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IN THE SUPREME COURT OF FLORIDA

SUPREME COURT CASE 83,058

The Florida Bar File
No. RRE-87-070

FILED

SID J. WHITE

APR 12 1994

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

BRUCE L. HOLLANDER,
Petitioner,

vs.

THE FLORIDA BAR,
Respondent

ON APPEAL FROM THE BOARD OF GOVERNORS
OF THE FLORIDA BAR

FILE NO.: RRE-87-070

REPLY BRIEF

THE FLORIDA BAR
650 Apalachee Parkway
Tallahassee, Florida 32399-2300
(904) 561-5600



JOHN F. HARKNESS, JR.
EXECUTIVE DIRECTOR
Florida Bar No. 123390

TABLE OF CONTENTS

Table of contents.....	i
Statement of the facts of the case.....	1
Point on Appeal.....	2
Issue I.....	3-5
Certificate of Mailing.....	6

STATEMENT OF THE FACTS OF THE CASE

The Florida Bar does not contest the Petitioner's Statement of Facts. Mr. Hollander is correct that the denial of his application was based on his having been publicly reprimanded on two occasions by the Florida Supreme Court.

POINT ON APPEAL

I. WHETHER THE TWO PUBLIC REPRIMANDS RECEIVED BY MR. HOLLANDER
ARE INSUFFICIENT GROUNDS TO DENY HIM RECERTIFICATION AS A FLORIDA
BAR BOARD CERTIFIED REAL ESTATE LAWYER2

ISSUE

I

THE TWO PUBLIC REPRIMANDS RECEIVED BY MR. HOLLANDER ARE SUFFICIENT GROUNDS TO DENY HIM RECERTIFICATION AS A FLORIDA BAR BOARD CERTIFIED REAL ESTATE LAWYER.

The criteria set forth in Policy 2.04 of the Standing Policies of the Board of Legal Specialization and Rule 6-3.5(c)(6) of the Standards for Certification were correctly applied by the Real Estate Certification Committee, the Certification Plan Appeals Committee of the Board of Governors of The Florida Bar, and the Board of Governors of The Florida Bar. Mr. Hollander, as he admits in his Brief, was twice reprimanded for violations involving fee agreements. Both cases concerned potential or actual improper charges to clients for legal services and were found to be violations of the Rules of Professional Conduct.

One of the two violations occurred in connection with a mechanic's lien claim, which is a real estate matter. However, even if neither matter were a real estate matter, the ethics of each applicant are a very serious criteria to be considered by all certification committees. The Real Estate Certification Committee found the violations to be sufficiently serious to preclude recertification.

One of the requirements for recertification as a Florida Bar board certified real estate lawyer is satisfactory peer review and a satisfactory professional ethics record. This is mandated by Rule 6-3.5(c)(6) of the Standards for Certification, which specifically states that as part of the review process, the Board of Legal Specialization and Education and its area committees shall

review an applicant's professional ethics and disciplinary record. The review is to include both disciplinary complaints and malpractice actions against an applicant. An applicant otherwise qualified may be denied certification on the basis of this record.

Rule 6-3.6, dealing specifically with recertification, provides in Subsection (b)(3) that the applicant must demonstrate satisfactory peer review and a professional ethics record in accordance with Rule 6-3.5(c)(6).

The Board of Governors believes that if a lawyer is twice publicly reprimanded for violations dealing with fee agreements, and he is still permitted to hold himself out as a board certified real estate lawyer, the ethical standards for certification would be meaningless. There are very few matters more important to potential clients than an attorney's ethics, especially in connection with fee agreements.

Petitioner argues that no further consequences should ensue as a result of his public reprimands. He further states that the main thrust of certification is on performance and proficiency within the area of specialization, rather than any ethical component. The Certification Standards provide otherwise. The Standards mandate that the committees and the Board of Legal Specialization and Education consider disciplinary complaints as part of the peer review process.

It is not The Florida Bar's intention to re-litigate the Petitioner's prior violations, nor is it the purpose of these proceedings to determine whether Mr. Hollander will be approved for certification or recertification, as the case may be, at some future date. The two violations are proximate in time and are


relevant to the present determination of the Petitioner's fitness to hold himself out to the public as being certified as a specialist by The Florida Bar.

Based upon the facts of this case and the Certifications Standards of The Florida Bar, the decision of the Board of Governors denying recertification to Mr. Hollander should be affirmed.

CERTIFICATION OF MAILING

I HEREBY CERTIFY that a true and correct copy of the foregoing was forwarded via U.S. Mail to BRUCE L. HOLLANDER, P.A., 5555 Hollywood Boulevard, Suite 200, Hollywood, Florida 33021; and JOHN M. BRUMBAUGH, Chair, Board of Legal Specialization and Education, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300, this 12th day of April, 1994.

THE FLORIDA BAR
650 Apalachee Parkway
Tallahassee, Florida 32399-2300
(904) 561-5600



JOHN F. HARKNESS, JR.
Executive Director
Florida No. 123390