047

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

vs.

SHARON L. KLEINFELD,

Respondent.

The Florida Bar File
Nos. 92-71,024(11A)
and 93-70,168 (11A)

Supreme Court Case
No. 81, 464

715

FILED
SID J. WHITE
JUN 24 1994
CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

RESPONDENT'S ANSWER BRIEF

FRIEDMAN LAW FIRM
100 N. Biscayne Boulevard
30th floor
Miami, FL 33132
(305) 358-8400

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I. STATEMENT OF JURISDICTION

This Petition is filed in response to a Petition for Review filed by The Florida Bar. This Court has jurisdiction pursuant to Rule 3-7.7, Rules Regulating The Florida Bar.

II. STATEMENT CASE AND FACTS

This matter arises out of the prosecution by The Florida Bar of alleged disciplinary violations. On December 1, 1993, the Report of Referee was written and served by the Referee on the parties. A true copy of the report is attached hereto as Appendix "A". The Referee found the Respondent not guilty of two of the five charges, but guilty of the three remaining charges. See Section 3 of the Referee's Report.

The Florida Bar filed a request for re-hearing, seeking to reopen the case to add what it alleged were additional facts. The Referee entertained the Motion for Re-Hearing, but concluded that even if he were to consider the additional proposed evidence, he would not alter his opinion, and therefore the Report of Referee remains the final report. See Appendix "A". In his report, the Referee, the Honorable Leonard E. Glick, detailed his factual findings in Section 2 of his report, together with reference to various portions of the seventh volume of the transcript, beginning with page 978. As to the first charge, the Referee found that the evidence was not clear and convincing, and

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appeared to specifically find that the evidence was not supportive of Judge Cohen's underlying belief that the purpose was to obtain a mistrial. Page 979 at lines 5 - 10. The Referee found that there was a medical problem and that the matter was handled poorly, Page 980, lines 1 - 4, but the Referee found that the charges were not proven. Page 980, lines 21 - 24.

The Referee found the Respondent guilty of the second offense, to wit, causing the client prejudice by failing to subsequently appear on February 6, 1992, at which time the trial court dismissed a law suit with prejudice. See pages 981-985 of the transcript. The Referee also found the Respondent guilty of the third offense, failing to appear at a show cause hearing issued by the trial judge who dismissed the law suit. The rule to show cause had been issued in January of 1992. See pages 985 thru 986. The Judge also found the Respondent guilty of the fifth and, in his opinion, most serious offense alleged, which involved the filing of an affidavit alleging that Circuit Judge Cohen had made threats to an attorney representing the Respondent. Specifically, the Court found that "other than the statement of the Respondent, there is absolutely no evidence that that actually took place. In fact, there is contradictory evidence from Judge Cohen, Judge Cohen's judicial assistant and the lawyer in question, Mr. Rosenbaum, that that phone call or a phone call of any type that could lead one to believe that that occurred never took place. There were adamant denials of it." Page 992, lines 6 through 16. The only actual finding is with

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respect to paragraph 6 of an affidavit filed by the Respondent on March 10, 1992. Page 994, lines 16 through 24.

The Referee also found the Respondent not guilty of the third accusation dealing with filing an inappropriate affidavit. The Referee specifically found there was not clear and convincing evidence that the particular statement made in the affidavit to the Appellate Court was conduct involving dishonesty, fraud, deceit, or misrepresentation. Page 990, lines 22 - 25 and page 991, lines 1 - 5. If anything, the Court found that as to the merits, Ms. Kleinfeld was probably correct, and that Judge Cohen probably should have recused himself. Page 986 at lines 12 - 15.

The Bar has sought a petition to review, and ask that Ms. Kleinfeld be disbarred. The Petitioner had asked for a cross-petition, and had sought to review the factual findings remaining against the Respondent.

III. SUMMARY OF ARGUMENT

Even assuming that the Respondent were guilty were guilty of all of the charges, suspension and not disbarment is the appropriate discipline in this case. However, it is respectfully suggested that the Referee may have erred in finding the Respondent guilty of a disciplinary violation where the alleged violations may have been negligent without being unethical, and

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therefore are the subject of civil sanctions but not Bar discipline.

IV. ARGUMENTS

A. THE CASE LAW DOES NOT SUPPORT THE POSITION OF THE FLORIDA BAR.

In support of its argument, The Florida Bar has suggested that certain cases support a more serious discipline. In support of its position bar counsel refers to *The Florida Bar v. Hoffer*, 412 So. 2d 858 (Fla. 1982). However, The Florida Bar fails to mention that while Mr. Hoffer did receive a one year suspension in 1982 for the mere act of failing to appear, this one year suspension was made concurrent within existing two year suspension in *The Florida Bar v. Hoffer*, 383 So. 2d 639 (Fla. 1980). In the prior case, Hoffer had been found guilty of offenses involving dishonesty, including altering a release. Hoffer, 383 So. 2d 639 at 641. However, his suspension recommended by the Referee of three years at that case was reduced by the court to only two years. Likewise, The Florida Bar cites a Rubin case. *The Florida Bar v. Rubin*, 549 So. 2d 1000 (Fla. 1989). In that case, however Mr. Rubin received only a public reprimand. Rubin, at 1003.

The Florida Bar also cites the Mims case. *The Florida Bar v. Mims* 501 So. 2d 596 (Fla. 1987). The Florida Bar does not

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mention, however, that the one year suspension in the Mims case also included charges of neglect, and not only the failure to comply with a court order. Mims at 597. Finally, The Florida Bar cites the case of *The Florida Bar v. Newman*, 513 So. 2d 653 (Fla. 1987). However, this court well knows that the Newman case was a multicount compliant, including charges of theft and dishonesty covering many transactions and many years.

Similarly, the suggestions of the Bar that disbarments ordered in the Weinsten, Rightmyer, and Gustafson cases is misplaced. See *The Florida Bar v. Weinstein*, 624 So. 2d 261 (Fla. 1993), *The Florida Bar v. Rightmyer*, 616 So. 2d 953 (Fla. 1993) and *The Florida Bar v. Gustafson*, 555 So. 2d 853 (Fla. 1990). The Weinstein case dealt with egregious conduct towards a client, coupled with misstatements to the Bar and further, Mr. Weinstein had a prior disciplinary history. See Weinstein, supra. In the Rightmyer, there were criminal perjury convictions, plus trust accounts violations which gave rise to the disbarment. Rightmyer at 954, supra. And, in the Gustafson case, Mr. Gustafson was also involved in the misuse of trust fund. Gustafson at 854, supra.

With all due respect, the case law does not support the position exposed The Florida Bar, and the use of these citations to suggest a more harsh discipline is a considerable stretch form what the case is actually hold.

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B. ASSUMING THAT THE RESPONDENT WERE GUILTY OF ALL CHARGES, A SUSPENSION, RATHER THAN DISBARMENT IS THE APPROPRIATE DISCIPLINE.

Pursuant to the "Florida Standards for Imposing Lawyer Sanctions", Standard 6.1 states that disbarment is appropriate only where a lawyer makes a false statement "with intent to deceive the court". Suspension is appropriate where the lawyer makes false statements but takes no remedial action. A public reprimand is appropriate where a lawyer is merely negligent in determining whether the statements are false, and an admonishment is appropriate for negligence in determining if statements are false where there is no actual or potential injury to a party or to the proceeding. The same disciplinary hierarchy also exists for the lack of proper diligence under Standard 4.4 which would be applicable for the failure of counsel to appear as found by the Referee.

In this case there are also the presence of mitigating factors set forth in Standard 9.3, including the absence of a prior disciplinary record, the absence of a dishonest or selfish motive, the existence of personal (medical) or emotional problems, and to a lesser degree the physical or mental disability or impairment of the Respondent.

A comparison memorandum of similar cases was made by the trial counsel in this matter and presented to the Court. Counsel below pointed out that in reviewing the similar misconduct cases,

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the penalties range from public reprimand to a 60-day suspension. The trial counsel found no cases in which attorneys were disbarred or suspended for extended periods for similar conduct. In *The Florida Bar v. Tindall*, 550 So. 2d 449 (Fla. 1989), a public reprimand was approved by the Supreme Court where an attorney was charged with making unsubstantiated allegations against a Circuit Judge. The attorney also filed an action against certain parties in the prior litigation and accused the Circuit Judge of unfair disposition of the case and of accepting bribes from the defendants. The attorney later admitted that he had no evidence to establish any improper activity on the part of the Judge. Similarly, in *Cerf v. State,* 458 So. 2d 1071 (Fla. 1984), the attorney made allegations without any investigation as to their truth, and charged that a Judge had appointed political cronies and further implied that the Judge ordered the parties to pay the cronies substantial sums in order to repay a political contribution. The case was likewise approved as a public reprimand against the attorney.

In *The Florida Bar v. Oxner*, 431 So. 2d 983 (Fla. 1983), an attorney admitted to intentionally lying to the Judge both on the phone and in Court about the availability of a witness, in order to gain a continuance for trial. Even with this intentional lie, the penalty imposed was only a 60 day suspension. A ten day suspension was given in *The Florida Bar v. Lund*, 410 So. 2d 922 (Fla. 1982) where an attorney admitted that he was unaware that a small portion of his testimony was untrue, and that he had not

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intentionally misrepresented. The case did not clearly explain the nature of the false statements, but a 10 day suspension was all that was entered.

In a case which might be considered even more serious, *The Florida Bar v. Saphirstein,* 276 So. 2d 7 (Fla. 1979), a more aggravating set of facts than in the instant case were considered by this Court. Mr. Saphirstein admitted to making a knowingly false statement about the integrity of a Referee whom he had tried to improperly influence. Despite this knowing statement, Saphirstein was suspended only for 60 days.

In the case before the Court, although the Referee found that the Respondent should have known that one of her statements was false, the entire tenor of testimony at the trial makes it clear that the Respondent believed her statements to be true, even if they are totally unfounded. A lawyer should not be disbarred on the first offense for even an unjustifiable belief, in the context of Bar proceedings, beyond the more minimal disciplines. Neither disbarment nor a long-term suspension is appropriate for an unintentional first offense. If the Respondent is to be suspended at all, her suspension should be for ninety days or less. This matter was clearly limited to a unique and singular episode involving a particular Judge. While everyone can question the Respondent's good judgment in this matter, there are no other indicators to show that this was her conduct in other cases handled by the Respondent as would warrant

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such a heavy discipline of disbarment or even long-term suspension.

Indeed, one need not look further than the record below to determine that the proceedings between the Respondent and Judge Cohen were irregular and unusual. It is not disputed that Judge Cohen did not authorize or permit a court reporter to be present to record hearings before him on February 19, 1992, during which he set bail conditions and bond for the Respondent.
With all due respect, there is good grounds for the Respondent to have believed that irregularities in the Court's conduct might have occurred on more than that one occasion.

C. THE CONDUCT OF THE RESPONDENT MAY HAVE BEEN CIVILLY NEGLIGENT, BUT IT SHOULD NOT HAVE GIVEN RISE TO DISCIPLINARY CHARGES

Errors made by a lawyer, including false and incorrect statements and pleadings (including an affidavit) do not automatically mean that the attorney who has filed the incorrect statement or made an error merit discipline. Indeed, in this case, the Court specifically found that the most serious violation was an incorrect statement in an affidavit in support of disqualification. However, such affidavits are only required to convey belief in the subject matter of the affidavit, and not necessarily to be a statement of the personal knowledge of the attorney. See Florida R.Civ.P. 1.510. The affiant is not supposed

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to be required to prove the basis for the belief, nor need there be a solid factual basis for this belief in order for the affidavit to be legally correct and sufficient. Florida R.Civ.P. 1.432 (1992), now Florida R.Jud.Admin. 2.160 (1993). It is the subjective belief of the Petitioner which is at issue, and not whether "she has successfully established the actual existence of prejudice". *Caleffe v. Vitale,* 488 So. 2d 627, 629 (Fla. 4th DCA 1986). Therefore, even if, as the Referee determined below, her affidavit was too strongly stated or incorrect, and even if the Referee believes that she was mistaken in her facts, the Respondent was entitled to make her statement based upon her own personal belief, without being held to the standard of an ethical impropriety if her belief should be wrong.

Likewise, the failure of the Respondent to appear for a hearing in an isolated context of one case is not the same as a pattern of misconduct in numerous cases, and the Respondent should not be held to a standard higher than the standard of civil liability for her negligent failure to appear. This is particularly true where the Respondent was having medical difficulties and never evinced that her conduct was wilful or intentional, but merely negligent.

While the Court did find that there was prejudice to the Respondent's client, in the *Frieheit v. Tamarac Lakes North Association* case, as a result of the Respondent's failure to appear for the continuation of that trial, the decision to dismiss the case with prejudice was a judicial error on the part

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of the Judge and was reversed on appeal. *Thomas Frieheit, Appellant v. Tamarac Lakes North Association, Appellee*, Case No. 92-0824, 18 FLW D468 (Fla. 4th DCA, Feb 10, 1993). Indeed, while the Respondent could be held to have been negligent for failing to appear, her failure to appear would not even rise to the level of malpractice, if the prejudice occurred as a result of judicial error, as occurred in the instant case. See *Pennsylvania Insurance Guaranty Association v. Sikes*, 590 So. 2d 1051, 1052 - 1053 (Fla. 3d DCA 1991). In the *Sikes* case, supra, the defendant was prejudiced by the attorney failing to deny allegations of negligence in the defendant's answer. The attorney attempted to answer, but the Court denied the motion and trial resulted in an adverse verdict. The defendant then settled rather than appealing and sued the attorney for malpractice.

The entire charged atmosphere in the Freiheit case, including the atmosphere at the hearing before Judge Cohen on March 5, 1992, Transcript at pages 9 - 10, further indicates that the Respondent was being questioned inappropriately about her usage of drugs (there was never any proof that any illegal drugs were used by the Respondent), and further could have reasonably led the Respondent to believe that other serious violations were occurring. It certainly helped support her genuineness of her belief that the Judge might have put pressure upon her lawyer as well. Indeed, trial counsel pointed out below that in the matter of *In Re Inquiry Concerning a Judge, Judge Leonard A. Damron*, 487 So. 2d 1 (Fla. 1985), this Court removed a Judge from

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office for attempting to discourage a party from exercising her rights to counsel by the threat of incarceration if the Judge was not provided with what he was seeking. In this charged atmosphere, if there are misstatements, they certainly ought to be looked at in a less harsh disciplinary context than in a less antagonistic atmosphere. Indeed, while Mr. Rosenbaum did dispute the statements which were attributed to him in the affidavit, it genuinely must be asked if the Respondent, by clear and convincing evidence was shown not to believe that the statement had been initially made by Mr. Rosenbaum. Certainly, in such a hotly disputed one-on-one confrontation, a three year suspension or disbarment should not be appropriate where there are indicia to amply support that Respondent's state of mind, including consideration of physical illness and use of medication, might allow a totally incorrect belief to be expressed in an affidavit.

V. CONCLUSION

In the event this Court finds that the Respondent was indeed guilty of any or all of the charges, a suspension rather than disbarment is the appropriate discipline. Such a finding is consistent with the existing case law, and the unusual nature of conflict between the lawyer and the Judge in this instance. However, the conduct appears to be more strictly of a civil nature, and while it potentially could merit discipline, it is

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respectfully submitted that it should not be the subject of disciplinary action, but rather only civil action.

In the underlying case which was at issue, namely Thomas Freiheit v. Tamarac Lakes North Association, Civil Case No. 89-17977, before the Honorable Judge Cohen in Broward County, Florida, the tensions between the Court, the Respondent and even the inconsistencies alluded to by the Referee in his Report could very well leave the Respondent with the impression that her beliefs were correct, although the Referee found that they were not correct. Accordingly, the standard of clear convincing evidence required to convict, should not be deemed to have been met, as a matter of law in this case. *The Florida Bar v. Neu*, 597 So. 2d 266, 268 (Fla. 1992). While this evidence may have been greater than a preponderance, it does not appear to reach the level of clear and convincing needed to convict. *The Florida Bar v. Rayman*, 238 So. 2d 594, 596-597 (Fla. 1970).

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APPENDIX TO

RESPONDENT'S BRIEF

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IN THE SUPREME COURT OF FLORIDA

(BEFORE A REFEREE)

THE FLORIDA BAR,
COMPLAINANT,
V. CASE # 81,464
SHARON KLEINFELD,
RESPONDENT

REPORT OF REFEREE

1. 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 FOLOWING DATES:

SEPTEMBER 22, 1993
OCTOBER 6, 1993
OCTOBER 20, 1993
OCTOBER 22, 1993

THE FOLLOWING ATTORNEYS APPEARED AS COUNSEL FOR THE PARTIES:

FOR THE FLORIDA BAR, RANDI KLAYMAN LAZARUS.

FOR THE RESPONDENT, PAUL S. RICHTER.

2. AFTER CONSIDERING ALL OF THE PLEADINGS AND EVIDENCE BEFORE ME, PERTINENT PORTIONS OF WHICH ARE COMMENTED UPON BELOW, I FIND :

THAT THE COMPLAINT BY THE FLORIDA BAR DOES NOT SPECIFY, BY COUNT, EACH ALLEGATION OF MISCONDUCT BY THE RESPONDENT. NEVERTHELESS, IT CAN BE DISCERNED TO BE FIVE SEPARATE VIOLATIONS WHICH CAN BE CORROLATED TO FIVE DATES AND/OR EVENTS.

THE FIRST OFFENSE RELATES TO THE RESPONDENT'S FAILURE TO APPEAR FOR THE FOURTH DAY OF TRIAL IN THE CASE OF THOMAS FREIHEIT V. TAMARAC LAKES HOMEOWNERS ASSOC., INC. RESPONDENT WAS TRIAL ATTORNEY FOR THE PLAINTIFF IN THAT CASE. THE EVIDENCE PRESENTED WITH RESPECT TO THE CIRCUMSTANCES SURROUNDING THE RESPONDENT'S FAILURE TO APPEAR IS NOT CLEAR AND CONVINCING AS TO THIS VIOLATION AND I THEREFORE FIND THAT THE RESPONDENT DID NOT VIOLATE ANY RULES OF PROFESSIONAL RESPONSIBILITY. (SEE PAGE 978 THROUGH 981 OF THE TRANSCRIPT.)

THE SECOND OFFENSE RELATES TO THE FAILURE OF THE RESPONDENT TO APPEAR IN COURT FOR THE RESUMPTION OF THE TRIAL IN THE SAME MATTER. THE TRIAL COURT HAD RESET THE TRIAL FROM JANUARY 16, 1992, (THE DATE OF THE FIRST FAILURE TO APPEAR), TO FEBRUARY 6, 1992. WHEN THE RESPONDENT FAILED TO APPEAR ON FEBRUARY 6, 1992 THE TRIAL COURT DISMISSED THE LAWSUIT, WITH PREJUDICE. THIS FAILURE TO APPEAR BY THE RESPONDENT AND THE SUBSEQUENT DISMISSAL OF THE CLIENT'S LAWSUIT CREATED PREJUDICE TO THE CLIENT. I FIND THE EVIDENCE CLEAR AND CONVINCING AS TO THIS SPECIFICATION IN THAT THE RESPONDENT DID NOT ACT WITH REASONABLE DILLIGENCE AND PROMPTNESS IN REPRESENTING HER CLIENT, IN VIOLATION OF RULE 4-1.3 OF THE RULES OF PROFESSIONAL RESPONSIBILITY. (SEE PAGES 981 THROUGH 985 OF THE TRANSCRIPT .)

THE THIRD OFFENSE ARISES OUT OF THE RESPONDENT'S FAILURE TO APPEAR AT THE HEARING ON A RULE TO SHOW CAUSE ISSUED BY THE TRIAL JUDGE WHO DISMISSED THE CIVIL LAWSUIT. THIS HEARING WAS SET FOR FEBRUARY 7, 1992, (ONE DAY AFTER THE DISMISSAL OF THE LAWSUIT). THE RULE TO SHOW CAUSE HAD BEEN ISSUED , HOWEVER, IN JANUARY OF 1992.
THE EVIDENCE IS CLEAR AND CONVINCING AS TO THIS SPECIFICATION. I FIND THAT THE RESPONDENT HAS VIOLATED RULE 4-8.4(d) OF THE RULES OF PROFESSIONAL RESPONSIBILITY. (SEE PAGES 985 THROUGH 986 OF THE HEARING TRANSCRIPT.)

THE FOURTH OFFENSE RELATES TO THE ALLEGATIONS MADE BY THE RESPONDENT, UNDER OATH, IN AN AFFIDAVIT FILED ON FEBRUARY 27, 1992. THAT AFFIDAVIT WAS FILED WITH THE FOURTH DISTRICT COURT OF APPEALS AND THE CIRCUIT COURT AS AN APPENDIX TO A WRIT OF PROHIBITION. I FIND THAT THE EVIDENCE IS NOT CLEAR AND CONVINCING THAT THE STATEMENTS MADE IN THAT AFFIDAVIT VIOLATED THE RULES OF PROFESSIONAL RESPONSIBILITY.

THE FIFTH AND MOST SERIOUS OFFENSE ALLEGED REVOLVES AROUND AN AFFIDAVIT FILED IN THE CIRCUIT COURT IN AND FOR BROWARD COUNTY ON MARCH 10, 1992. THE AFFIDAVIT WAS SIGNED , UNDER OATH, AND FILED BY THE RESPONDENT. IT WAS ALLEGED IN THAT AFFIDAVIT THAT CIRCUIT JUDGE GEOFFREY COHEN HAD MADE THREATS TO AN ATTORNEY REPRESENTING THE RESPONDENT IN THE RESPONDENT'S PENDING CONTEMPT HEARING. THOSE THREATS WERE INTENDED TO INTIMIDATE SAID ATTORNEY DURING HIS REPRESENTATION OF THE RESPONDENT, ACCORDING TO THE AFFIDAVIT. I FIND THE EVIDENCE CLEAR AND CONVINCING AS TO THIS VIOLATION. THE EVIDENCE CONVINCES ME THAT SAID THREATS NEVER OCCURRED.

ALL CREDIBLE WITNESSES CONVINCE ME THAT THE EVENT DID NOT TAKE PLACE . I AM CONVINCED THAT THE FACTS CONTAINED IN THAT PORTION OF THE AFFIDAVIT WERE FABRICATIONS OF THE RESPONDENT, DAMAGING TO THE REPUTATION OF BROWARD COUNTY CIRCUIT JUDGE GEOFFREY COHEN , INTENDED TO MISLEAD A TRIBUNAL IN ITS DECISION MAKING PROCESS AND, THEREFORE, A VIOLATION OF RULE 4-3.3 (a) (1) OF THE RULES OF PROFESSIONAL RESPONSIBILITY. (SEE PAGES 991 THROUGH 994 OF THE HEARING TRANSCRIPTS.)

3. AS TO THE FIRST ACCUSATION , THE RESPONDENT'S FAILURE TO APPEAR IN THE BROWARD COUNTY CIRCUIT COURT ON JANUARY 16, 1992, I FIND THE RESPONDENT NOT GUILTY.

AS TO THE SECOND ACCUSATION, THE RESPONDENT'S FAILURE TO APPEAR IN THE BROWARD COUNTY CIRCUIT COURT ON FEBRUARY 6, 1992, I FIND THE RESPONDENT GUILTY OF VIOLATING RULE OF PROFESSIONAL RESPONSIBILTY 4-1.3.

AS TO THE THIRD ACCUSATION, THE RESPONDENT'S FAILURE TO APPEAR BEFORE BROWARD COUNTY CIRCUIT COURT JUDGE GEOFFREY COHEN ON FEBRURY 7, 1992, I FIND THE RESPONDENT GUILTY OF VIOLATING RULE OF PROFESSIONAL RESPONSIBILITY 4-8.4(d).

AS TO THE FOURTH ACCUSATION, ALLEGATIONS CONTAINED IN THE AFFIDAVIT IN SUPPORT OF DISQUALIFICATION, FILED ON FEBRUARY 27, 1992, I FIND THE RESPONDENT NOT GUILTY.

AS TO THE FIFTH ACCUSATION, ALLEGATIONS OF MISCONDUCT BY CIRCUIT COURT JUDGE GEOFFREY COHEN,

CONTAINED IN AN AFFIDAVIT, SWORN TO AND FILED BY THE RESPONDENT ON MARCH 10, 1992, I FIND THE RESPONDENT GUILTY OF VIOLATING RULE OF PROFESSIONAL RESPONSIBILITY 4-3.3(a)(1).

4. IT IS THE RECOMMENDATION OF THE REFEREE THAT THE RESPONDENT, SHARON KLEINFELD, BE SUSPENDED FROM THE PRACTICE OF LAW FOR A PERIOD OF 36 MONTHS, FOLLOWED BY 24 MONTHS OF PROBATION, WITH THE SPECIAL CONDITIONS THAT PRIOR TO REINSTATEMENT AND WHILE ON PROBATION SHE BE SUPERVISED BY A MEMBER OF THE LOCAL DISCIPLINARY COMMITTEE AND THAT THE RESPONDENT BE REQUIRED TO TAKE A PROFESSIONAL RESPONSIBILITY EXAMINATION.

5. I FIND THAT THE FOLLOWING COSTS WERE REASONABLY INCURRED BY THE FLORIDA BAR.

ADMINISTRATIVE COSTS RULE 3-7.6(k)(1)(5)	$ 500.00
COURT REPORTER COSTS GRIEVANCE COMMITTEE LEVEL AND FINAL HEARING LEVEL	$ 7,196.60
WITNESS FEES	$ 119.08
STAFF INVESTIGATORS COSTS	$ 1, 236.43
BAR COUNSELS TRAVEL COSTS	$ 161.88
TOTAL:	$ 9,213.99

IT IS RECOMMENDED THAT ALL COSTS INCURRED , INCLUDING BUT NOT LIMITED TO THE ITEMIZED COSTS LISTED ABOVE, BE CHARGED TO THE RESPONDENT.

DATED THIS 1 DAY OF DECEMBER, 1993.

LEONARD E. GLICK
REFEREE

I HEREBY CERTIFY THAT A COPY OF THE ABOVE REPORT OF THE REFEREE HAS BEEN SERVED UPON RANDI KLAYMAN LAZARUS, BAR COUNSEL, AT SUITE M-100, RIVERGATE PLAZA 444 BRICKELL AVE. MIAMI, FLORIDA 33131, NICHOLAS R. FRIEDMAN, ATTORNEY FOR THE RESPONDENT, AT 100 NORTH BISCAYNE BOULEVARD, MIAMI, FLORIDA 33132 AND STAFF COUNSEL, THE FLORIDA BAR, 650 APALACHEE PARKWAY, TALLAHASSEE, FLORIDA 32399-2300, THIS 1 DAY OF DECEMBER, 1993.

LEONARD E. GLICK
REFEREE

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that the original has been sent to Sid White, Clerk of Florida Supreme Court, and a true and correct copy of the foregoing has been mailed this 20th day of June, 1994 and by regular mail to: Randi Lazarus, Esq., The Florida Bar, 444 Brickell Avenue, Suite M-100, Miami, FL 33131.

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