

IN THE SUPREME COURT OF FLORIDA

Before the Honorable Joseph G. Donahey, Jr.
Circuit Judge, Sixth Judicial Circuit
of Florida, Referee

CASE NO. 85,606

THE FLORIDA BAR

Petitioner

v.

RONALD J. YORK, SR.,
individually and d/b/a
ADVANCED PARALEGAL SERVICE

Respondent

FILED

SID J. WHITE

MAR 22 1996

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as referee to conduct proceedings herein according to Rule 10-7.1(b)(6), Rules Regulating The Florida Bar, the following proceedings occurred:

SUMMARY OF PROCEDURE HISTORY

Date of
Receipt

- 4/27/95 Petition Against the Unlicensed Practice of Law
Fla. Bar v. Ronald J. York, Sr., Individually and
d/b/a Advanced Paralegal Service
- 4/27/95 Letter of transmittal, dated 4/26/95, from Mary Ellen Bateman, Esquire,
Unlicensed Practice of Law Counsel, The Florida Bar
- 5/4/95 Letter dated 5/4/95 from Clerk of Supreme Court advising Mr. Martin J.

Sperry of Ft. Lauderdale of receipt of Petition Against the Unlicensed Practice of Law

- 5/11/95 Order Rule to Show Cause filed with Florida Supreme Court
- 6/13/95 undated Response to the Florida Bar Petition Against the Alleged Unlicensed Practice of Law
- 8/3/95 Order of the Honorable Susan F. Schaeffer, Chief Judge, dated 8/3/95 Appointing the Honorable Joseph G. Donahy, Jr., as Referee, (Referee's report to be filed within 120 days of July 26, 1995)
- 8/9/95 Order of Referee dated 8/9/95 treating Respondent's Motion to Deny Plaintiff's Motion for Appointment of a Referee as a Motion for Summary Judgment and denying same
- 8/9/95 Order of Referee dated 8/9/95 Setting Cause for Trial and Order Limiting and Scheduling Discovery
- 8/9/95 Notice of Trial (set 9/29 and 11/3/95) and Order Directing Pre-Trial Conference (set 9/15/95), dated 8/9/95
- 8/11/95 Mailing envelope containing Orders mailed certified mail to Respondent returned for incorrect address; remailed 8/11/95
- 8/15/95 Return Receipt from Respondent received for certified mail
- 8/24/95 Letter dated 8/24/95 from The Florida Bar enclosing pleadings
- 8/24/95 The Florida Bar's Witness List
- 8/24/95 Notice of Taking Deposition (Wed. 9/6/95 at 10 a.m.)
- 8/24/95 Request for Admissions
- 8/24/95 Letter dated 8/24/95 from The Florida Bar enclosing witness subpoenas for Referee's signature (originals to be signed & returned to Petitioner for service upon individuals; copies made for file, pending Return of Service)

8/24/95 Subpoena for Deposition of Ronald York, Sr.
9/6/95 at 10 a.m.

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to Ellionaise Anderson

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to James Butler, Esquire

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to Russ Christy

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to Randy Griffin

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to Christine McCarter

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to Frank Shaughnessy

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to Albert Simpson

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to George Vaka, Esquire

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to Bill Wagner, Esquire

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to Kimberly Webb

8/24/95 Witness Subpoena for Trial 9/29 and 11/3/95
to John Yanchunis, Esquire

8/29/95 Letter dated August 26, 1995, from Administrative Office of the Courts, Hillsborough County, reference to the location of courtrooms for hearings

8/30/95 Letter dated August 29, 1995, from the Florida Bar enclosing Motion for Leave of Court to File Additional Witness List

8/30/95 Order granting Motion for Leave of Court to File Additional Witness List

8/30/95 Additional Witness List (Michael Towers)

8/30/95 Letter dated August 29, 1995, from the Florida Bar enclosing witness subpoena for Michael Towers for Referee's signature (original to be signed & returned to Petitioner for service upon individuals; copies made for file, pending Return of Service

8/30/95 Witness Subpoena for Trial 9/29 & 11/3/95 to Michael Towers (an additional witness)

8/31/95 Letter dated August 30, 1995, from the Florida Bar enclosing Notice of Change of Address (Russ Christy)

8/31/95 Notice of Change of Address (Russ Christy)

9/1/95 Letter dated August 31, 1995, from Scott K. Tozian, Esquire, enclosing Notice of Appearance on behalf of Respondent, RONALD YORK, and Motion for Continuance

9/1/95 Notice of Appearance

9/1/95 Motion for Continuance

9/5/95 Letter from the Florida Bar enclosing trial and deposition subpoenas upon which service has been perfected

9/5/95 VIA FAX from Scott K. Tozian, Esq. Waiver of Venue

9/6/95 Letter from Scott K. Tozian, Esq., enclosing Waiver of Venue on behalf of Respondent

9/6/95 Waiver of Venue by Respondent

9/7/95 Notice of Taking Deposition on behalf of Respondent

9/7/95 Respondent's Subpoena for Deposition 9/13/95 to Ellionaise Anderson
Service perfected 9/7/95

9/7/95 Respondent's Subpoena for Deposition 9/13/95 to Russ Christy Service
perfected 9/7/95

9/7/95 Respondent's Subpoena for Deposition 9/13/95 to Randy Griffin Service
perfected 9/7/95

9/7/95 Respondent's Subpoena for Deposition 9/13/95 to Christine McCarter
NON-Service 9/7/95

9/7/95 Respondent's Subpoena for Deposition 9/13/95 to Albert Simpson
Service perfected 9/7/95

9/11/95 Letter from Scott Tozian, Esq., enclosing proposed Order granting
Respondent's Motion for Continuance

9/11/95 Order Granting Respondent's Motion for Continuance

9/11/95 Amended Notice of Taking Deposition by Petitioner

9/11/95 Letter from the Florida Bar enclosing subpoena for deposition

9/11/95 Subpoena for Deposition 9/13/95 to Ronald York

9/11/95 Letter from the Florida Bar enclosing proposed Agreed Order

9/11/95 Agreed Order granting Petitioner's Motion for Leave of Court to File
Additional Witness List

9/11/95 Letter from Scott Tozian, Esq., enclosing Respondent's Subpoenas and
Returns of Service

9/12/95 Respondent's Amended Notice of Taking Deposition 9/13/95

9/13/95 Letter from Scott Tozian, Esq., enclosing Respondent's Response to
Request for Admissions

9/13/95 Respondent's Response to Request for Admissions

9/13/95 Court's Amended Notice of Trial and Pre-Trial Conference

9/15/95 Petitioner's Trial Memorandum from Florida Bar

9/18/95 Letter from the Florida Bar enclosing Witness Subpoenas for Trial

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to Ellionaise Anderson

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to James Butler, Esquire

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to Russ Christy

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to Randy Griffin

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to Christine McCarter

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to Frank Shaughnessy

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to Albert Simpson

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to Michael Towers

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to George Vaka, Esquire

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to Bill Wagner, Esquire

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to Kimberly Webb

9/18/95 Petitioner's Witness Subpoena for Trial 10/6 and 11/3/95 to John Yanchunis, Esquire

9/18/95 Agreed Pre-Trial Statement dated 9/26/95 received from The Florida Bar

10/3/95 Letter from The Florida Bar, dated October 3, 1995, enclosing Witness Subpoena for Trial 10/6/95 to Ronald York

10/3/95 Petitioner's Witness Subpoena for Trial 10/6/95 to Ronald York

10/5/95 Via FAX from office of Scott Tozian, Esquire, Additional Stipulation - original received 10/31/95

10/6/95 Via FAX from office of Scott Tozian, Esquire, Third Joint Stipulation - original received 10/31/95

12/8/95 Letter from Referee, dated 12/8/95, to Clerk of Supreme Court with Motion for Extension of Time to File Report of Referee

12/15/95 Letter from The Florida Bar, dated December 14, 1995, enclosing Notice of Intent to Use Expert Witness

12/18/95 Letter from Clerk of Supreme Court, dated December 13, 1995, granting Motion for Extension of Time

12/19/95 Second Amended Notice of Trial

1/23/96 Original and copy of transcript of trial proceedings of 11/3/95

2/8/96 Original and copy of transcript of trial proceedings of 1/24/96

2/14/96 Letter from The Florida Bar, dated February 13, 1996, advising additional written closing argument would be provided to Referee by February 22, 1996

2/23/96 The Florida Bar's Supplemental Closing Argument, including Affidavit of Costs

3/1/96 Letter from Scott Tozian, Esquire, dated February 29, 1996, enclosing Affidavit of Costs and requesting a hearing, if appropriate, to argue for assessment of costs and objection to the Florida Bar's Affidavit of Costs

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Jurisdictional Statement.

Respondent, at all times material herein, was not and is not a member of The Florida Bar, and was not therefore licensed to engage in the practice of law in the State of Florida.

B. Narrative Summary of Case.

Statement of Case

The Florida Bar filed a petition against the Respondent, alleging that Respondent has engaged in various acts that constitute the unlicensed practice of law. Although Respondent admits helping accident victims set up their property damage claims and contacting the at-fault parties and their insurance companies on behalf of the accident victim in an effort to settle their property damage claim, he denies that these actions amount to the practice of law. Respondent argues that he is merely acting as a conduit and as an alternative point of contact for accident victims and not as a representative. (AGREED PRE-TRIAL STATEMENT)

AGREED PRE-TRIAL STATEMENT - FACTS JOINTLY ADMITTED - EVIDENCE JOINTLY ADMITTED filed by the parties September 26, 1995, attached hereto and by reference made a part hereof as Attachment Number One.

ADDITIONAL STIPULATION filed by the parties October 10, 1995, attached hereto and by reference made a part hereof as Attachment Number Two.

THIRD JOINT STIPULATION filed by the parties October 31,

1995, attached hereto and by reference made a part hereof as Attachment Number Three.

Final hearing was held on November 3, 1995 and January 24, 1996, based on the pleadings and stipulations recited above.

The following are the facts found:

1) That Respondent YORK is the owner, operator, sole proprietor, as well as representing himself as President of ADVANCED PARALEGAL SERVICE, a for-profit business located at 802 East Waters Avenue, Tampa, Hillsborough County, Florida 33604.

2) Respondent YORK has not at any time mentioned in the Petition worked under the supervision of an attorney licensed to practice law in the State of Florida. (FACTS JOINTLY ADMITTED #13)

3) Respondent YORK and ADVANCE PARALEGAL SERVICE offers "assistance in filling out forms and applications of all kinds, research of public records, research of legal documents and texts, incorporations, non-commercial contracts and agreements, real estate documents, family law documents, living trusts and wills, and name changes." (Exhibit "A" to AGREED PRE-TRIAL STATEMENT)

4) Respondent YORK advertises that ADVANCED PARALEGAL SERVICE has a free "Accident Victim Assistance Program."

5) Respondent YORK derives benefit from this free program as an advertising leader attracting customers to his business establishment in order to sell them the other services and materials that he offers for a fee.

6) Respondent YORK advertises and solicits business for his "free" "Accident Victim Assistance Program" by offering to "get

your claim set up," and "assist you in getting into a rental vehicle if you qualify for same in less than 20 minutes of your time." (Exhibit B attached to Petition - emphasis added)

7) Respondent YORK or someone from his firm on September 30, 1992, called RAFFAELE DIDONATO, a hospital patient who had recently been in an automobile accident and was represented by counsel for a prior unrelated injury, and attempted to solicit him as a customer for the "Accident Victim Assistance Program."

8) Respondent YORK continued this solicitation on October 1, 1995, in a telephone conversation with BILL WAGNER, ESQUIRE, a civil trial lawyer from Tampa, who YORK believed at the time to be DIDONATO's father and during the course of a telephone conversation initiated by WAGNER, during this conversation YORK offered to assist him in setting up his claim, to assist in filling out his P.I.P claim, help him get the forms necessary to recover P.I.P., help make the necessary contacts with the person at fault, so that person could provide him with a rental car, as they were required to do, in addition to other services without charge. YORK also represented that the person who was at fault would have to compensate DIDONATO for his personal injuries and that since they were not lawyers they could not represent him on that matter, but they could contact a lawyer for him, whom he could hire if he wanted and the lawyer would use their legal services for their having referred MR. DIDONATO to him and the lawyer would pay YORK for his services. (Exhibits G and H AGREED TRIAL STATEMENT) (FACTS ADMITTED #6 and #7)

9) Respondent YORK on November 10, 1993, faxed a Memo to MONICA CASTRO, Adjuster, Underwriters Guarantee, advising that YORK as a paralegal was assisting LARRY WALDEN, claimant, concerning their property damage claim only, and requesting that the adjuster contact MR. YORK concerning all matters as an alternative point of contact the memo also requested insurance coverage information in accordance with F.S. 627.7264, including any known policy or coverage defenses. This memo also included a request for \$10.00 per day loss of vehicle use until a rental car is obtained or property damage claim resolved, whichever occurs first. (Exhibit B, AGREED PRE-TRIAL STATEMENT) (FACTS JOINTLY ADMITTED #8, #9, #10 and #11)

10) Respondent YORK on June 22, 1994, sent a letter to MR. RUSS J. CHRISTY, III, "in behalf of DANIEL L. RHODES" regarding a "Traffic Collision on 6-17-94 (10:00 P.M.) on South Bayshore near S. Kelly Rd.," alleging the accident was due to the negligence of MR. CHRISTY. The letter is described as MR. RHODES' formal written demand that CHRISTY make arrangements to pay for the damage to his vehicle within five working days further stating that failure to contact RHODES or YORK's office within that time frame would result in legal action being filed against him; the letter further advised RHODES that payment arrangements may be made with RHODES directly, or with RON YORK, Senior Paralegal at ADVANCED PARALEGAL SERVICE. (FACTS JOINTLY ADMITTED #14)

11) Respondent YORK on the June 22, 1994, regarding his customer/client sent a letter to RUSS J. CHRISTY, III, and wrote

in his hand on the bottom of the letter, "6-28-94, Mr. Christy: you refused to accept the certified copy sent to you - but this copy will suffice to put you on notice that you have ten (10) days to respond (till July 11 94) or we'll file suite." (Exhibit "C" to AGREED PRE-TRIAL STATEMENT) (FACTS JOINTLY ADMITTED #15, #16 and #17)

12) That DANIEL RHODES, the customer/client of Respondent YORK was in the military and not physically present in the area at the time the letter was drafted and mailed nor present during the time period during which response was demanded.

13) Respondent YORK in the RHODES - CHRISTY demand was not simply acting as a "point of contact" but also acting as the person who would collect payment of the damages. (Hearing Nov. 3, 1995, p. 36 - lines 9-12) (ADDITIONAL STIPULATION OF FACTS, Oct. 5, 1995) (Transcript, p. 24 - 37, 44, 45)

14) Respondent YORK on June 27, 1994, faxed a Memorandum to NATIONWIDE INSURANCE COMPANY stating he was assisting ALBERT SIMPSON concerning the property damage claim only, requesting SIMPSON to contact MR. YORK concerning all matters relating to claimant's property damage claim, as MR. YORK's office would serve as an alternative point of contact by mail or telephone for claimant until the property damage claim was resolved; the fax further provided Respondent YORK's address and phone number for contact, provided the insurance company with a copy of the Florida Traffic Crash Report and requested insurance coverage information pursuant to Florida Statute 627.7264, as well as a revelation of

all known policy or coverage defenses. (Exhibit "D" AGREED PRE-TRIAL STATEMENT) (FACTS JOINTLY ADMITTED #18, #20, #21 and #22) (Transcript, p. 31, 32)

15) Respondent YORK has not at any time material to this proceeding been a certified public adjuster under F.S. 626.854.

16) Respondent YORK at no time held himself out to be or represented that he was an attorney licensed to practice law in the State of Florida.

17) Respondent YORK held himself out to be capable and offered to give advice and assist customers in obtaining monetary payment for property damage that he concluded they were entitled to as a result of the accident in which they had been involved

18) Respondent YORK in addition to providing advice and assisting accident claimants in seeking monetary payments, advised customers of their legal right to and assisted them in obtaining a rental car or rental car per diem, as well as information relating to insurance coverage information and potential policy or coverage defenses, again after advising them they were entitled to this information.

19) Respondent YORK's Accident Victim Assistance Program (AVAP) served primarily persons of advanced age, illiterate and or marginally proficient in the use of the English language. (Transcript, p. 26)

20) Respondent YORK's artful use of the title Paralegal, combined with the nature of the service offered in his Accident Victim Assistance Program (AVAP), implied that he possessed legal

skill and knowledge of law greater than that possessed by the average citizen.

21) Respondent YORK in order to effectuate his Accident Victim Assistance Program (AVAP), and thereby attract customers and sell them the other services and documents his business had to offer, engaged in oral communication with customers that included making them aware of their rights and entitlements as he perceived them under Florida law. (Transcript, p. 21, 22, 23, 32, 52 - 57)

22) Respondent YORK's agreement to "assist" his customers as practiced by him was nothing more nor less than a euphemism for representing them in their dealings with insurance companies or parties YORK determined to be legally responsible for his customer/client's property losses, including filing P.I.P. claims, rental car or rental car per diem claims and property damage payments.

23) Respondent YORK's providing of an "alternative place of contact" was nothing more than an indirect, euphemistic direction to himself as the claimant's representative in satisfactorily concluding their property damage claim and other entitlements YORK concluded his customer/clients were entitled to. (Exhibit "B" AGREED PRE-TRIAL STATEMENT)

24) Respondent YORK recommended to his customer/clients that they pursue legal remedies including the filing of law suits and threatened to sue those he concluded to be responsible for his customer/client's damage.

25) Respondent YORK had a dual purpose in attracting

customer/clients to his place of business by use of his "free" Accident Victim Assistance Program (AVAP); the first was to determine if those who responded to his offer of assistance in pursuing a property damage claim also had a potential personal injury claim, and if they did, to refer them to selected lawyers who in turn would employ and pay MR. YORK for the referral and other services; (AGREED PRE-TRIAL STATEMENT, Exhibit G, Page 2, Paragraph 2) and secondly, to establish direct contact with these individuals in his place of business in order to sell them the other services, documents and products he had available.

III. CONCLUSION OF LAW

Based upon the foregoing findings of fact, the undersigned referee makes the following conclusions of law:

- 1) That RONALD YORK, SR. is not and has not at any material time been an attorney licensed to practice law in Florida;
- 2) That RONALD YORK, SR. is not and was not a "public adjuster" within the meaning of F.S. 826.854;
- 3) That the questioned conduct of Respondent RONALD YORK, SR. in this cause did not involve or include the mere filling out of Florida Supreme Court approved forms.
- 4) That RONALD YORK, SR. does not come within any other recognized exception that would permit him to give legal advice, provide legal services, or represent others in a legal capacity;
- 5) That RONALD YORK's practice of reviewing customer/client's potential property damage claims by listening to their verbal recitation of what had occurred, reviewing reports,

reviewing statutes, then writing letters, sending fax memos and serving as a representative to accept responses from those demands had been made upon and offering to accept payments from them is as a matter of law doing those things that only a licensed attorney at law or a public adjuster is legally authorized to do. The Florida Bar v. Brumbaugh, 355 So2d 1156; Arnett v. Kennedy, 416 U. S. 134; The Florida Bar v. Sperry, 140 So2d 587; The Florida Bar re Advisory Opinion HRS Non-lawyer Counselor, 518 So2d 1270; The Florida Bar v. King, 468 So2d 982; The Florida Bar v. Riccardi, 304 So2d 444.

6) That RONALD YORK's threats to file suit with or on behalf of his customer/client is the practice of law that he is not licensed to perform.

IV. RECOMMENDATIONS

The recommendations of the undersigned are as follows:

That Respondent RONALD YORK, SR., individually and doing business as ADVANCED LEGAL SERVICES, be enjoined from any further unauthorized practice of law through the program known as Accident Victim Assistance Program or any other similar program by another name.

That the costs of this proceeding be taxed against the respondent.

V. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

I find the following costs were reasonably incurred by the Florida Bar:

INVESTIGATOR EXPENSES:

17.8 hours at \$21.00 per hour	\$	373.80
11.2 hours at \$22.00 per hour		246.40
1.9 hours at \$22.50 per hour		42.75
Investigator Expenses		<u>68.46</u>

TOTAL 731.41

COURT REPORTER COSTS:

Deposition of Witnesses (09/13/95)	309.30
Deposition of Boggs (10/27/95)	210.75
Hearing (11/03/96)	120.00
Transcript (11/03/95)	208.50
Hearing (01/24/96)	101.25
Transcript (01/24/96)	<u>725.75</u>

TOTAL \$ 1,675.55

EXPERT WITNESS EXPENSES:

Boggs Deposition (10/27/95)	187.50
Sondak Fee	2,500.00
Sondak Travel (01/24/96)	<u>99.82</u>

TOTAL \$ 2,787.32

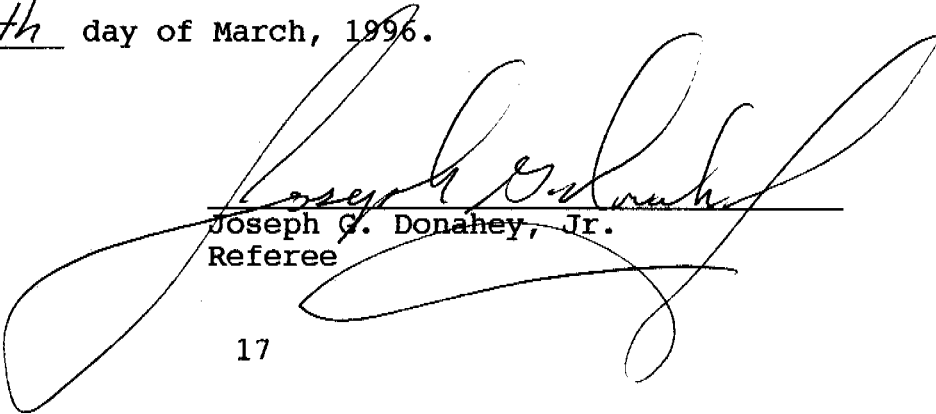
MISCELLANEOUS COSTS:

Witness Fee - John Yanchunis	6.50
Staff Counsel Travel to take Deposition of Boggs (10/27/95)	<u>368.00</u>

TOTAL COSTS \$ 5,568.78

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final.

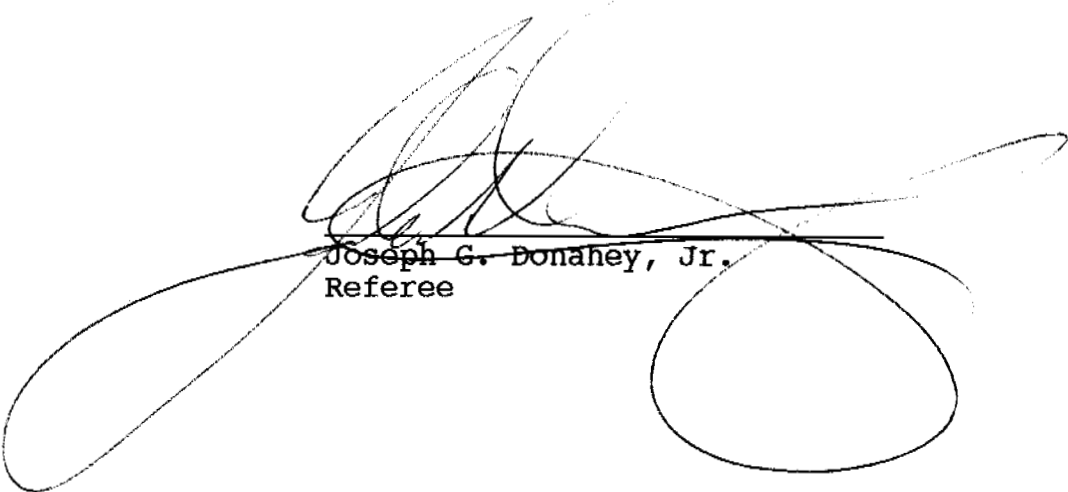
Dated this 15th day of March, 1996.



 Joseph G. Donahey, Jr.
 Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to SID J. WHITE, Clerk of the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32301, with Attachments; and that copies were mailed by regular U. S. Mail to Mary Ellen Bateman, Esquire, UPL Counsel, The Florida Bar, 6750 Apalachee Parkway, Tallahassee, Florida 32399-2300, with Attachments; Loretta O'Keeffe, Esquire, Branch Counsel for Plaintiff, The Florida Bar, Tampa Airport, Marriott Hotel, Suite C-49, Tampa, FL 33607, without Attachments; and Scott K. Tozian, Esquire, Counsel for Respondent, 109 North Brush Street, Suite 150, Tampa, Florida 33602, without Attachments, this 19th day of March, 1996.



Joseph G. Donahay, Jr.
Referee