

**FILED**

SID J. WHITE

NOV 22 1993

CLERK, SUPREME COURT

By [Signature]  
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,  
vs.  
BLAS E. PADRINO,  
Respondent.

Supreme Court Case  
No. 81,380

The Florida Bar File  
No. 91-70,878(11P)

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: July 15, 1993 and July 19, 1993.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Jacquelyn P. Needelman

For The Respondent: Pro se

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:

As to Count I

1. Respondent 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.

2. On or about June 18, 1990 Respondent, Blas E. Padrino was retained to represent Raul Calderone in a pending criminal case.

3. In relation to the aforesaid representation, Respondent received funds from Maria Calderone, the wife of his client, Raul

Calderone.

4. Maria Calderone delivered to Respondent \$7,500.00 which was to be utilized for posting bond for her husband.

5. The bondsman advised Maria Calderone that he had not received any portion of the \$7,500.00. Therefore, she requested that those funds be returned to her by the Respondent.

6. Respondent delivered \$5,000.00 to Maria Calderone in cash. He also provided her with a check for \$2,500.00.

7. Mrs. Calderone attempted to cash the check on several occasions but was advised at the bank that there were "uncollected funds" and the check could not be covered.

8. After several unsuccessful attempts to cash the check, Maria Calderone was advised that the account had been closed.

9. From the time of the issuance of the check until the day that the account was closed, there were insufficient funds in the account to cover the check.

10. Respondent did not provide restitution to the Calderones for the \$2,500.00 check which could not be negotiated.

11. The aforesaid funds were entrusted to Respondent for the purpose of obtaining a bond and were not held in trust for that purpose and were not applied to that purpose.

12. Respondent disputes that \$7,500 was entrusted to him for purposes of the bond by Ms. Calderone, that the \$2,500 check written by respondent was to be held by Ms. Calderone until funds were sent by family members. This Referee finds this testimony and explanation to be inconceivable and lacking in credibility.

13. Respondent failed to hold in trust, separate from his own

property, the funds which were the property of Maria and/or Raul Calderone.

14. Respondent's operating bank account number 83000430806 maintained at County National Bank was reviewed by a Florida Bar auditor for the period from May 11, 1990 to September 19, 1990.

15. On June 28, 1990, respondent deposited in his operating account an insurance draft from Worldwide Insurance Group in the amount of \$7,000.00 payable to Maria Sagaro and Blas E. Padrino, Attorney, as settlement of all bodily injury claims.

16. Respondent commingled client funds together with his personal funds and used part of the client funds to pay for personal and business expenses such as rent, payroll, taxes, office, medical, witnesses and process service.

17. The balance in the bank account as of July 13, 1990 was \$2,426.02 and respondent owed his client Maria Sagaro \$4,666.67 as her portion of the settlement proceeds deposited on June 28, 1990.

18. Respondent paid Maria Sagaro with his check number 760 in the amount of \$4,666.67. This check was drawn on July 18, 1990 and negotiated on July 19, 1990.

19. Respondent was able to make this payment to Ms. Sagaro, by making two (2) deposits on July 19, 1990, totalling \$7,550.00. The source of these funds were \$750.00 cash, \$6,700.00 in traveler's checks and \$100.00 in fees.

20. Ms. Sagaro testified that she never authorized the respondent to use her monies and never knew about said use by respondent.

21. Respondent used client's trust funds for purposes other

than the specific purpose for which they were entrusted to him, in violation of Rule 5-1.1 (a) of the Rules Regulating Trust Accounts.

22. Respondent deposited client funds together with personal funds, in violation of Rule 4-1.15 of the Rules of Professional Conduct.

23. During May 11, 1990 to September 20, 1990, respondent had a total of eleven (11) checks returned due to insufficient funds.

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:

As to Count I

I recommend that the respondent be found guilty and specifically that he be found guilty of the following:

Rules 3-4.3 (conduct contrary to honesty and justice or unlawful) and 3-4.4 (criminal misconduct) of the Rules of Discipline and Rules 4-1.15(a) (Client's property to be held in trust), Rules 4-8.4(b) (committing a criminal act that reflects adversely on the lawyers honesty, trustworthiness, or fitness as a lawyer in other respects) and 4-8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation of the Rules of Professional Conduct and Rule 5-1.1 of the Rules Regulating Trust Accounts (mony or other property entrusted for a specific purpose must be held in trust and applied only to that purpose)).

IV. Recommendation as to Disciplinary Measures to be Applied: I

recommend that the respondent be disbarred from the practice of law in Florida for a period of five (5) years based upon the facts of

this case and respondent's prior disciplinary record. Said prior disciplinary orders are attached hereto. In aggravation, pursuant to standard 9.22 of Florida Standards for Imposing Lawyer Sanction, I find the following: (a) prior disciplinary offenses, (b) dishonest or selfish motive, (c) pattern of misconduct, (i) substantial experience in the practice of law and (j) indifference to making restitution.

V. Personal history and past disciplinary record:

Age: 46

Date Admitted to Bar: 1974

Prior disciplinary record:

(1) On January 5, 1987, in Supreme Court Case Number 68,350, respondent received a public reprimand and was placed on probation for a period of two (2) years regarding trust accounting record keeping procedures for violation of Article XI, Rule 11.02(4) of the Integration Rule of The Florida Bar and rule 9-102(4) of the Code of Professional Responsibility.

(2) On December 13, 1990, in Supreme Court Case Number 77,011, respondent was suspended for sixty (60) days, effective January 14, 1991 and upon his reinstatement placed on probation for three (3) years regarding the issuance of non-sufficient funds checks.

(3) On May 6, 1993, in Supreme Court Case Number 80,206, respondent was suspended for two (2) years effective June 5, 1993 for lack of competence, lack of diligence, lack of communication with client, and failure to return unearned fee.

(4) On September 16, 1993, in Supreme Court Case Number

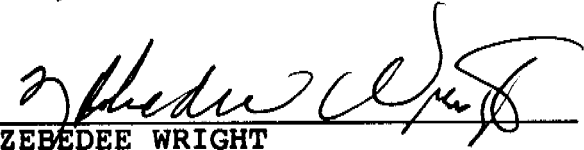
82,011, respondent's suspension in case number 80,206 was extended for one (1) year, increasing the suspension to be for a period of three (3) years for continuing to practice law after the Supreme Court's Order of Suspension in case number 82,011.

VI. Statement of costs and manner in which cost should be taxed:

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

Administrative costs:.....\$	500.00
Investigative Costs:.....\$	260.64
Court Reporter Costs:	
Court Reporter Grievance	
Level 7/15/92.....\$	356.40
Referee Level Hrgs. 7/15/93	
and 7/19/1993.....\$	598.65
Translating Costs.....\$	560.00
TOTAL.....\$	2,275.69

Dated this 16<sup>th</sup> day of November, 1993.

  
ZEBEDEE WRIGHT  
Referee

Copies furnished to:

Jacquelyn P. Needelman, Bar Counsel  
John T. Berry, Staff Counsel  
Blas E. Padrino, Respondent