

IN THE SUPREME COURT OF FLORIDA

Supreme Court Case No. 97,019

THE FLORIDA BAR,

Florida Bar File No. 2000-50,426(17C)

Complainant,

vs.

STEVEN EVAN WOLIS,

Respondent.

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**REPLY BRIEF OF RESPONDENT, STEVEN E. WOLIS**

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## REPLY ARGUMENT

In its Answer Brief, The Bar largely echos and thus perpetuates the errors contained in the Report of Referee. Specifically, one of our primary points is that the Referee mistakenly considered the indictment to have been fully proven, rather than acknowledging that the guilty plea was as to only a small portion of the last count in the indictment. In fact, most of that last count was not admitted by the plea.

The Bar also parrots the Referee's finding of dishonest or selfish motive by Wolis who "sold shares in the company in addition to receiving 35,000 shares under a bonus plan." Bar Br. at 5. What The Bar and the Referee both overlook, however, is that Wolis sold shares he had previously purchased himself when the company first went public. His sale of those shares occurred in 1990, long before any of the alleged misdeeds occurred. (T.79). Most importantly, he never sold any of the 35,000 shares received under the bonus plan and they are now worthless. (T.79). He thus did not profit from any misconduct.

Accordingly, when The Bar tries to align the facts involving Wolis with the facts in *The Florida Bar v. Levine*, 571 So.2d 420 (Fla. 1990), where the lawyer was disbarred, it widely misses the mark. This case is much more closely aligned with *The Florida Bar v. Schwed*, 717 So.2d 541 (Fla. 1998), where the lawyer was suspended for two (2) years. The Bar claims that *Schwed* involved a single isolated act. Schwed

wilfully withheld 2 of 8 subpoenaed audio tapes from the SEC. In that case Schwed deemed it in his clients best interest to withhold the tapes because he agreed to surrender them to the defendant in a civil arbitration case (who was also the subject of several indictments for securities fraud) in order to settle the civil case. The tapes were sought by the SEC as part of its investigation of the same defendant. It was obvious that the defendant felt that the tapes contained information that he preferred the SEC not have and he apparently made their surrender a condition of settlement.

Schwed was a sophisticated commercial lawyer who handled large complex cases. He should have known better. The undisputed testimony here was that Wolis was naive and less than sophisticated. As Burton Young testified, if Wolis walked into a barn filled with manure, he would turn around and look for the Shetland Pony. (T.32).

This case is much closer to *Schwed* than to *Levine*. Accordingly, Wolis should be suspended for three (3) years - Schwed was suspended for two (2) years - and not disbarred.

### **CONCLUSION**

Wolis respectfully requests that the Court determine that a three (3) year suspension is the appropriate discipline in this matter.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by mail to: John Anthony Boggs, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300; John F. Harkness, Jr., Executive Director, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300, and Eric Turner, Esquire, Bar Counsel, The Florida Bar, Cypress Financial Center, Suite 835, 5900 North Andrews Avenue, Fort Lauderdale, Florida 33309, on this \_\_\_\_ day of September, 2000.

Respectfully submitted,

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