IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

Case No. 89,111
[TFB Case No. 96-31,185(18C)]

v.

ROBERT PAUL JORDAN, II,

Respondent.
_____/

THE FLORIDA BAR'S ANSWER BRIEF

JOHN F. HARKNESS, JR.
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SYMBOLS AND REFERENCES

In this brief, the complainant, The Florida Bar, shall be referred to as "The Florida Bar" or "the bar."

The transcript of the final hearing held on February 13, 1997, shall be referred to as "T" followed by the cited page number.

The Report of Referee dated April 7, 1997, will be referred to as "ROR" followed by the referenced page number(s) of the Appendix, attached. (ROR-A-____)

The bar's exhibits will be referred to as Bar Ex. , followed by the exhibit number.

The respondent's exhibits will be referred to as Respondent Ex. _____, followed by the exhibit number.

STATEMENT OF THE CASE

On July 29, 1996, the Eighteenth Judicial Circuit Grievance Committee "C" voted to find probable cause in this matter. The bar filed its complaint on or around October 10, 1996. On October 18, 1996, this court entered its order directing the Chief Judge of the Nineteenth Judicial Circuit to appoint a referee. The referee was appointed on October 28, 1996. Because the respondent failed to comply with the bar's discovery requests or answer its Requests for Admission, the referee entered an order on January 17, 1997, deeming the Requests for Admission to be admitted. However, the referee requested a brief hearing on February 13, 1997, in order to better assess the evidence. At the hearing, the respondent admitted to having violated rules 4-1.1, 4-1.3 and 4-1.4 but denied having violated rule 4-8.4(c).

In his report dated April 7, 1997, the referee recommended the respondent be found guilty of violating 4-1.1 for failing to provide competent representation; 4-1.3 for failing to act with reasonable diligence and promptness in representing a client; 4-1.4 for failing to keep a client reasonably informed as to the

status of a matter, comply with reasonable requests for information and explain a matter to the extent reasonably necessary to enable the client to make informed decisions regarding the representation; 4-8.4(c) for engaging in conduct involving fraud, dishonesty, deceit, or misrepresentation; and 4-1.8(h) for making an agreement prospectively limiting the lawyer's liability to a client for malpractice.

The respondent filed his petition for review of the referee's report on June 17, 1997, and served his initial brief on August 4, 1997. The bar would note that the respondent's brief is not timely.

The board of governors considered the referee's report at its May, 1997, meeting and voted not to seek an appeal.

STATEMENT OF THE FACTS

The following facts, unless otherwise noted, are derived from the Report of Referee.

In 1989, Christine Mitchell brought a civil action against Jack Eckerd Corporation, Travelers Insurance Company and an unknown pharmacist. At the time, she was represented by Estelle Powell, who was admitted to practice law in Indiana but not in Florida. In November 1989, Ms. Powell was granted leave to appear pro hac vice. Ms Powell had written the respondent on October 23, 1989, to memorialize a telephone conversation of that date, concerning the respondent's notice of appearance to be filed in Ms. Mitchell's case. She wrote to the respondent again on December 11, 1989, advising him that he had 20 days from the court's order of November 27, 1989, to amend the complaint. He was also to interview Ms. Mitchell and her husband. However, the respondent failed to file the amended complaint until after the deadline passed. Further, he included Travelers Insurance Company as a defendant even though the insurance company had already been dismissed as a defendant in the action, Defense counsel moved to

dismiss the respondent's amended complaint on the basis that the respondent improperly included Travelers as a defendant and the attorney's fee claim was barred under the doctrine of res judicata. After the respondent was substituted as counsel of record, he filed a second amended complaint, again naming Travelers as a defendant.

Ms. Powell and Ms. Mitchell found it difficult to communicate with the respondent. MS. Powell wrote to the respondent on April 25, 1990, and asked the respondent to contact her concerning a notice of ex pate hearing on a motion to dismiss the amended complaint. The respondent failed to contact her. On May 16, 1990, the court struck Travelers as a defendant once again and struck the respondent's claim for attorney's fees. Thereafter, on July 21, 1992, opposing counsel moved to dismiss the action due to the respondent's failure to prosecute it. The court granted the motion after the respondent failed to respond to the court's order directing him to show cause as to why the matter should not be dismissed. The respondent failed to advise either Ms. Powell or Ms. Mitchell of the dismissal. Ms. Powell learned of it after she checked with the clerk's office to

determine the status of the suit. She immediately wrote the respondent on May 11, 1993, and requested that he seek reinstatement of the case. The respondent failed to take any action. The respondent had no explanation for the dismissal when he later met with Ms. Powell and Ms. Mitchell. He offered to pay Ms. Mitchell by entering into a contract with her because he had no malpractice insurance to cover any claim she might make. He never advised her to seek the advice of independent counsel prior to entering into such an agreement.

SUMMARY OF THE ARGUMENT

The respondent's misconduct occurred between late 1989 and 1996. This court's prior disciplinary orders of October 31, 1996, concerned the respondent's misconduct between 1990 and 1992. Therefore, such misconduct could be properly considered as an aggravating factor.

The referee's recommendation as to discipline is supported by the Florida Standards For Imposing Lawyer Sanctions and case law. If the recommended discipline is not clearly erroneous or not supported by the evidence, this court will afford it a presumption of correctness. The Florida Bar v. Barcus, 22 Fla. L. Weekly S275 (Fla. May 15, 1997). Further, conditioning the respondent's reinstatement on passage of the bar exam is an appropriate recommendation. The referee made the recommendation after observing the respondent's demeanor and considering the evidence presented. The respondent's misconduct in this disciplinary case calls into serious question his competency to practice law.

ARGUMENT

POINT I

THE REFEREE PROPERLY CONSIDERED THE RESPONDENT'S PRIOR DISCIPLINARY HISTORY.

The referee properly considered the respondent's prior discipline. On October 31, 1997, this court ordered the disciplined in The Florida Bar v. Jordan, 682 So. 2d 548 (Fla. Oct. 31, 1996), and The Florida Bar v. Jordan, 682 So. 2d 547 (Fla. Oct. 31, 1996). Although the above disciplinary orders were entered after the instant misconduct occurred and, therefore, would be excluded as "prior discipline" or "cumulative misconduct" under the rationale of The Florida Bar v. Carter, 429 so. 2d 3 (Fla. 1983), the past misconduct should not be excluded as an aggravating factor under Standards 9.22(c)and(d), Florida Standards for Imposing Lawyer Sanctions.

This court distinguished prior discipline from cumulative misconduct in The Florida Rar v. Adler, 589 So. 2d 899 (Fla. 1991). Although Mr. Adler argued that the referee should not have considered his previous disciplinary history because a prior

disciplinary proceeding occurred after the instant violations, this court stated "cumulative misconduct can be found when the misconduct occurs near in time to the other offenses, regardless of when the discipline is imposed." Adler, *supra,* at 900, *citing* The Florida Bar v. Golden, 566 So. 2d 1286, 1287 (Fla. 1990).

In Adler, *supra,* the lawyer's prior discipline was imposed for misconduct which occurred in 1977 and 1978, but which misconduct the bar did not discover until 1989. This court found that it was appropriate to consider the past misconduct both as prior discipline and as cumulative misconduct in aggravation. In Golden, *supra,* this court distinguished prior discipline (for purposes of deterrence) and cumulative misconduct. Misconduct that occurred in 1985 was considered cumulative with misconduct that occurred in 1986; therefore, the court ordered Mr. Golden disbarred rather than suspended for the two-year period recommended by the referee. Golden, *supra,* at 1287.

Further, because the responsibility rests with this court for determining the appropriate level of discipline, Barcus, *supra,* it is appropriate for this court to consider in

aggravation discipline imposed against a respondent after the misconduct was committed because such misconduct shows a course of conduct. After entry of the prior disciplinary orders in October, 1996, this court suspended the respondent on March 6, 1997. The Florida Bar v. Jordan, 690 So. 2d 1301 (Fla. 1997). The 91-day suspension runs concurrently with the suspensions imposed in the two orders of October, 1996. The respondent's prior conduct illuminates his character and fitness to practice law. The Florida Bar v. McHenry, 605 So. 2d 459, 461 (Fla. 1992).

The respondent's disciplinary history is a required consideration in a report of referee. The respondent also included two of his own past disciplinary cases in the proposed report of referee he sent to the referee on March 12, 1997, with the statement that, under The Florida Bar v. Carter, 429 So. 2d 3 (Fla. 1983), and The Florida Rar v. Dunagan, 565 So. 2d 1327 (Fla. 1990), such cases could not be considered as prior misconduct for purposes of aggravation. The bar merely listed the respondent's two October, 1996, suspensions in the past disciplinary history portion of its proposed report and made no

argument concerning whether they should be considered in aggravation.

POINT II

THE REFEREE'S RECOMMENDED DISCIPLINE: IS SUPPORTED BY THE CASE LAW AND THE EVIDENCE.

Although the ultimate responsibility for imposing the appropriate level of discipline rests with this court. The Florida Bar v. Nowacki, 22 Fla. L. Weekly S492 (Fla. July 17, 1997). Because the referee has the opportunity to observe a respondent's demeanor, cooperation in the disciplinary process, forthrightness, remorse, and rehabilitation or potential for rehabilitation, this court affords a presumption of correctness to the referee's disciplinary recommendation if there is a basis in the existing case law for such a recommendation. The Florida Bar v. Lecznar, 690 So. 2d 1284, 1288 (Fla. 1997). The bar submits the case law and the Florida Standards For Imposing Lawyer Sanctions fully support the referee's recommended discipline.

The respondent's misconduct warrants a discipline more

severe than a public reprimand or six-month suspension. Lenient discipline, as argued by the respondent, clearly is not appropriate in this matter because of the respondent's prior disciplinary history for engaging in similar misconduct. Importantly, the respondent's client suffered prejudice as a result of his neglect and incompetent representation. Her cause of action was dismissed and cannot be reinstated because it is now time barred. This was not an isolated instance of neglect. The respondent's misconduct reveals a continuing pattern of neglect and an inability to competently meet client needs.

In The Florida Bar v. Morrison, 669 So. 2d 1040 (Fla. 1996), a lawyer was suspended for one year, required to make restitution, and required to take and pass the ethics portion of the bar exam after neglecting clients' cases resulting in prejudice to the clients. In one matter, the attorney was hired to represent a dentist in a federal civil action that had already been filed by another attorney. The attorney failed to timely file his notice of appearance or take any other action, which resulted in dismissal of the case without prejudice. Thereafter, he did refile the action but again failed to pursue it. Although

the court dismissed the action without prejudice, the statute of limitations had expired and the case could not be refiled. During the course of the representation, the attorney failed to respond to the client's repeated requests for information. He failed to return his sizeable fee after the matter was dismissed for the second time despite having done little, if any, work to justify the fee.

In a second matter, the attorney in Morrison was retained to represent a client in a personal injury action. He failed to pursue the matter for a period of four years. As a result, the client received no compensation for her injuries nor assistance with her medical bills during that period. The attorney failed to respond to her repeated requests for information. In aggravation, Mr. Morrison had a prior disciplinary history for engaging in similar misconduct, there was evidence of a pattern of neglecting client cases, multiple offenses, and refusal to cooperate in the bar's disciplinary proceeding. Mr. Morrison showed indifference to making restitution to the harmed clients and refused to acknowledge the wrongful nature of his misconduct. There were no mitigating factors. In rendering its opinion, this

court stated that **a** lawyer's failure "to pursue representation on behalf of a client resulting in prejudice to a client's rights is an intolerable breach of trust." Morrison at 1042.

A three-year suspension was ordered in The Florida Bar v. King, 664 So. 2d 925 (Fla. 1995), for multiple counts of neglect causing prejudice to clients. In one case, the attorney failed to timely file an answer to a complaint. A default judgment was entered against his client. In a second case, the attorney failed to appear at a motion hearing and the court entered a final summary judgment against the client. In a third case, he failed to advise his client of a scheduled deposition. As a result, the client failed to appear for the deposition. In a fourth matter, the attorney failed to keep his clients informed about the status of a matter and failed to respond to their requests for information. Mr. King had a prior history of engaging in similar misconduct by neglecting clients and harming their interests. In addition, the misconduct occurred while Mr. King was on probation ordered in a prior disciplinary matter.

A lawyer **was** suspended for a period of eighteen months in

The Florida Bar v. Greenspahn, 396 So. 2d 182 (Fla. 1981). The attorney was charged with four instances of misconduct. He failed to attend a pretrial hearing in one matter and, as a result, the court dismissed the case. Thereafter, he failed to advise the client of the dismissal and misrepresented to the client that it was still pending and had been settled in the client's favor. In a second matter, the attorney allowed a wrongful death case to be dismissed due to lack of prosecution. In a third instance, the attorney undertook a contingency fee matter but failed to advise the client, after determining there were problems with the claim, that he did not intend to litigate the case. In a fourth matter, the attorney failed to maintain his trust account in compliance with the rules, which caused checks to be returned for insufficient funds. Like the respondent's case, the proceedings against Mr. Greenspahn involved misconduct that occurred near in time to actions for which he had already been disciplined. The court considered the prior misconduct in aggravation despite the fact that discipline for the misconduct could not have operated as a deterrent.

In The Florida Bar v. King, 242 So. 2d 705 (Fla. 1971), a

lawyer was suspended for one year due to one instance of neglect. He was retained to represent two clients in a criminal appeal and was paid a fee for his services. Despite five extensions of time granted by the appellate court to file the brief, the attorney failed to file the brief. The court dismissed the appeal. In aggravation, Mr. King had a prior history **of** similar misconduct, although the prior disciplinary case was not yet final at that time. There were no mitigating factors.

POINT III

THE REFEREE APPROPRIATELY RECOMMENDED THAT THE RESPONDENT BE SUSPENDED UNTIL PROOF OF PASSAGE OF THE BAR EXAM.

The respondent **was** found guilty of failing to provide his client with competent representation. This resulted in prejudice to the client, Ms. Mitchell. The referee properly recommended that the respondent take and pass the entire bar exam, rather than just the ethics portion of it. The referee has wide latitude in recommending sanctions and probationary or reinstatement terms. The Florida Bar v. Lawless, 640 So. 2d 1098, 1101 (Fla. 1994); The Florida Bar v. Whitaker, 596 So. 2d 672, 673-674 (Fla. 1992).

In The Florida Bar v. Kennedy, 439 so. 2d 215 (Fla. 1983), this court required a lawyer to take and pass the entire bar exam prior to reinstatement from a three-year suspension. He had been convicted of criminal misconduct and had no prior disciplinary history. The referee recommended that the attorney be required to pass only the ethics portion of the exam. However, this court determined that passage of the entire exam was more appropriate given the facts.

A referee's recommendation as to reinstatement terms should be afforded the same presumption correctness as a recommendation of discipline. The respondent should be required to take and pass the bar exam. This is an appropriate method to assure the respondent's competency to resume the practice of law. Under these facts, and considering the respondent's prior disciplinary history, passing the bar exam would compliment the purpose of a reinstatement hearing, which is to determine whether a suspended lawyer is sufficiently rehabilitated to resume the practice of law. In re Hurtenbach, 27 So. 2d 348, 349 (Fla. 1946).

CONCLUSION

WHEREFORE, The **Florida** Bar prays this court will review and uphold the referee's findings of fact and recommendation of a one-year period of suspension with reinstatement conditioned on the respondent taking and passing the bar exam and tax costs currently totaling $1,427.49 against the respondent.

Respectfully submitted,

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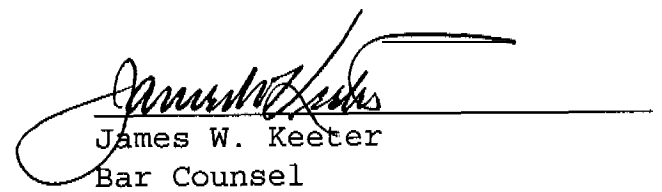
By: 

James W. Keeter
Bar Counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven (7) copies of The Florida Bar's Brief and Appendix have been sent by regular U.S. Mail to Sid J. White, Clerk, The Supreme Court of Florida, Supreme Court Building, 500 S. Duval Street, Tallahassee, Florida, 32399-1927; a copy of the foregoing has been furnished by regular U.S. Mail to the respondent, Robert Paul Jordan, II, 1975 Palm Bay Road, Suite 5, Palm Bay, Florida, 32905; and a copy of the foregoing has been furnished by regular U.S. Mail to Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida, 32399-2300, this 26th day of August, 1997.

Respectfully submitted,

James W. Keeter
Bar Counsel

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

Case No. 89,111
[TFB Case NO. 96-31,185(18C)]

v.

ROBERT PAUL JORDAN, II,

Respondent.

APPENDIX TO COMPLAINANT'S ANSWER BRIEF

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IN THE SUPREME Court OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No. 89,111
[TFB Case No. 96-31,185(18C)]

v.

ROBERT PAUL JORDAN,-II,

Respondent.
_____/

REPORT **OF** REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as Referee to conduct disciplinary proceedings herein according to the Rules Regulating The Florida Bar, a hearing was held on February 13, 1997, in Vero Beach, Florida. The Respondent, Robert Paul Jordan, II, failed to comply with any of the Bar's discovery and failed to answer the Bar's Request for Admissions, thereby causing this Referee to enter on January 17, 1997, an Order Deeming Complainant's Requests for Admissions to be Admitted. However, this Referee requested a brief hearing on February 13, 1997, in order to better assess the evidence. The pleadings, notices, motions, orders, transcripts and exhibits, all of which are forwarded to The Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: James W. Keeter, Bar Counsel
For the Respondent: In pro se

II. Findinss of Fact as to Each Item of Misconduct of Which the Respondent Is Charged: After considering all the pleadings and evidence before me, pertinent portions of which are commented on below, I find:

The Respondent appeared at the evidentiary final hearing and stipulated to violations of Rules.4-1.1, 4-1.3, and 4-1.4, Rules Regulating The Florida Bar. However, the Respondent denied that he had violated Rule 4-8.4 (c), as alleged in the Bar's Complaint. Bar counsel requested the Court to

consider whether the Respondent had violated Rule 4-1.8(h), Rules Regulating The Florida Bar, although allegations that the Respondent violated such rule had not been stated in the Bar's formal Complaint. The Bar later provided to this Referee and the Respondent copies of two disciplinary cases, The Florida Bar v. Stillman, 401 So. 2d 1306 (Fla. 1981) and The Florida Bar v. Vauuhn, 608 SO. 2d 18 (Fla. 1992), as authority for this Referee to consider or include information not charged in the Bar's formal Complaint.

I find the following facts:

1. In 1989, Christine Mitchell brought a Civil action against Jack Eckerd Corporation ("Eckerds"), Travelers Insurance Company and the unknown pharmacist employed by Eckerds for negligently filling a prescription which allegedly injured Ms. Mitchell. The Civil Complaint was filed on June 30, 1989, in a suit styled Mitchell v. Jack Eckerd Corp. et al., Case number 89-10384-CA-S, in the Eighteenth Judicial Circuit Court, Brevard County, Florida (hereinafter "the Mitchell case");

2. Ms. Mitchell was represented by Attorney Estelle Powell, who was licensed in Indiana but not in Florida. Ms. Powell testified at the evidentiary hearing and later supplemented her testimony with a letter dated February 13, 1997, wherein she stated that she is no longer licensed to practice law in Indiana, but works as an "independent consultant" for the Law Firm of Robert L. Lewis & Associates. At the time she represented Ms. Mitchell, Ms. Powell associated with attorney Bruce T. McKinley, a licensed Florida lawyer, who filed a Notice of Appearance in the Mitchell case on September 6, 1389;

3. On September 22, 1989, the Court dismissed Travelers Insurance Company as a party Defendant and further dismissed the Plaintiff's claim for attorney's fees;

4. On November 7, 1989, Ms. Powell's Motion for Leave to Appear Pro Hac Vice was granted by the Trial Court in the Mitchell case;

5. Ms. Powell wrote to the Respondent in a letter dated October 23, 1989, which memorialized a telephone

-Conversation between Ms. Powell and the. Respondent concerning the Respondent's Notice of Appearance to be filed in the Mitchell case. Ma. Powell again wrote to the Respondent on December 11, 1989, stating that he had twenty days from November 27, 1989, within which to amend the Complaint. The Respondent was supposed to draft and file the Amended Complaint and to interview Ms. Mitchell and her husband;

6. The Respondent did not file the Amended Complaint until December 19, 1989, after the twenty day period had elapsed. The Respondent included Travelers Insurance Co, as a Defendant although the Court had ruled on September 22, 1989, that Travelers was dismissed from the suit;

7. On January 2, 1990, defense counsel moved to dismiss the Amended Complaint on the basis that Travelers had been improperly included and that the attorney's fee claim was barred under the doctrine of res judicata;

8. On March 16, 1990, the Court approved a Stipulation for Substitution of Counsel and the Respondent became counsel of record. On March 29, 1990, the Respondent filed a Second Amended Complaint, again naming Travelers as a Defendant;

9. Ms. Powell attempted to contact the Respondent by phone or letter, but it was very difficult to communicate with him. After leaving a telephone message, Ms. Powell never received a return call from the Respondent. Ms. Mitchell exhibited a great deal of frustration over her inability to communicate with the Respondent to Ms. Powell;

10. By letter dated April 25, 1990, Ms. Powell requested the Respondent call her concerning a Notice of Ex parte Hearing on a Motion to Dismiss the Amended Complaint, which notice she had received from opposing counsel. The hearing was set for May 7, 1990. However, the Respondent failed to communicate with Ms. Powell;

11. On May 16, 1990, the court filed an Order again striking Travelers as a Defendant. The Court also struck the Respondent's claim for attorney's fees;

12. On July 21, 1992, the opposing party moved to dismiss

the suit for lack of prosecution. The Court entered a Motion, Notice and Order of Dismissal ordering the Respondent to show cause at least five days before August 24, 1992 (the date of the dismissal hearing), why the Mitchell case should not be dismissed for lack of prosecution. The Show Cause Order was served upon the Respondent. However, the Respondent failed to respond to this Order;

13. The Court dismissed the case on August 24, 1992, due to Respondent's failure to prosecute or show good cause why the matter should not be dismissed.

14. The Respondent failed to advise either Ms. Powell or Ms. Mitchell of the dismissal.

15. On May 11, 1993, Ms. Powell wrote to the Respondent and advised that she had checked with the Clerk's Office on May 10, 1993, and learned that the Mitchell case had been dismissed. She asked the Respondent to seek reinstatement of the case immediately, but the Respondent failed to take any action.

16. Ms. Mitchell and Ms. Powell met with the Respondent at some time in 1990. The Respondent did not return any of her many telephone messages. The Respondent had no explanation for the dismissal of her case other than to say that 'it just slipped through his desk".

17. The Respondent offered to pay Ms. Mitchell for the dismissal of her case by entering into a contract with her. Further, the Respondent said that "he didn't have any insurance so he would have to pay her out of his pocket". The Respondent never advised Ms. Mitchell that she should seek independent representation in connection with a claim for professional malpractice.

18. Ms. Mitchell had approximately ten (10) meetings with the Respondent from August, 1995 through January or February, 1996 concerning whether the Respondent would pay her for the dismissal of her Civil suit.

19. The Respondent asked Ms. Mitchell to contact Ms. Powell to see if she had professional malpractice insurance to

cover this case.

III. Recommendations as to Whether or Not the Respondent Should Be Found Guilty: As to each Count of the Complaint, I make the following recommendations as to guilt or innocence:

I recommend that the Respondent be found guilty, by his admission, of violating Rules 4-1.1, 4-1.3, and 4-1.4, Rules Regulating The Florida Bar.

I recommend that the Respondent be found guilty, by clear and convincing evidence, of violating Rule 4-1.8(h), Rules Regulating The Florida Bar. The Respondent's meetings with Ms. Mitchell from August, 1995 through January or February, 1996 - numbering approximately ten (10) meetings - were an attempt to settle a potential claim for malpractice liability without first advising Ms. Mitchell in writing that she should seek independent representation in connection with such claim.

IV. Rule Violations Found: Rules 4-1.1; 4-1.3; 4-1.4; and 4-1.8(h), Rules Regulating The Florida Bar.

V. Recommendation as to Disciplinary Measures to Be Applied:

I recommend that the Respondent be suspended for a fixed period of twelve (12) months, thereafter until Respondent shall prove rehabilitation including, but not limited to, proof of passage of the Florida Bar Examination and for an indefinite period until Respondent shall pay the costs of these proceedings.

VI. Personal History and Past Disciplinary Record: After the finding of guilt and prior to recommending discipline to be recommended pursuant to Rule 3-7.6(k) (l)(D), I considered the following personal history and prior disciplinary record of the Respondent, to wit:

Age: 43
Date admitted to Bar: April 11, 1980
Prior disciplinary convictions and disciplinary measures imposed therein:

1. Minor Misconduct, TFB Case No, 92-30,198(18C) -

admonishment before a grievance committee for entering into a business arrangement with a client;

2. Public Reprimand, Sup. Ct. Case No. 79,999 - public reprimand for failing to timely file an appeal on behalf of a criminal defendant client, thereby causing the client's appellate right to be unduly delayed;

3. 30-day Suspension, Sup. Ct. Case No. 85,109 - 30-day suspension for failing to keep client informed as to status of representation, in failing to keep client informed as to status of representation, in failing to act with reasonable diligence and promptness in representing client, and in failing to respond to disciplinary agency; and

4. 91-Day Suspension, Sup. Ct. Case No. 86,271 - 91-day suspension for failing to provide competent representation or act with reasonable diligence in postconviction relief proceedings, in failing to keep the client reasonably informed, in failing to expedite litigation, and in failing to respond in writing to an inquiry by a disciplinary agency.

VII. 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	$27.15
B.	Referee Level Costs	
1.	Transcript Costs	$448.20
2.	Bar Counsel Travel Costs	$105.50
C.	Administrative Costs	$750.00
D.	Miscellaneous Costs	
1.	Investigator Expenses	$70.50
2.	Witness Fees	$N/A
3.	copy costs	$26.14
4.	Telephone Charges	$N/A
5.	Translation Services Fees	$N/A
	TOTAL ITEMIZED COSTS:	$1,427.49

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 7 day of April, 1997.

Robert A. Hawley, Referee

Original to Supreme Court with Referee's original file.

Copies of this Report of Referee only to:

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Robert P. Jordan, II, Respondent

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