

IN THE SUPREME COURT OF FLORIDA
BEFORE A REFEREE

THE FLORIDA BAR

Complainant,

vs.

SCOTT W. KATZ,

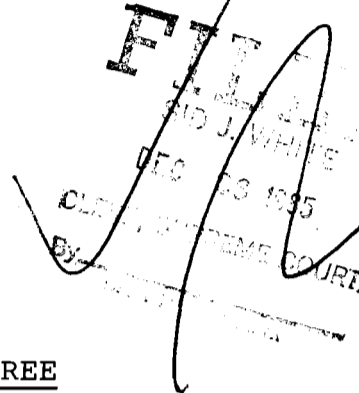
Respondent.

Case Nos. 15A94F58

15A85F04

15A85F17

Supreme Court No. 67,546



REPORT OF REFEREE

This matter is before the Referee on the allegations of the Complaint filed by the Florida Bar and Respondent's Answer thereto. After adequate notice to the Bar and Respondent, a final hearing was had in the Palm Beach County Courthouse, West Palm Beach, Florida on November 8, 1985. The Florida Bar was represented by Richard B. Liss, Esq. and Respondent appeared In Pro. Per.

The Referee heard the testimony of Michael Field, Douglas Duncan, Ana Barnett, Gregory L. Gay, and Karen Freeman Holster and has carefully considered the documentary evidence and deposition of U.S. District Judge Norman C. Roettger Jr. The Referee has also received the Transcript of Proceedings held before the Grievance Committee, which was stipulated by the parties to be admitted as Florida Bar No. 8 Exhibit. The Referee also has the benefit of memoranda from both parties. The Referee finds, by clear and convincing evidence, the following:

FINDINGS OF FACT - COUNT I

1. Respondent undertook in January 1981 to represent one Karen Freeman in a dissolution of marriage action, which was completed. He was subsequently retained by her to obtain a modification of the final judgment and contempt

proceedings. Thereafter, without the knowledge or consent of Karen Freeman, he agreed for a fee to represent the husband in a Modification proceeding seeking reduction in child support payments, which was part of the relief he had succeeded in obtaining for the wife in her Modification Proceeding. Karen Freeman testified that she did not give consent and had she been asked, none would have been given.

IT IS THE RECOMMENDATION OF THE REFEREE THAT AS TO THE ALLEGATIONS OF COUNT I, RESPONDENT'S CONDUCT WARRANTS A FINDING THAT RESPONDENT VIOLATED DISCIPLINARY RULES 1-102 (A) (5), (ENGAGING IN CONDUCT CONTRARY TO THE ADMINISTRATION OF JUSTICE); RULE 4-101 (A) AND (B) (CONFIDENTIAL SECRETS OF CLIENTS), RULE 5-105 (A) and (B) (CONFLICT OF INTEREST) AND RULE 9-101 (AVOIDING THE APPEARANCE OF IMPROPRIETY), ALL OF THE CODE OF PROFESSIONAL RESPONSIBILITY.

COUNT II

In June 1983, Michael Field retained Respondent to represent him on a charge of Driving While Intoxicated, to which charge a plea of guilty was entered. Field, unhappy with the result, wrote to Judge Carlisle in August asking to withdraw his guilty plea alleging Respondent's incompetence.

Respondent wrote to Fields accusing him of slander and demanded \$1,000.00 payment. Failure to do so would draw a lawsuit from Respondent against Fields. Based on these threats Fields agreed to pay \$500.00 in \$50.00 weekly installments, which Fields did not pay after receiving independent legal advice. Respondent, not content, started suit on the agreement, which suit was dismissed by the Court and attorney fees rightfully assessed in favor of Fields under the provisions of Section 57.105, F.S.A..

While such outrageous actions by Respondent may not have reached the status of criminal extortion under the provisions of Section 836.05, F.S.A., such conduct certainly was moral extortion, unethical, and grossly flagrant, and

cannot be excused by casting aspersions on his clients character.

IT IS THE RECOMMENDATION OF THE REFEREE THAT AS TO THE ALLEGATIONS OF COUNT II, RESPONDENT'S CONDUCT AND THE ATTENDING CIRCUMSTANCES WARRANT A FINDING THAT RESPONDENT VIOLATED FLORIDA BAR INTEGRATION RULE, ARTICLE XI, RULES 11.01(3)(b) (CONDUCT CONTRARY TO HONESTY, JUSTICE OR GOOD MORALS); DISCIPLINARY RULES 1-102 (A)(4) (CONDUCT INVOLVING DISHONESTY, FRAUD, DECEIT OR MISREPRESENTATION); RULE 1-102 (A)(6) (ANY OTHER CONDUCT THAT ADVERSELY REFLECTS ON ONE'S FITNESS TO PRACTICE LAW). ALL OF THE CODE OF PROFESSIONAL RESPONSIBILITY.

COUNT III

In August 1983, Cadet Barbara of the U.S. Military Academy retained Respondent in an honor investigative proceeding which had recommended that he be separated from the Academy. In October 1983, Respondent instituted proceedings in the U.S. District Court for the Southern District, on behalf of Cadet Barbara, against the Department of the Army and seeking a temporary restraining order (TRO) preventing the Separation of Cadet Barbara. In support of his petition, Respondent filed his own sworn motion, which contained several false, material statements calculated to mislead District Judge Norman Roettger into granting the TRO. Judge Roettger granted said TRO (without notice to the Army) relying on the false statements of Respondents in his sworn motion, and more particularly, that the Army and West Point had no objection to the TRO. The clear and convincing evidence is that they emphatically did have objection. Judge Roettger testified that he would not have granted the TRO had he been informed of the correct position of the Army

an he was in full accord with the dissolution of the TRO by Judge Paine when the truth surfaced.

IT IS THE RECOMMENDATION OF THE REFEREE THAT AS TO THE ALLEGATIONS OF COUNT III, RESPONDENT'S CONDUCT AND THE ATTENDANT CIRCUMSTANCES WARRANT A FINDING THAT RESPONDENT HAS VIOLATED DISCIPLINARY RULES 1-102 (A) (1) (A LAWYER SHALL NOT VIOLATE A DISCIPLINARY RULE); 1-102(A) (3) (A LAWYER SHALL SHALL NOT ENGAGE IN ILLEGAL CONDUCT INVOLVING MORAL TURPITUDE); 1-102 (A) (4) (A LAWYER SHALL NOT ENGAGE IN CONDUCT INVOLVING DISHONESTY, FRAUD, DECEIT, OR MISREPRESENTATION); 1-102(A) (5) (A LAWYER SHALL NOT ENGAGE IN CONDUCT THAT IS PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE); 1-102(A) (6) (A LAWYER SHALL NOT ENGAGE IN ANY OTHER CONDUCT THAT ADVERSELY REFLECTS ON HIS FITNESS TO PRACTICE LAW); AND 7-102(A) (5) (IN HIS REPRESENTATION OF A CLIENT, A LAWYER SHALL NOT KNOWINGLY MAKE A FALSE STATEMENT OF LAW OR FACT) OF THE CODE OF PROFESSIONAL RESPONSIBILITY, AND FLORIDA BAR INTEGRATION RULE, ARTICLE XI, RULES 11.02(3) (a) and (b) (ACTS CONTRARY TO HONESTY, JUSTICE, GOOD MORALS AND COMMISSION OF A CRIME).

There was no evidence of any previous disciplinary action against the Respondent.

RECOMMENDATION
AS TO DISCIPLINE

It is recommended that the Respondent be disbarred from the practice of law for the following reasons:

1. The cumulative guilt of the three different transgressions indicated a gross callousness and indifference to the entire Code of Professional Responsibility.
2. In Count I, he must be presumed to have divulged secrets of his clients to the client's adversary.
3. In Count II, he outrageously and successfully pressured his client to wrongfully agree to pay him money

when his client had no legal obligation to do so. Certainly moral extortion if nothing else.

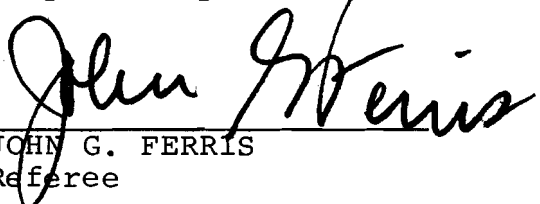
4. He deliberately lied under oath to a Federal Judge who relied upon such falsehood in issuing the order. Certainly a lawyer can do little more culpable and destructive to the court system. The example set by Respondent must be dealt with harshly to prevent those considering such conduct in the future.

STATEMENT OF COSTS

It is the recommendation of the Referee that Respondent pay to the Florida Bar the following costs:

Administrative Costs at Grievance Committee Level (15A84F58).....	\$150.00
Administrative Costs at Grievance Committee Level (15A85F04).....	\$150.00
Administrative Costs At Grievance Committee Level (15A85F17).....	\$150.00
Court reporter appearance fee at Grievance Committee hearing and costs of transcript (15A84F58).....	\$207.58
Court reporter appearance fee at Grievance Committee hearing and costs of transcript (15A85F04.....	\$301.54
Committee hearing and costs of transcript (15A8F17).....	\$217.20
Travel and related expenses at Grievance Committee level	
Gregory Gay.....	\$ 90.79
Douglas A. Sims.....	\$565.35
George Baxley.....	\$424.18
Service of Process at Grievance Committee level (15A84F58).....	\$ 35.10
Reimbursement to Grievance Committee member re: (15A84F58).....	\$ 21.43
Transcript of Proceedings styled Cadet Joseph Barbara v. Department of Army.....	\$ 48.00
Deposition of the Honorable Norman C. Roettger and witness fee.....	\$ 70.30
Administrative Costs at Referee Level (15A84F58,15A85F04 and 15A8517).....	\$150.00
Copies provided to Respondent.....	\$489.00
Travel and related expenses regarding appearance of Karen Hallsten - final hearing.....	\$375.25
Witness fee - Michael Field - final hearing...\$	6.00
Court reporter appearance fee and costs of transcript - referee level.....	\$614.10
Bar Counsel travel expenses.....	\$ 20.63
Total.....	\$4,086.45

Respectfully Submitted


JOHN G. FERRIS
Referee

Dated: December 19, 1985

FILED

S/D J. WHITE

NOV 20 1978

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BEFORE A REFEREE

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

THE FLORIDA BAR

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SUPPLEMENTAL REPORT OF REFEREE

Upon Motion to Supplement the Record and Motion for Clarification filed by The Florida Bar, the Referee has determined to grant these motions and hereby supplements his Report of Referee as follows:

FINDINGS OF FACT - COUNT II

The last paragraph of the findings on this count is amended so that, as to the recommended finding that Respondent violated FLORIDA BAR INTEGRATION RULE, ARTICLE XI, RULES 11.01(3)(b) (CONDUCT CONTRARY TO HONESTY, JUSTICE OR GOOD MORALS), it now references FLORIDA BAR INTEGRATION RULE, ARTICLE XI, RULE 11.02(3)(a) (CONDUCT CONTRARY TO HONESTY, JUSTICE OR GOOD MORALS).

PRIOR DISCIPLINE

The affidavit of John T. Berry and the Private Reprimand previously administered to Respondent are admitted into evidence. The disciplinary records of The Florida Bar establish that Respondent received a Private Reprimand which

was administered on September 21, 1984

Respectfully Submitted,

Dated:

January 21, 1986

John G. Ferris
JOHN G. FERRIS
Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Supplemental Report of Referee has been sent by U.S. Mail to the Honorable Sid J. White, Clerk of the Supreme Court, Supreme Court of Florida, Supreme Court Building, Tallahassee, FL 32301 and true and correct copies have been sent to Richard B. Liss, Co-Bar Counsel, The Florida Bar, 915 Middle River Drive, Suite 602, Fort Lauderdale, FL 33304 and to Scott William Katz, Respondent, 3923 Lake Worth Road, #205, Lake Worth, Florida 33461 on this 21st day of January, 1986.

John G. Ferris
JOHN G. FERRIS, Referee