

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Case No. SC01-1401
TFB Case No. 2001-50,961(15E)

v.
KATHLEEN ANN PAPARELLA,
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. The pleadings, notices, motions, orders, 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 - Eric Montel Turner, Esq.

For The Respondent - James L. Eisenberg, Esq.

II. Findings 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:

1. The respondent is, and at all times material to this action was, a member of The Florida Bar subject to the jurisdiction and disciplinary rules of The Supreme Court of Florida.

2. In or about April 1999 respondent was hired to act as the attorney for the personal representatives of the estate of Sylvia Lipkin.

3. Throughout the proceedings Ms. Nancy Morris, Sylvia Lipkin's daughter, had certain disagreements with the personal representatives of the estate.

4. Morris, through counsel, filed objections to the final accounting provided by respondent for the estate.

5. Said objections were set to be heard on November 7, 1999.
6. On or about November 2, 1999, respondent sent a letter to Morris' counsel. Said letter stated in pertinent part as follows:

In return for the above described settlement with Nancy Morris, the Estate of Sylvia Lipkin through its representatives shall hereby agree to not pursue criminal prosecution for the elder abuse of Sylvia Lipkin. In the event the entire offer to completely resolve this matter is not accepted by the aforementioned time frame the evidence will be turned over to the State Attorneys Office for filing of the criminal charges against Nancy Morris.

7. By the statement set forth above, and others made within the body of the letter, said letter threatened the filing of certain criminal charges against Ms. Morris solely to gain advantage in the civil case.

III. Recommendations as to Whether or Not the Respondent Should Be Found Guilty: My recommendation as to guilt is as follows:

1. By the actions set forth above, respondent has violated R. Regulating Fla. Bar 4-3.4(g) [A lawyer shall not present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.]

IV. Recommendation as to Disciplinary Measures to Be Applied: In accordance with respondent's Consent Judgment, I recommend that respondent be publicly reprimanded.

In arriving at the foregoing disciplinary recommendation, consideration was given to the various factors which are set forth below:

1. Respondent has been a member of The Florida Bar since October 30, 1997 and her only prior discipline was a public reprimand administered in October 1997;
2. Respondent has made full and free disclosure to the grievance committee and bar counsel and has been extremely cooperative throughout these proceedings;
3. Respondent is remorseful for her actions in this case;
4. I find that based upon the circumstances present in this case a public

reprimand fits the measure for attorney discipline as set by the Supreme Court of Florida. Attorney discipline must protect the public from unethical conduct and have a deterrent effect while still being fair to respondents. The Florida Bar v. Lord, 433 So.2d 983 (Fla. 1983)

V. 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)(1)(D), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Age: 40

Date admitted to bar: 10/21/86

Prior disciplinary convictions and disciplinary measures imposed therein: Respondent was given a public reprimand on October 1997, case number 1997-50,280 for allowing her husband to purchase tickets for a Republican dinner party while she was a candidate for a judicial office.

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. Administrative Costs	\$ 750.00
TOTAL ITEMIZED COSTS:	\$ 750.00

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 _____ day of _____, 2001.

Arthur M. Birken
Referee

Original to Supreme Court with Referee's original file.

Copies of this Report of Referee only to:

Eric Montel Turner, Esq., Bar Counsel, The Florida Bar, 5900 North Andrews Avenue, Suite 835, Fort Lauderdale, Florida 33309-2366

John Anthony Boggs, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300

Kathleen Ann Paparella, Respondent, 12783 W. Forest Hill Boulevard, West Palm Beach, Florida 33414-4709

January 10, 2002

The Honorable Arthur M. Birken
Chief Judge Seventeenth Judicial Circuit Court of Florida

RE: The Florida Bar v. Kathleen Ann Paparella
Case No. AC01-1401
TFB Case No. 2001-50,961(15E)

Dear Judge Birken:

Please find enclosed a proposed Report of Referee, together with a diskette, in the above named case, as requested.

Please note that your entire file, as well as the enclosed diskette, must be forwarded to the Supreme Court of Florida along with your signed order.

Copies of the Report of Referee only for respondent and myself, as well as our headquarters office, are also enclosed with self-addressed stamped envelopes.

Please do not hesitate to contact me should you have any questions or comments.

Sincerely yours,

Eric Montel Turner, Esq.
Assistant Staff Counsel

Enclosures

cc: - w/enclosures