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APR 6 1987

CLERK, SUPREME COURT

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IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

vs.

STEVEN S. FRIEDMAN,

Respondent.
-----/

CONFIDENTIAL

**Case No. 69,119
TFB NO. 02-86124**

BRIEF OF RESPONDENT

**MICHAEL S. SCAROLA,
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COUNSEL FOR RESPONDENT

STATEMENT OF FACTS AND PROCEDURAL HISTORY

The statement of the case and statement of the facts as set forth in the brief of Complainant is essentially correct. However, respondent wishes to supplement those portions of Complainant's brief by submission of the factual and procedural history set forth in the decision and recommendation of the Disciplinary Review Board in the Supreme Court of New Jersey dated March 6, 1987, a copy of which is annexed hereto and made a part hereof.

ARGUMENT

Complainant asserts that the referee's recommendation that respondent be suspended for a period of two (2) years is appropriate. Although the Disciplinary Review Board in the State of New Jersey has recommended a lesser period of suspension, the Respondent will present no objection to the period of suspension recommended in the State of Florida. However, it is noteworthy that the Disciplinary Review Board took into consideration mitigating factors which should also be taken into consideration in the instant matter. Specifically, the Disciplinary Review Board found Respondent's unblemished ethical history and reputation in the community for some sixteen (16) years a significant factor. (Decision of the Disciplinary Review Board at Page 10.) In reaching its ultimate conclusion, the Board also found persuasive the fact that the respondent had not intentionally or knowingly sought to injure a client or commit an act which would have resulted in pecuniary gain to Respondent. Rather, the Board's characterization of Respondent's conduct was that of an improper short-cut, albeit wrongful. Moreover, the Disciplinary Review Board found that the record before that body did not establish that Respondent was knowingly part of a fraudulent scheme nor did it establish that Respondent knowingly permitted false information to be supplied to insurance companies in order to obtain money. All of these mitigating factors should be taken into consideration and given substantial weight by the Court and with the same in mind, Respondent suggests the following modifications to the recommended discipline:

1. The two (2) year period of suspension should commence to

run February 13, 1986, the date upon which Respondent's temporary suspension in New Jersey commenced. Since that date, the Respondent has practiced law neither in New Jersey nor Florida. In view of the mitigating factors in this case, both logic and fairness support such a result.

2. The recommendation that Respondent pass the ethics portion of the Florida Bar Exam as a condition to future reinstatement should be waived. The New Jersey Office of Attorney Ethics has contended, in recommending that Respondent be suspended in New Jersey that:

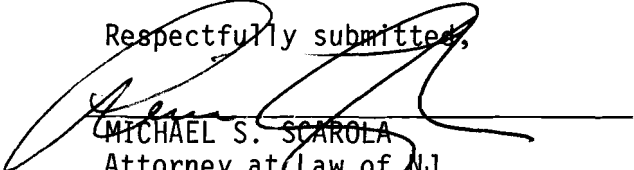
"Even interpreting this case in a manner most favorable to respondent, it is clear that he knowingly and willingly took short-cuts in several cases, in the process sacrificing his own integrity in the public image of his chosen profession by assisting, albeit unwittingly, in the intended hoodwinking of an insurance carrier." (decision of Disciplinary Review Board at page 6).

It is apparent that the proponent of suspension in the New Jersey proceeding was not convinced that Respondent intended to commit an ethical violation. It is, therefore, equally apparent that nothing would be gained by requiring respondent to submit to the Ethics portion of the Bar Examination as a condition to reinstatement. The additional period of suspension recommended in the instant matter is sufficient to remind Respondent of his ethical responsibility and in the future avoid improper shortcuts.

CONCLUSION

Respondent respectfully submits that he concurs with the two (2) year suspension, as recommended by the referee but subject to the modifications set forth in the previous argument.

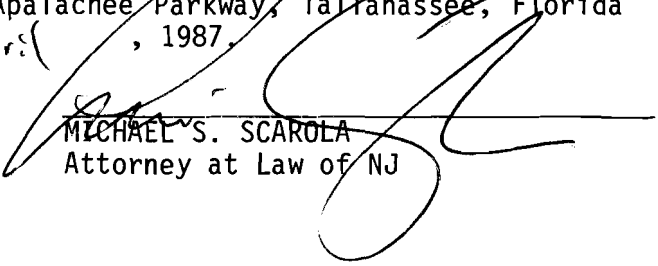
Respectfully submitted,



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CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the foregoing Brief has been mailed to by certified mail # 9553-339-755 return receipt requested to: James W. Watson, Jr., Branch Staff Counsel, The Florida Bar, 600 Apalachee Parkway, Tallahassee, Florida 32301 on this 3rd day of April, 1987.



MICHAEL S. SCAROLA
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