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JUN 6 1994

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

Case No. 82,144
(TFB Case Nos. 92-31,269 09D)
and 93-30,010 (09D)

ROYCE DARRELL PIPKINS,

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. Any pleadings, notices, motions, orders, transcripts, and exhibits are forwarded to The Supreme Court of Florida with this report and constitute the record in this case.

The following attorneys appeared as counsel for the parties:

- For The Florida Bar: John B. Root, Jr.
- For the Respondent: Royce Darrell Pipkins (pro se)

II. Findings of Facts as to Each Item of Misconduct With Which The Respondent is Charged: After considering the pleadings and evidence before me, pertinent portions of which are commented on below, I substantially adopt the facts as recited in the Complaint. This case can be summed up in that the Respondent, Royce Darrell Pipkins, has not separated his personal travails from the conduct of his law practice. He has muddled his attorney/client communication responsibilities to the point where only the assessments of Mr. Roy Lathan and Matthew Gillio are founded in discernible fact.

An insight into the case was gleaned by a comment of Mr. Gillio that at a time when these problems arose, he (Mr. Gillio) and other acquaintances of the respondent wondered what was happening to the respondent. (T.88-89) The respondent was then involved in a personal divorce resulting in his disinclination to return telephone calls and otherwise communicate important information concerning the progress of clients' cases. (T.103)

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With respect to Count I, it is the finding of this Referee that the respondent undertook the appeal of Roy Lathan's case for the total amount of \$3,500.00 and nothing occurred thereafter justifying additional charges. (T8-9, 12-13, 21, 27 and 38) It is absurd for the respondent to believe he should be compensated based on his mistaken opinion concerning the reciprocal attorney fee statute. (T46) It was legally improper for the respondent to draw fees owed by Mr. Lathan in an unrelated matter from the superseded bond proceeds. (T21, 27-28 and 40) The respondent also neglected his practice, letting telephone calls go unreturned and otherwise failing to advise his client with respect to the status of his cases. (T11-12, 14-15 and 37) The delay in properly accounting for funds is likewise unforgivable. (T21-25) In spite of the respondent's dilatory conduct, he obtained a successful result for Mr. Lathan. (Fla. Bar Exhibit 3) It is the conclusion of this referee that the respondent violated the rules listed below:

4-1.3 - for failing to act with reasonable diligence and promptness in representing a client;

4-1.4 - for failing to keep a client reasonably informed about the status of the matter, promptly comply with reasonable requests for information, and explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;

4-1.15(b) - for failing to notify a client upon the receipt of funds which that client is entitled to receive and promptly render a full accounting regarding such property; and Rule Regulating Trust Accounts:

5-1.1 - for utilizing trust funds for purposes other than those for which they were entrusted to him.

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With respect to Count II, the respondent has admitted his guilt and thereby violated the following rules:

5-1.1 - for failing to maintain the minimum required trust accounting records and follow the minimum required trust accounting procedures; and

5-1.2 - for failing to maintain the minimum required trust accounting records and follow the minimum required accounting procedures.

III

Much of what was said with respect to Count I applies to Count III. The respondent failed to return telephone calls and otherwise communicate with his client, Matthew Gillio.

It is not clear whether the respondent's conduct in the case of Gillio v. Carlander & Associates, Inc. caused any detriment to Mr. Gillio, and no finding is made in that regard. What is clear is that the respondent did not properly notify Mr. Gillio about the progress of the proceedings including matters relating to collection on a default judgment, (T62-63 and 101-102) and did not advise with respect to the dismissal of a claim against Carlander & Associates. (T67 and 93-94) It is therefore the finding of this Referee that the respondent violated the following Rules of Professional Conduct:

4-1.3 - for failing to act with reasonable diligence and promptness in representing a client; and

4-1.4 - for failing to keep a client reasonably informed about the status of a matter, promptly comply with reasonable requests for information and explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

III. Recommendations as to Whether or Not The Respondent Should Be Found Guilty. As to each Count of the Complaint this Referee has recommended a finding of guilt. One further comment is in order. Immediately prior to the hearing, when speaking to this Referee and Mr. John B. Root, the respondent related another horrendous circumstance which has occurred in his personal life within the past month. While the respondent's mental status has not been made a part of these proceedings, it is yet my inclination that he would benefit by seeking mental health assistance. The point is Mr. Pipkins seems to repeatedly find himself embroiled in emotional circumstances which cause distractions with respect to his professional responsibilities.

The respondent is obviously intelligent and has a friendly personality so crucial to his type of law practice. He should be suspended for less than 90 days, and placed on probation for eighteen months with an attorney appointed to supervise his professional conduct.

IV. Recommendation as to Disciplinary Measures to be Applied. It is recommended that respondent be suspended from the practice of law for a period of 60 days with automatic reinstatement as provided in Rule 3-5.1(e), Rules of Discipline. It is also recommended that respondent should be placed on probation for a period of 18 months,

as provided in Rule 3-5.1, Rules of Discipline. The terms of probation should be as follows: respondent is to follow all rules relating to trust accounts; respondent is to provide The Florida Bar and an attorney appointed by The Florida Bar with (1) quarterly reports concerning his trust account and (2) quarterly reports logging all telephone calls and letters received from clients and respondent's prompt reply. It is further recommended that respondent make restitution to Mr. Lathan for any funds retained in excess of the \$3,500 charge for the appeal and that he be directed to return Mr. Gillio's house plans and other documents.

V. Personal History and Past Disciplinary Record.

After finding respondent guilty and prior to recommending discipline pursuant to Rule 3-7.6(k)(1), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Prior disciplinary convictions and disciplinary measures imposed therein: Respondent received a board level private reprimand for engaging in a conflict of interest. In another case, respondent was privately reprimanded before the board of governors for inadequate communication with a client.

Other personal data: Respondent was going through a divorce at the time the incidents complained of occurred.

VI. Statement of Costs and Manner in Which Costs Should be Taxed. I find the following costs were reasonably incurred by The Florida Bar:

Grievance Committee Level Costs:	\$ 386.00
Referee Level Costs	523.61
Administrative Costs	500.00
Investigator Expenses	452.94
Copy Costs	56.75
Total Itemized Costs:	<u>\$1,919.30</u>

It is apparent that other cost 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.

Dated this 3 day of June, 1994.


Referee

OLIVER L. GREEN, JR.

Certificate of Service

I hereby certify that a copy of the above report of referee has been delivered to John B. Root, Jr., Bar Counsel, 880 North Orange Avenue, Suite 200, Orlando, Florida 32801, Royce Darrell Pipkins, 135 North Magnolia Avenue, Orlando, Florida 32801-2328 and 258 East Altamonte Drive, Post Office Box 162645, Altamonte Springs, Florida 32716-2645 and Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300.


