,

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92-51,554 (17F),  
and 93-50,088 (17F)

JOINT PRETRIAL STIPULATION

THE FLORIDA BAR, complainant, and Louis Jeffrey Weinstein, respondent, file the following joint pretrial stipulation:

IN GENERAL

A) Agreed Facts:

1. The respondent, Louis Jeffrey Weinstein, is, and at all times hereinafter mentioned was, a member of The Florida Bar subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida. Respondent was suspended on an emergency basis, by Supreme Court order dated January 29, 1993.

2. The Florida Bar conducted a compliance audit of Respondent's trust account for the period commencing January 1, 1990 and ending June 30, 1992.

3. Respondent maintained the following trust accounts, which trust accounts are applicable to this action:

A) Account #2800000871 entitled "law Office of Louis J. Weinstein P.A. Trust Account," maintained at Family Bank of Hallandale (opening date March 23, 1990 to June 30, 1992).

B) Account #569-806545-4 entitled Louis J. Weinstein, P.A. Legal Services Trust Fund maintained at Great Western Bank (opening date August 19, 1992 to present).

COUNT I

A) Agreed Facts:

4. The reconciled bank balances and certain client liabilities on the operative dates total as follows:

<u>Date</u>	<u>Reconciled Bank Balance</u>	<u>Total Client Liabilities</u>
5/31/91	\$22,442	\$20,892
6/30/91	19,387	21,709
7/31/91	30,645	35,476
8/31/91	7,277	19,598
9/30/91	6,483	19,598

B) Disputed Facts:

5. Whether respondent had additional client liabilities as set forth below:

<u>Client</u>	<u>5/31/91</u>	<u>6/30/91</u>	<u>7/31/91</u>	<u>8/31/91</u>	<u>9/30/91</u>
Garcia	\$ 476	\$ 559	\$ 476	\$ 476	\$ 476
Garcia (Wand)	1,720	1,720	1,720	1,720	1,720
Garcia (other medicals)	10,562	10,562	10,562	10,562	10,562
Pickerill	1,549	1,549	1,549	1,549	1,549
Raneri	500	500	500	500	500
Brown	0	0	53	53	53
I. Harris	0	0	8,333	0	0
<b>Totals</b>	<b>\$14,807</b>	<b>\$14,890</b>	<b>\$23,193</b>	<b>\$14,860</b>	<b>\$14,860</b>

6. Whether the comparison of client liabilities with the reconciled bank balances is accurately reflected by The Florida Bar's schedule of trust account liabilities which is attached as exhibit "A".

7. Whether the comparison of client liabilities with the reconciled bank balances is accurately reflected by respondent's schedule of trust account liabilities which is attached as exhibit "B".

8. Whether respondent intentionally used client monies for his own purposes, rather than the purpose for which they were entrusted and therefore misappropriated client funds.

9. Whether respondent's use of client monies was unintentional and caused by his sloppy record keeping and/or his misplaced reliance on a bookkeeper.

10. Whether respondent has violated Rules 3-4.2 [Violation of the Rules of Discipline is cause for discipline.] and 3-4.3 [The commission of any act which is contrary to honesty and justice may be cause for discipline.] of the Rules of Discipline and Rules 4-1.15(b) [A lawyer shall promptly deliver to the client or third person funds which they are entitled to receive.], 4-1.15(d) [A lawyer shall comply with the Rules Regulating Trust Accounts.], 4-8.4(a) [A lawyer shall not violate the Rules of Professional Conduct.], 4-8.4(b) [A lawyer shall not commit a criminal act.], and 4-8.4(c) [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.] of the Rules of Professional Conduct and Rule 5-1.1 [Money entrusted for a specific purpose must only be used for that purpose.] of the Rules Regulating Trust Accounts.

## COUNT II

### A) Agreed Facts:

11. The parties are in agreement as to the date and amount of certain deposits into respondent's trust account for particular clients.

12. The parties are in agreement as to the date and amount of certain disbursement from the trust account for these clients.

13. Attached hereto as exhibit "C" is a schedule reflecting the parties' agreement on these deposits and disbursements.

B) Disputed Facts:

14. Whether respondent, without justifiable excuse, failed to promptly remit monies to the parties entitled to the monies.

15. Whether respondent's failure to promptly remit monies owed to clients or third parties Respondent has violated Rules 3-4.2 [Violation of the Rules of Discipline is cause for discipline.] and 3-4.3 [The commission of any act which is contrary to honesty and justice may be cause for discipline.] of the Rules of Discipline and Rules 4-1.15(b) [A lawyer shall promptly deliver to the client or third party funds which they are entitled to receive.], and 4-8.4(a) [A lawyer shall not violate the Rules of Professional Conduct.] of the Rules of Professional Conduct.

COUNT III

A) Agreed Facts:

16. The failure to timely remove earned legal fees from a trust account when due is commingling.

B) Disputed Facts:

17. Whether respondent, on numerous occasions, retained earned legal fees in his trust account.

18. Whether respondent violated Rules 3-4.2 [Violation of the Rules of Discipline is cause for discipline.] and 3-4.3 [The commission of any act which is contrary to honesty and justice may be cause for discipline.] of the Rules of Discipline and Rules 4-1.15(a) [A lawyer shall not commingle.], 4-1.15(c) [Legal fees shall be withdrawn from trust within a reasonable time after they become due.], and 4-8.4(a) [A lawyer



shall not violate the Rules of Professional Conduct.] of the Rules of Professional Conduct.

COUNT IV

A) Agreed Facts:

19. None.

B) Disputed Facts:

20. Whether respondent failed to maintain the minimum required trust accounting records and did not follow the minimum required trust accounting procedures in the following manner:

A) The Respondent did not provide all original or duplicate deposit slips for all periods under examination as required by Rule 5-1.2(b)(2)(A)&(B).

B) The Respondent did not maintain a separate cash receipts and disbursements journal for all periods under examination as required by Rule 5-1.2(b)(5)(A) through (D).

C) The Respondent did not cause to be made monthly a comparison between the total of the reconciled balances of all trust accounts and the total of the trust ledger cards or pages, together with specific descriptions of any differences between the two totals and reasons therefor as required by Rule 5-1.2(c)(1)(B).

D) The Respondent did not at least annually prepare a detailed listing identifying the balance of the unexpended trust money held for each client of matter as required by Rule 5-1.2(c)(2).

E) The Respondent did not maintain items C and D listed above for six (6) years as required by Rule 5-1.2(C)(3).

21. Whether respondent has violated Rule 3-4.2 [Violation of the Rules of Discipline is cause for discipline.] of the Rules of Discipline and Rules 4-1.15(d) [A lawyer shall comply with the Rules Regulating Trust Accounts.] and 4-8.4(a) [A lawyer shall not violate the Rules of Profession Conduct.] of the Rules of Professional Conduct, as well as Rules 5-1.1(d) and 5-1.2 [A lawyer shall maintain certain minimum required trust accounting records and shall follow certain minimum required trust accounting procedures.] of the Rules Regulating Trust Account.

COUNT V

A) Agreed Facts:

22. The compliance audit revealed that Respondent's trust account was a non interest bearing bank account.


23. The audit also revealed that Respondent did not deposit all short term or nominal funds being held for clients or third parties into an interest bearing trust account with the interest earned thereon being made payable to The Florida Bar Foundation.

24. Respondent violated Rule 5-1.1(d) [All nominal or short term funds belonging to clients or third parties deposited in a trust account shall be deposited into an interest bearing trust account for the benefit of The Florida Bar Foundation.] of the Rules Regulating Trust Account.


B) Disputed Facts:

25. Whether respondent has violated Rule 3-4.2 [Violation of the Rules of Discipline is cause for discipline.] of the Rules of Discipline and Rules 4-1.15(d) [A lawyer shall comply with the Rules Regulating Trust Accounts.] and 4-8.4(a) [A lawyer shall not violate the Rules of Profession Conduct.] of the Rules of Professional Conduct.

Respectfully submitted,

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

Respectfully submitted,

  
\_\_\_\_\_  
RICHARD A. GREENBERG, #382371  
Counsel for Respondent  
300 W. Park Avenue  
P.O. Box 925  
Tallahassee, FL 32302  
(904) 681-9848

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing joint pretrial stipulation has been furnished via <sup>hand-delivery</sup> ~~regular U.S. mail~~ to Kevin P. Tynan, Bar Counsel, at The Florida Bar, 5900 N. Andrews Ave., Suite 835, Fort Lauderdale, FL 33309, on this 13<sup>th</sup> day of August, 1993.

  
\_\_\_\_\_  
Richard A. Greenberg, Esq.

**LOUIS J. WEINSTEIN TRUST ACCOUNT LIABILITIES**

	<u>5/31/91</u>	<u>6/30/91</u>	<u>7/31/91</u>	<u>8/31/91</u>	<u>9/30/91</u>
ADAMS	1,505	1,505	1,505	1,505	1,505
GARCIA (BALANCE)	1,838	1,838	1,755	1,755	1,755
GARCIA (WAND)	1,720	1,720	1,720	1,720	1,720
GARCIA (OTHER MEDICALS) <sup>1</sup>	10,562	10,562	10,562	10,562	10,562
MIRANDA	325	325	325	325	325
SANCHEZ	4,000	4,000	4,000	3,000	3,000
REED	3,328	3,328	3,328	3,328	3,328
LOHER	6,614	6,614	4,614	4,614	4,614
PICKERILL	2,049	2,049	2,049	2,049	2,049
RANERI	1,000	1,000	1,000	1,000	1,000
PONTORIERO	2,758	2,758	2,758	2,758	2,758
BROWN	0	900	53	53	53
B. HARRIS	0	0	0	1,789	1,789
I. HARRIS	<u>0</u>	<u>0</u>	<u>25,000</u>	<u>0</u>	<u>0</u>
TOTAL LIABILITY	35,699	36,599	58,669	34,458	34,458
RECONCILED BANK	<u>22,442</u>	<u>19,387</u>	<u>30,645</u>	<u>7,277</u>	<u>6,483</u>
(SHORTAGE)	(13,257)	(17,212)	(28,024)	(27,181)	(27,975)

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<sup>1</sup> Of this \$10,562.00, \$7,509.00 has been clearly documented as unpaid at the operative date and the remaining \$3,055.00 appears not to have been paid as there are no trust account checks in The Florida Bar's possession documenting payment.

LJW TRUST ACCOUNT

	<u>5/31/91</u>	<u>6/30/92</u>	<u>7/31/91</u>	<u>8/31/91</u>	<u>9/30/91</u>
ADAMS	1,505	1,505	1,505	1,505	1,505
GARCIA v. MULLIGAN	1,362	1,279	1,279	1,279	1,279
GARCIA (WAND)	--0--	--0--	--0--	--0--	--0--
MIRANDA	325	325	325	325	325
SANCHEZ	4,000	4,000	4,000	3,000	3,000
REED	3,328	3,328	3,328	3,328	3,328
LOHER	6,614	6,614	4,614	4,614	4,614
PICKERILL	500	500	500	500	500
RANERI	500	500	500	500	500
PONTORIERO	2,758	2,758	2,758	2,758	2,758
FOX	--0--	--0--	--0--	--0--	--0--
BROWN	--0--	900	--0--	--0--	--0--
B. HARRIS	--0--	--0--	--0--	1,789	1,789
I. HARRIS	--0--	--0--	16,666.67	--0--	--0--
SEVERE	<u>--0--</u>	<u>--0--</u>	<u>--0--</u>	<u>--0--</u>	<u>--0--</u>
TOTAL LIABILITY	20,892	21,709	35,475.67	19,598	19,598
RECONCILED BANK	<u>22,442</u>	<u>19,387</u>	<u>30,645</u>	<u>7,277</u>	<u>6,483</u>
(SHORTAGE) -OVERAGE	1,550	(2,322)	(4,830.67)	(12,321)	(13,115)

COUNT II DISBURSEMENT SCHEDULE

1. STEPHANIE LOHER RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Settlement deposit	11/19/90		\$10,000.00
Fees			3,333.33
Costs			
Broward General	3/21/91	2152(op)	10.50
Carteret Surgical	3/9/91	2144(op)	41.50
Net Proceeds			<u>6,614.67</u>
Client	7/24/91	1106	2,000.00
Dr. Wentz	2/18/92	1180	115.40
Broward General ER			7.00
Coastal Radiology			7.29
Balance to client			<u>4,485.07</u>
Balance			\$ 0.00

2. KEVIN PICKERILL RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Settlement deposit	12/27/90		\$25,000.00
Fees			8,333.33
Costs			
Dr. Feinman report	2/21/92	2153	200.00
Dr. Cohan report	11/14/89	721(op)	15.00
Records - M.I.S.	10/31/89	691(op)	17.09
Net Proceeds			<u>16,434.58</u>
client	1/14/91	1062	750.00
client	2/1/91	1066	700.00
client	3/11/91	1077	12,135.33
Dr. Cohan	5/3/91	1087	500.00
Dr. Feinman	5/3/91	1088	500.00
Dr. Dolinsky	6/5/92	1219	500.00
Dr. Dolinsky	6/9/92	1222	<u>400.00</u>
Balance			\$ 949.25*

\*\$849.00 is still owed to University Medical Center.

3. MARTA SANCHEZ RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit	11/20/90		\$11,000.00
Fees (33 1/3% ?)			3,630.00
Costs			
Net proceeds			<u>7,337.00</u>
Sanchez	3/15/91	1074	3,000.00
Sanchez	8/15/91	1112	1,000.00
Burroughs Chiro.	6/22/92	1225	2,000.00
Neuro. Consult.	6/22/92	1227	<u>1,000.00</u>
Balance			337.00

4. JOHN MIRANDA RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Colonial Penn	3/16/90		\$3,000.00
Progressive	4/12/90		5,000.00
Fees			2,664.00
Costs			
CLG Inc.	8/24/89	998(op)	37.50
Broward PTS	11/17/88	199(op)	20.00
Net proceeds			5,278.50
Miranda	3/23/90	1	3,046.50
Miranda	3/23/90	1	1,907.00
Lane Gelety, Centrone c/o ABC collection	7/31/92	1244	325.00
Balance			0.00

5. ERNEST QUILES RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit	pre 1/16/90		\$ 2,193.50
Fees			0.00
Costs			0.00
Net proceeds			2,193.50
Dr. Berman	3/27/91	1079	1,000.00
Quiles	3/27/91	1080	1,193.50
Balance			0.00

6. RICHARD FLEMING RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Settlement deposit	10/1/90		\$11,500.00
Fees			4,200.00
Costs			312.87
Net proceeds			6,987.13
Dr. Vinsant	12/2/91	1144	1,600.00
Dr. Wagner	12/19/91	1153	230.00
Fleming	12/20/92	1154	4,257.13
Dr. Sherman	1/3/92	1159	100.00
Fleming (Dr.Wand's \$)	1/29/92	1172	800.00
Balance			0.00

7. KENNETH MARKOWITZ RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit	10/30/90		\$ 6,500.00
Fees			2,166.00
Costs			0.00
Net proceeds			4,334.00
Markowitz	10/23/91	1129	3,333.33
Markowitz	11/15/91	1137	500.00
Markowitz	12/11/91	1148	400.67
Dr. Reines	1/3/92	1160	100.00
Balance			0.00

8. RICHARD STEELE RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit	11/27/91		\$55,000.00
Fees			22,000.00
Fees for negotiation of med bills			450.00
Costs			<u>9,661.35</u>
Net proceeds			23,188.65
Dr. Rosenblum	1/23/92	1170	2,500.00
Steele	2/25/92	1179	10,000.00
Dr. Kadosa	11/12/92		<u>500.00</u>
Subtotal			10,188.65
Unpaid but on closing statement			
Dr. Kishner			526.00
Waters Edge Scanning			1,000.00*
MRI Scan Center			1,000.00*
Client	11/12/92	6037	<u>4,352.65</u>
Balance			3,310.00

\*Note that the Waters Edge and MRI scan bills were paid by PIP after the closing and that Louis J. Weinstein remitted this sum to Steele.

9. CHRISTOPHER OLIVE RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit	11/12/91		\$ 3,000.00
Fees			1,000.00
Costs			
Broward General			<u>5.00</u>
Net proceeds			1,995.00
Olive	3/30/92	1195	<u>1,995.00</u>
Balance			0.00

10. TERESA GARCIA #1 RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit	10/2/90		\$80,000.00
Fees			19,759.40
Costs (see attached list)			<u>4,203.60</u>
Net proceeds			56,037.00
Client	10/11/90	1043	42,000.00
Dr. Fellows			1,509.00
Dr. Trapana			830.00
MRI Scan Center			895.00
MRI Scan Center			259.00
Dr. Vinsant			2,646.00
Dr. Wand			1,720.00
Hollywood PT			4,423.00
Client	1/12/93	6091	<u>1,279.00</u>
Balance			\$ 476.00

\*Note the doctors have not yet been paid. Respondent disputes the amount owing to Dr. Wand and Dr. Trapana.



11. THERESA GARCIA #2 RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit	11/27/91		\$10,000.00
Fees			4,000.00
Costs (unknown)			<u>0.00</u>
Net proceeds			6,000.00
Client	1/22/92	1165	1,000.00
Dr. DiLella LMT			<u>505.60*</u>
Balance			4,494.40

\*Note Dr. DiLella has not been paid.

12. ANNETTE BROWN ESTATE RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit	6/17/91		\$ 9,050.00
Direct to Group Health			<u>950.00</u>
Total Receipts			10,000.00
Fees			3,333.00
Costs			<u>0.00</u>
Net proceeds			6,667.00
Brown	6/24/91	1096	4,817.00
Dr. Leone	7/17/91	1101	300.00
Brown	7/23/91	1103	547.00
Group Health Ins. Co (see above)			<u>950.00</u>
Balance			53.00

13. MARY JO SPINELLA GILLENWATER RECONCILIATION:

<u>Date</u>	<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
	Deposit	2/4/92		\$10,000.00
	Fees	9/11/92	6002	4,000.00
	Costs	9/11/92	6002	<u>259.50</u>
	Net proceeds			5,740.50
	Client	9/10/92	6003	2,647.50
	Dr. Vinsant	9/15/92	6004	2,000.00
	MRI Center	9/15/92	6005	600.00
	Dr. Swirloff	9/16/92	6006	<u>230.00</u>
	Balance			263.00

\*Note the settlement statement reflects a \$263.00 payment to Dr. Mitchell. Respondent proffers that this obligation was met by check numbers 1174 and 1182 in the total amount of \$288.00 in February of 1992.

14. ANGEL LANA RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit	12/24/91		\$80,000.00
Fees			26,667.00
Costs			
Court reporter			50.00
Holy Cross Records			4.24
Net proceeds			53,278.76
Client	1/17/92*	1167	53,278.76
Balance			0.00

\*Note this check clears on 4/17/92.

15. IDIE JONES RECONCILIATION:

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit	3/16/92		\$ 9,600.00
Fees			3,840.00
Fees for reducing doctors bills			350.00
Costs			1,902.25
Net proceeds			3,507.75
Dr. Schweitzer records	12/14/92	6058	15.00
Griffin Hospital	12/14/92	6059	4.00
Dr. Gelety expert fee	11/25/92	6040	1,200.00
Photocopies charge	12/14/92	6060	77.90*
Mediators Fee	12/14/92	6061	187.50
Client	12/9/92	6055	1,521.36
Client	12/30/92	6086	500.00
Balance			1.99

\*Note LJW should have paid \$78.90 per settlement statement.

16. HENRY SEVERE RECONCILIATION

<u>Purpose</u>	<u>Date</u>	<u>Check no.</u>	<u>Amount</u>
Deposit			\$ 5,000.00
Deposit	11/26/91		5,000.00
Fees			0.00
Costs			0.00
Net proceeds			10,000.00
Estelus Petigny	10/11/91	1143	1,500.00
Guardian of minors	3/31/92	1196	3,500.00
Dr. Nemerovsky	9/21/92	6007	4,768.80
Balance			\$ 231.20