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SID J. WHITE

MAY 6 1996

CLERK, SUPREME COURT

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Office Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR, )  
 )  
 Complainant-Appellant, )  
 )  
 v. )  
 )  
 BRUCE IRA KRAVITZ )  
 )  
 Respondent-Appellee. )  
 \_\_\_\_\_ )

Supreme Court Case  
Nos. 84,380 & 84,973

The Florida Bar File  
Nos. 94-50,362(15C)  
and 95-50,214(15C)

THE FLORIDA BAR'S REPLY BRIEF

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TABLE OF CONTENTS

	<u>PAGE(S)</u>
TABLE OF CONTENTS . . . . .	i
TABLE OF CASES AND CITATIONS . . . . .	ii
PRELIMINARY STATEMENT . . . . .	1
SUMMARY OF ARGUMENT . . . . .	2
ARGUMENT . . . . .	2
POINT I - IF A REMAND IS ORDERED, THE BAR SHOULD BE ALLOWED TO PRESENT AGGRAVATING FACTORS. . . . .	2
CERTIFICATE OF SERVICE . . . . .	4

TABLE OF CASES AND CITATIONS

<u>FLORIDA STANDARDS FOR IMPOSING LAWYER SANCTIONS</u>		<u>PAGE(S)</u>
1)	Standard 9.32(g) . . . . .	3
2)	Standard 9.32(j) . . . . .	3
3)	Standard 9.32(k) . . . . .	3

PRELIMINARY STATEMENT

The Florida Bar, Appellant, will be referred to as "the bar" or "The Florida Bar". Bruce Ira Kravitz, Appellee, will be referred to as "respondent". The symbol "RR" will be used to designate the report of referee.

### SUMMARY OF ARGUMENT

Respondent has asked for a remand before the court enters any order imposing a suspension from the practice of law. The purpose of the remand would be to allow respondent to offer mitigation, because there was no hearing on sanction wherein the parties were able to introduce either mitigating or aggravating factors. While the bar does not believe that a remand is warranted, if a remand is ordered the bar respectfully requests an opportunity to present any and all appropriate aggravating factors.

### ARGUMENT

#### **I. IF A REMAND IS ORDERED, THE BAR SHOULD BE ALLOWED TO PRESENT AGGRAVATING FACTORS.**

The bar filed this appeal to seek a sterner sanction than that recommended by the referee. The issue of sanction has been amply briefed by the parties. The only reason for this reply brief is respondent's footnote 1, which reads in toto "The bar fails to mention that Kravitz has had absolutely no opportunity to present evidence of mitigation." While it is true that there was no hearing devoted specifically to mitigation and aggravation, it is clear from the closing comments in the report of referee that the referee believed that certain mitigating factors were present and

that the referee considered that respondent had an otherwise good character and reputation<sup>1</sup> because he was not an evil person" and that he has shown interim rehabilitation<sup>2</sup> because the referee commented that respondent does not now pose a danger to the integrity of our profession or the clients he may represent in the future." RR at 19. In addition the report notes that respondent has suffered the imposition of other penalties<sup>3</sup> by virtue of being held in contempt of court. RR at 4.

It is the bar's position that the record does reveal mitigating factors present in this case and that a remand is not really necessary. If a remand is ordered, this court should allow the bar to present evidence in aggravation of respondent's misconduct.

WHEREFORE, The Florida Bar respectfully request this court to accept the referee's findings of fact and of guilt but reject the referee's sanction recommendation and instead impose a ninety-one days suspension from the practice of law.


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<sup>1</sup>Standard 9.32(g) of the Florida Standards for Imposing Lawyer Sanction

<sup>2</sup>Standard 9.32(j)

<sup>3</sup>Standard 9.32(k)

Respectfully submitted,




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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing initial brief of The Florida Bar have been furnished via regular U.S. to Daniel N. Brodersen, attorney for respondent, at 1031 W. Morse Blvd., Suite 200, Winter Park, FL 32789; and to John A. Boggs, Director of Lawyer Regulation, at The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399-2300 on this 2<sup>nd</sup> day of May, 1996.



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KEVIN P. TYNAN