

2. In or about February, 1993, Mrs. Veronica Cottle found herself in need of an attorney in regard to a possible malpractice suit against an attorney from Duval County, Florida. Mrs. Cottle was referred to respondent through a neighbor, T-37. Mrs. Cottle obtained the name of respondent from telephone directory service for Daytona Beach, Florida, and called a phone number on Ridgewood Avenue in Daytona Beach, Florida. Respondent initially referred Mrs. Cottle to his former law partner, Gary Bloom, in Palm Coast, Florida. Subsequent to Mrs. Cottle's office conference with Gary Bloom, she telephoned respondent again. Pursuant to their discussion, respondent agreed to represent Mrs. Cottle for a fee of \$1,000.00. Respondent gave her a receipt, which is in evidence as Florida Bar Exhibit 2, T-41. Respondent also prepared a file folder that date indicating the file was for a possible malpractice suit against Mr. Mathews, T-42, Florida Bar Exhibit 3. At no point in time did respondent advise Mrs. Cottle that he was disbarred from The Florida Bar.

3. I find that respondent had no possible purpose in assisting Mrs. Cottle other than the unauthorized practice of law. Respondent was not permitted to do legal research on behalf of a client unless he did so under the supervision of an attorney, The Florida Bar v. Brumbaugh, 355 So. 2d 1186 (Fla. 1978). There is no indication that respondent acted as a paralegal and that there is no indication that he was supervised by an attorney. Respondent has refunded \$500.00 of the \$1,000.00 total payment back to Mrs. Cottle, T-52.

AS TO SUPREME COURT CASE NO. 85,121, TFB NO. 95-31,015 (07C)

4. On or about December 15, 1994, respondent, on behalf of Guest Services, Inc. filed a complaint in the circuit court of the Ninth Judicial Circuit of Florida, Guest Services, Inc., a Florida corporation, plaintiff v. Kathleen Burg, Columbia Sussex Corp., et al, defendants. Respondent signed the complaint as Guest Services, Inc., its president.

5. Respondent's filing of a complaint on behalf of a corporation not signed by an attorney and his subsequent representation in the matter until or about February 6,

1995, when attorney Christopher Ray submitted a notice of appearance on behalf of the corporation and the matter.

6. A corporation's filing of a complaint not signed by an attorney constitutes the unauthorized practice of law, Szteinbaum v. Kaes Inversiones y Valores, 476 So. 2d 247 (Fla. 3d DCA 1985). Further, the respondent's conduct in this case in filing the complaint, causing process to be served and subsequently remaining attorney of record in the matter until a notice of appearance was filed in February, 1995, constitutes the unauthorized practice of law pursuant to The Florida Bar v. Brumbaugh, above.

III. Recommendations as to Whether or Not the Respondent Should be Found Guilty: As to Supreme Court Case No. 84,646, I recommend that the respondent should be found guilty of the unauthorized practice of law after being disbarred by the Supreme Court of Florida.

As to Supreme Court Case No. 85,121, I recommend that the respondent should be found guilty of the unauthorized practice of law after being disbarred by the Supreme Court of Florida.

IV. Recommendation as Sanctions: The referee recommends that the respondent be permanently disbarred; that he be required to pay all the costs of this proceeding in regard to the above referenced case number; that he pay restitution of \$500.00 to Mrs. Veronica Cottle within thirty (30) days of the final court order of the Supreme Court of Florida; and that he be specifically ordered to no longer practice law, directly or indirectly, in the state of Florida. Finally, the referee recommends that the order imposing permanent disbarment provide for respondent's incarceration or payment of a fine or both should respondent violate such order.

V. Personal History and Past Disciplinary Record:

Age: 53

Date admitted to bar: April 24, 1992

Prior disciplinary convictions and disciplinary measures imposed therein:

1. The Florida Bar v. Neely, 587 So. 2d 465 (Fla. 1991) - disbarment for fraudulently obtaining Title II in mortgaging a client's mother's property, failing to honor a letter of protection and misrepresenting to another client the amount of travel costs and expenses reimbursable by the client.

2. The Florida Bar v. Neely, 540 So. 2d 109 (Fla. 1989) - Ninety-one (91) day suspension for allowing a client's personal injury claim to be dismissed for failure to prosecute and failing to promptly deliver money to former clients.

3. The Florida Bar v. Neely, 502 So. 2d 1237 (Fla. 1987) - Three (3) months suspension and two (2) year period of probation for failing to deposit a client's money into a trust account, failing to maintain adequate trust account records, failing to provide his client with an accounting and failing to properly supervise his bookkeeper.

4. The Florida Bar v. Neely, 488 So. 2d 535 (Fla. 1986) - Sixty (60) day suspension and two (2) year period of probation for trust account record keeping violations.

5. The Florida Bar v. Neely, 417 So. 2d 957 (Fla. 1982) - Public reprimand and one year period of probation for failing to prosecute a criminal appeal or make other arrangements to insure that the client was adequately represented during the time the respondent was suspended from the practice of law.

6. The Florida Bar v. Neely, 372 So. 2d 89 (Fla. 1979) - Ninety (90) day suspension and six (6) month period of probation for engaging in self dealing and real estate matter to the detriment of his clients for his own personal gain.

VI. Statement of costs and manner in which costs should be taxed: I find the following costs were reasonably incurred by The Florida Bar.

A. Grievance Committee Level Costs

1. Transcript Costs

N/A

2.	Bar Counsel Travel Costs	N/A
B. Referee Level Costs		
1.	Transcript Costs	
	(Hearing 7/7/95)	\$452.70
	(Hearing 9/25/95)	(Not yet available)
2.	Bar Counsel Travel Costs	
	(Hearing 7/7/95)	\$118.35
	(Hearing 9/25/95)	\$117.66
C. Administrative Costs		
		\$750.00
D. Miscellaneous Costs		
1.	Investigator Expenses	\$660.32
2.	Witness Fees	\$ 81.50
3.	Copy Costs	\$ 12.50
4.	Certified Copy Costs	\$144.00
5.	Process Server Costs	\$ 25.00
TOTAL ITEMIZED COSTS:		\$2,362.03

It is apparent that other costs 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, and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this 11th day of October, 1995.

JAMES A RUTH
The Honorable James A. Ruth
Referee

Original to Supreme Court with Referee's original file.

Copies of this Report of Referee only to:

Ms. Jan Wichrowski, Bar Counsel, The Florida Bar, 880 North Orange Avenue, Suite 200, Orlando, Florida 32801

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St. Augustine, Florida, 32085-1536

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