IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

CYRUS ALAN COX,

Respondent.
_____/

CASE NO. 83,582
[TFB Case No. 93-31,770 (09A)]

BRIEF IN SUPPORT OF PETITION FOR REVIEW OF REPORT OF REFEREE

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TABLE OF CONTENTS

TABLE OF CITATIONS

Rules

Miscellaneous

PRELIMINARY STATEMENT

Complainant, The Florida Bar, shall be referred to as The Florida Bar or The Bar. Respondent, Cyrus Alan Cox, shall be referred to as Respondent or Mr. Cox.

The factual allegations set forth in the Statement of the Case and Facts shall reference a pleading or the Report of Referee which is in the Court file.

Citations to the transcript of the hearing held before the Referee, The Honorable Robert E. Pyle, on August 5, 1994, shall be referred to by the symbol (T) followed by a page reference. Citations to the Report of Referee shall be referred either as Report or (ROR) followed by a paragraph reference.

STATEMENT OF THE CASE AND FACTS

The facts of this case and the Referee's findings of guilt are not in dispute. Mr. Cox admitted The Bar's allegations of fact and also admitted violating three Rules of Professional Conduct. See Complaint, Respondent's Answer to Complaint, Requests for Admission, Respondent's Answer to Requests for Admission, and Report, ¶ II.

On or about April 13, 1994, The Bar served its Complaint. The admitted to facts as alleged in the Complaint and Requests for Admission and additional facts made known during the hearing are as follows.

Mr. Cox was admitted to The Florida Bar on October 16, 1990. (ROR, ¶ VI.). Mr. Cox had previously been admitted to The Colorado

Bar in 1988 and to The California Bar in 1990. (T 17). Mr. Cox has no prior Bar disciplinary actions. Id. at 18. (ROR, ¶ VI.).

In or around October 1, 1990, Mr. Cox was employed by the law firm of Sears & Manuel, P.A. (the firm). Mr. Cox resided in Seminole County and practiced law at the firm in Orange County, Florida. He was initially paid on a billable hourly basis and was expected to bill a minimum of 30 hours per week for 48 weeks. (Complaint, ¶'s 2.-4.) (Requests for Admission, ¶'s 1.B.-D.) (ROR, ¶'s II. 2.-3.).

The firm had in effect an informal policy that employee attorneys were not to engage in outside employment of a legal nature. This informal policy was incorporated into an office manual that was adopted in June, 1992. (Complaint, ¶ 5.) (Requests for Admission, ¶ 1.F.) ROR, ¶ II. 4.).

Mr. Cox's employment with the law firm was subject to review in October of 1991, at which time the restrictions against outside employment were discussed with him. (Complaint, ¶ 5.) (Requests for Admission ¶ 1.E. and G.) (ROR, ¶ II. 4.).

After his initial review, on October 5, 1991, the terms of the association were changed and Mr. Cox went on a salaried basis of $40,000.00 per year plus a discretionary bonus. (Complaint, ¶ 4.) (Request for Admissions ¶ 1.E.) (ROR, ¶ II. 3.).

Mr. Cox signed for a copy of the law firm's written policy manual on June 1, 1992, but noted that as of that date the manual had not been read or reviewed. (Complaint, ¶ 6.) (Requests for Admission, ¶ 1.I.) (ROR, ¶ II. 4.).

Paragraphs 1-13 of the law firm's written policy manual, which refer to outside employment, advises that employees are expected to be working only for the firm and that any additional employment must be approved in advance by the office manager or managing partner. Attorneys and legal assistants are prohibited from doing any legal work which is not a part of the firm's practice. (Complaint, ¶ 6.) (Requests for Admission, ¶ 1.H.).

As admitted, "[a]lmost from the very beginning of his employment, respondent violated the policy of the law firm, even after he was warned not to do outside work during his employment review in October, 1991." (Complaint, ¶ 7.) (Requests for Admission, ¶ 1.J.) (ROR, ¶ II. 5.).

Mr. Cox admitted that on numerous occasions he represented clients without the knowledge or consent of the firm and without proper office documentation. "Some of his correspondence in these cases was performed on business stationary; some of it was not. Files were not prepared for the office and in some cases, fees which were paid were never received by the law firm but instead were received by the respondent. In several cases, the respondent requested of the client that checks be made out in his, the respondent's, name." As admitted, Mr. Cox "actually collected some fees, kept them, denied having done so, and eventually admitted collecting some fees, but only after having been faced with documented evidence in each case." (Complaint, ¶'s 8.-9.) (Requests for Admission, ¶'s 1.K.-N.) (ROR, ¶'s II. 6.-7.).

Mr. Cox was discharged from his employment on August 17, 1992. (Complaint, ¶ 3.) (Requests for Admission, ¶ 1.C.) (ROR, ¶ II. 2.).

On August 5, 1994, Mr. Cox appeared before the Referee. (T). Mr. Cox was not represented by counsel. Mr. Root, counsel for The Bar, and the complainant, Mr. Sears, appeared before the Referee.

Mr. Cox and Mr. Root agreed The Bar's allegations were admitted and that the primary purpose for the hearing was "to arrive at a discipline that is appropriate to the case." (T 3). Judge Pyle was advised prior to the hearing that the parties tried to work out a potential settlement or consent agreement for a public reprimand, but it was not approved by The Bar. (T 4).

During the formal hearing, Bar counsel summarized the facts and recommended that Judge Pyle impose a thirty (30) day suspension. (T 5-8).

Mr. Cox agreed the facts in the case were not in dispute and that Judge Pyle should consider mitigating and aggravating circumstances. (T 9-10). In support of mitigation, Mr. Cox advised the Referee:

> . . . this was a dispute between Mr. Sears and myself. And when I say that there were no -- there was no misrepresentation to a client; there was [sic] no clients that were damaged or injured; there were no trust funds that were misappropriated; there was no misrepresentation to a court body.

(T 10).

Mr. Cox admitted that he moonlit while he was employed by Mr. Sears. However, he further advised that there were no allegations raised

> that any work that [he] completed while [he] was moonlighting and did moonlight for him was completed outside the course of [his] work for Mr. Sears. There was never an issue of [Mr. Cox] not completing time or completing work assignments, or doing any of the other expectations that Mr. Sears had for [him]. The work that [he] completed, which was primarily for family and friends, was completed in addition and outside of the time that [he] worked for Mr. Sears. There was never -- in that sense there was never any income lost to the law firm from a diminution of [his] time giving it to these clients as opposed to some other clients . . . .

(T 10-11). Further,

> [w]hen [Mr. Cox] was fired on August 17th, we came to a conclusion that the vacation time that [he] had pending, and the unbilled or unpaid time that [he] had that [he] had worked for Mr. Sears, would be exchanged with him for any fees that may have been or any time that may have been owed to the firm. So that issue was resolved back in August of 1992.

(T 11).

Mr. Root pointed out "that the financial loss is not known whether we have any to clients. No client has complained about that. However, as we pointed out earlier, there's been no audit done. We don't know whether Mr. Sears and Mr. Manuel suffered any financial loss or not." (T 13).

Mr. Sears felt there was a misrepresentation to third parties by Mr. Cox using firm letterhead to write letters to third parties that were presumably not firm clients. Mr. Sears did not "know if the clients really knew what was happening, but letters were sent to the clients on firm letterhead giving the appearance that [the] firm was representing this individual when in fact [they] had no

knowledge of them. So in that instance the clients could have been misled." (T 14-15). Mr. Sears further advised that when Mr. Cox left the firm, Mr. Cox proposed "waiving the pay that was due him and vacation pay as a set-off against any fees that he collected that didn't go to the firm." (T 15). The firm took it under advisement. "No decision was made at that time so there was really no expressed agreement, although [Mr. Sears] think[s] Mr. Cox could feel there's an implied agreement because [they] never pursued it." The law firm never brought a civil action to collect any money from Mr. Cox and they are not seeking restitution. (T 15-16).

After the hearing, Judge Pyle issued his Report Judge Pyle's findings of fact essentially track the admitted facts set forth in the Complaint and Requests for Admission. (ROR, ¶ II.). Judge Pyle also found Mr. Cox guilty of violating Rules 4-1.7(b), 4-4.1(a), and 4-8.4(c), Rules Regulating The Florida Bar. Judge Pyle concluded:

> 4-1.7(b) for representing clients without the knowledge and consent of the law firm for which he was working which could have limited his exercise of independent professional judgment in the representation of those clients or which could have resulted in the law firm having a conflict of interest by accepting a case against an unknown client of the respondent.
>
> 4-4.1(a) for representing clients without the knowledge or consent of the law firm for which he was working and concealing the fact from that firm and in some cases denying such representation; and
>
> 4-8.4(c) for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation pertaining to his performance of work for clients without the consent or authorization

> of the law firm and attempting to conceal the representation of those clients.

(ROR, ¶ III.). Judge Pyle recommended Mr. Cox be suspended from the practice of law for thirty (30) days "with automatic reinstatement at the end of the period of suspension as provided in Rule Regulating The Florida Bar 3-5.1(e)." (ROR, ¶ V.). Judge Pyle "specifically [d]eclined to recommend that the respondent make any restitution to the law firm because no audit was performed by the firm in order to ascertain the amount of the alleged deficiency, if any. Such would be a matter more appropriately addressed by the civil courts." Id.

In recommending a thirty (30) day suspension, Judge Pyle did not address the "Florida Standards for Imposing Lawyer Sanctions."

Judge Pyle issued his Report on August 26, 1994. A timely Petition for Review was filed in this Court on September 23, 1994. The Board of Governors apparently considered the Report during its meeting which ended September 23, 1994. See September 23, 1994, letter from John A. Boggs to The Honorable Sid J. White. The Bar has not filed a Petition for Review in this matter. This Brief is timely filed.

SUMMARY OF THE ARGUMENT

Mr. Cox admitted The Bar's allegations and admitted violating three Rules. However, a thirty (30) day suspension is not warranted under the facts of this case when viewed in light of the applicable Florida Standards for Imposing Lawyer Sanctions or under existing case law.

A public reprimand would be fair to the public, fair to Mr. Cox, and severe enough to deter others who might be prone or tempted to become involved in like violations.

ARGUMENT

THE REFEREE'S RECOMMENDATION OF A THIRTY (30) DAY SUSPENSION IS NOT APPROPRIATE GIVEN THE FACTS OF THIS CASE.

Mr. Cox admitted The Bar's allegations and Mr. Cox does not seek to overturn the Referee's findings and recommendations of guilt. The sole issue before this Court is whether the recommended discipline of a thirty (30) day suspension is appropriate given the facts of this case.

"In reviewing a referee's recommendations for discipline, [this Court's] scope of review is somewhat broader than that afforded to findings of fact because, ultimately, it is [this Court's] responsibility to order an appropriate punishment." The Florida Bar v. Anderson, 538 So. 2d 852, 854 (Fla. 1989) (citation omitted). See also The Florida Bar v. Reed, 19 Fla. L. Weekly S506 (Fla. Oct. 6, 1994). Stated differently, "[a] referee's recommendation for discipline is persuasive. However, it is ultimately [this Court's] task to determine the appropriate sanction." The Florida Bar v. Reed at S506.

This Court has stated on many occasions that there are three primary purposes in disciplining attorneys:

> The discipline must be: 1) fair to the public both by 'protecting the public from unethical conduct and . . . not denying the public the services of a qualified lawyer;' 2) fair to the attorney by 'being sufficient to punish a

> breach of ethics and at the same time encourage reformation and rehabilitation;' and 3) 'severe enough to deter others who might be prone or tempted to become involved in like violations.' The Fla. Bar v. *Pahules*, 233 So. 2d 130, 132 (Fla. 1970).

The Florida Bar v. Dubbeld, 594 So. 2d 735, 736 (Fla. 1992). See also The Florida Bar v. Lord, 433 So. 2d 983, 986 (Fla. 1983).

Mr. Cox, as a young Florida lawyer, admitted he engaged in moonlighting while he was employed as an associate with the law firm and in initially denying representation and collecting some fees from his clients. However, there is no evidence that his representation of any persons resulted in any conflict of interest with respect to the firm's clients, any actual or potential injury with respect to any clients, whether they be Mr. Cox's or the firm's, or that Mr. Cox diverted a specified sum of money paid by clients of the law firm and into his own pocket.

In disciplining attorneys, The Bar, Referee, and this Court are guided by the Florida Standards for Imposing Lawyer Sanctions. These standards are designed for use in imposing a sanction or sanctions following a determination by clear and convincing evidence that a member of The Florida Bar violated a provision of the Rules Regulating The Florida Bar. Fla. Stds. Imposing Law. Sancs. 1.3. The standards constitute a model. "They are designed to promote: (1) consideration of all factors relevant to imposing the appropriate level of sanctions in an individual case; (2) consideration of the appropriate weight of such factors in light of the stated goals of lawyer discipline; (3) consistency in the

imposition of disciplinary sanctions for the same or similar offenses within and among jurisdictions." Id.

Generally,

> [i]n imposing a sanction after a finding of lawyer misconduct, a court should consider the following factors: (a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors.

See Fla. Stds. Imposing Law. Sancs. 3.0.

Mr. Cox admitted violating Rule 4-1.7(b)[1] dealing with conflict of interest as alleged. (ROR, ¶ III.). See p. 7, supra. However, there is no evidence to support a suspension pursuant to Standard 4.32.[2] Suspension is not warranted because there is no evidence in the admitted facts that Mr. Cox knew of a conflict of interest and did not fully disclose to a client the possible effect

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[1] "A possible conflict does not itself preclude the representation." R. Regulating Fla. Bar 4-1.7 "Comment."

[2] Standard 4.32 deals with failure to avoid conflicts of interest and in particular notes that: "Suspension is appropriate when a lawyer knows of a conflict of interest and does not fully disclose to the client the possible effect of that conflict, and causes injury or potential injury to the client." Standard 4.33 states: "Public reprimand is appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interest, or whether the representation will adversely affect another client, and causes injury or potential injury to the client." Standard 4.34 states: "Admonishment is appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes little or no injury or potential injury to a client."

of that conflict and caused injury or potential injury[3] to a specific client. If anything, an admonishment may be the only appropriate penalty if this Court concludes Mr. Cox was negligent in determining whether there might be a conflict of interest in his representation of non-firm clients.

Next, Mr. Cox admitted violating Rule 4-4.1(a) "for representing clients without the knowledge or consent of the law firm for which he was working and concealing the fact from that firm and in some cases denying such representation." (ROR, ¶ III.). See p. 7, supra. Rule 4-4.1(a) deals with truthfulness in statements to others and states: "[i]n the course of representing a client a lawyer shall not knowingly: . . . (a) make a false statement of material fact or law to a third person." Mr. Cox also admitted violating Rule 4-8.4(c) "for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation pertaining to his performance of work for clients without the consent or authorization of the law firm and attempting to conceal the representation of those clients." (ROR, ¶ III.). Rule 4-8.4(c) deals with misconduct and in particular provides in part that "[a] lawyer shall not: . . . engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

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[3] "A potential injury" is the harm to a client, the public, the legal system, or the profession that is reasonably foreseeable at the time of the lawyer's misconduct, and which, but for some intervening factor or event, would probably have resulted from the lawyer's misconduct. Fla. Stds. Imposing Law. Sancs. "Introduction."

Standard 4.6 deals with a lack of candor and provides for sanctions "generally appropriate in cases where the lawyer engages in fraud, deceit, or misrepresentation directed toward a client." Fla. Stds. Imposing Law. Sancs. 4.6. "Suspension is appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client;" a "[p]ublic reprimand is appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client;" and an "[a]dmonishment is appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes little or no actual or potential injury to the client." Fla. Stds. Imposing Law Sancs. 4.62-.64. Mr. Cox did not knowingly deceive a client and cause injury or potential injury to the client. At best, Mr. Cox was negligent in failing to provide his and the firm's clients with complete information regarding his status with the law firm. However, Mr. Cox's failure in this regard did not cause any actual or potential injury to any client.

Standard 6.1 deals with false statements, fraud, and misrepresentation "involving conduct that is prejudicial to the administration of justice or that involves dishonesty, fraud, or deceit, or misrepresentation to a court." Fla. Stds. Imposing Law. Sancs. 6.1. (emphasis added). Mr. Cox's admitted conduct does not fall within the guidelines set forth in Standard 6.1, thus this standard should not be used in determining whether the Referee's recommended punishment is appropriate.

Standard 5.1 deals with the failure to maintain personal integrity and provides that "sanctions are generally appropriate in cases involving commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, or in cases with conduct involving dishonesty, fraud, deceit, or misrepresentation." Fla. Stds. Imposing Law. Sancs. 5.1. "Suspension is appropriate when a lawyer knowingly engages in criminal conduct which is not included within Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice;" a "[p]ublic reprimand is appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice law;" and an "[a]dmonishment is appropriate when a lawyer engages in any other conduct that reflects adversely on the lawyer's fitness to practice law." Fla. Stds. Imposing Law. Sancs. 5.12-14. (emphasis added). There is no finding that Mr. Cox engaged in criminal conduct, thus, suspension is not warranted. A public reprimand may be appropriate because Mr. Cox performed work for clients without the consent or authorization of the law firm and concealed this fact from the law firm. Compare with Fla. Stds. Imposing Law. Sancs. 7.0 Violations of Other Duties Owed as a Professional.

Notwithstanding the above, there are several mitigating factors which this Court should consider. Mr. Cox has no prior disciplinary record, he admitted the allegations set forth in the Complaint and Requests for Admission, admitted violating three

Rules Regulating The Florida Bar, and made a good faith effort to make restitution to the firm. Fla. Stds. Imposing Law. Sancs. 9.32(a), (d), (e). There has been no finding, nor are there any factors which should be considered in aggravation. See Fla. Stds. Imposing Law. Sancs. 9.22.

During the hearing, Bar counsel cited several cases in support of its recommendation of a thirty (30) day suspension. In The Florida Bar v. Stalnaker, 485 So. 2d 815 (Fla. 1986), this Court imposed a (90) ninety day suspension, rather than a twelve (12) month suspension as recommended by the referee, upon Mr. Stalnaker. This Court agreed with the referee's findings of fact but disagreed with the recommended discipline.

Stalnaker was an associate practicing with two partners, Jones and Morrison. The referee found:

> 1) [i]n order to conceal the receipt of income in excess of his salary, Stalnaker did not report that excess income on his 1980 tax return;
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> 2) Stalnaker, a salaried employee of the law firm, was to receive an annual salary plus a bonus from net profits;
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> 3) for approximately two years Stalnaker accepted money from clients, in excess of his fixed salary, which he deposited in his personal account and then gave the firm less than the full amount he had received;
>
> 4) Jones did not modify Stalnaker's contract orally, but, if such a modification had occurred, it would have impaired the interest of Jones' partner, Morrison.

The referee recommended Stalnaker be suspended for twelve (12) months. This Court agreed with the referee's finding of fact but

reduced the penalty to a ninety (90) day suspension. The majority of this Court determined that Stalnaker's "actions fall short of a deliberate attempt to steal from the association." The Florida Bar v. Stalnaker, 485 So. 2d at 817. In dissenting, Justice Erhlich pointed out that Stalnaker "was charged with misappropriating $36,922 from the firm by which he was employed."

Unlike Mr. Stalnaker, Mr. Cox is not charged with misappropriating or stealing money from the law firm. Compare with The Florida Bar v. Gillin, 484 So. 2d 1218, 1219 (Fla. 1986) in which this Court suspended Mr. Gillin for six (6) months and until rehabilitation was proved in light of this Court's finding "the evidence is sufficiently clear and convincing to support the referee's conclusion that Gillin [as a partner in the law firm] did indeed intend to steal the $25,000 from the firm by depriving them of the fee."

In The Florida Bar v. Bradham, 446 So. 2d 96 (Fla. 1984), Bradham received a thirty (30) day suspension based upon his conditional guilty plea for consent judgment. Although there are no reported facts, it appears that Bradham was charged "with dishonesty in his relations with his law partners." Given the paucity of facts, it is difficult to determine whether the Bradham case is of any precedential value.

In The Florida Bar v. Herzog, 521 So. 2d 1118 (Fla. 1988), Herzog was a shareholder in a law firm. Herzog was charged with deliberately, knowingly, and improperly keeping a $150.00 per month retainer during the year he was a shareholder at the law firm; took

with him on business trips a non-lawyer employee who performed no work for clients and whose air fare was intentionally charged to clients; engaged in deceptive billing practices that deprived the firm of an unknown amount of fees estimated to be in excess of $60,000, including costs of over $20,000; and improperly paid to an English stockbroker approximately $14,000 or improperly utilized such funds himself. The referee found Herzog guilty only of the charge of deceptive billing practices, but could not determine whether this had deprived the law firm of any attorneys' fees or costs. 521 So. 2d at 1119. The referee recommended a private reprimand. Id. The Bar asked for a one year suspension. This Court imposed a ten (10) day suspension because Herzog's "deceptive billing practices warrant a harsher penalty than the private reprimand recommended by the referee." Id. at 1120. In short, this Court noted "[t]he falsification in any manner of bills to clients is unethical and reprehensible. Billing practices, like every other aspect of client dealing, should be conducted in a scrupulously honest manner." 521 So. 2d at 1120.

In The Florida Bar v. Jennings, 482 So. 2d 1365 (Fla. 1986), a case cited by Mr. Cox, Jennings received a public reprimand for conduct contrary to honesty, justice or good morals and conduct involving dishonesty, fraud, deceit, or misrepresentation. The facts are recounted in Justice Erhlich's opinion concurring in part and dissenting in part. Jennings borrowed $30,000 from each of two sets of in-laws, prepared, filed, and had recorded a mortgage and note for each in-law purportedly incumbering the same parcel of

property for security when, in fact, neither in-law knew about Jennings' deal with the other and neither knew about the mortgage to the other. In short, as concluded by Justice Erhlich, Jennings "hoodwinked, to use the vernacular, his in-laws to their financial detriment . . . . His conduct was utterly reprehensible." Id. at 1366. Notwithstanding, Jennings received a public reprimand. Compare with The Florida Bar v. Bratton, 389 So. 2d 637 (Fla. 1980) (public reprimand for an attorney who engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation and for knowingly making a false statement of fact in his representation of a client); The Florida Bar v. Carlon, 505 So. 2d 1325 (Fla. 1987) (public reprimand and restitution ordered where an attorney agreed to assist another attorney at no additional charge but later billed and sued the client for his fees); The Florida Bar v. Hastings, 523 So. 2d 571 (Fla. 1988) (public reprimand ordered where an attorney practiced law under a firm name indicating that the attorney is in partnership with another and arranged for a third party to provide loans to clients); The Florida Bar v. Murrell, 411 So. 2d 178 (Fla. 1982) (public reprimand given for attorney who backdated a quit claim deed).

In summary, Cox acknowledges his mistake. He should not have represented non-firm clients while he was employed with the law firm without the firm's consent and should not have initially denied it. In this case, a public reprimand would be fair to the public and to Mr. Cox and, at the same time, is severe enough to deter others who might be prone or tempted to become involved in

like violations. A thirty (30) day suspension is not warranted either under existing case law or the guidelines as set forth in the Standards recited above.

CONCLUSION

Based upon the foregoing, Mr. Cox respectfully requests this Court to reject the Referee's recommendation of suspension and to order a public reprimand.

Respectfully submitted this 7th day of November, 1994.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been furnished by hand delivery this 7th day of November, 1994, to Sid White, Clerk of the Supreme Court, with a copy furnished by U.S. Mail to Mr. John B. Root, Jr., Bar Counsel, The Florida Bar, 880 North Orange Avenue, Suite 200, Orlando, Florida 32801 and John T. Berry, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300.

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