

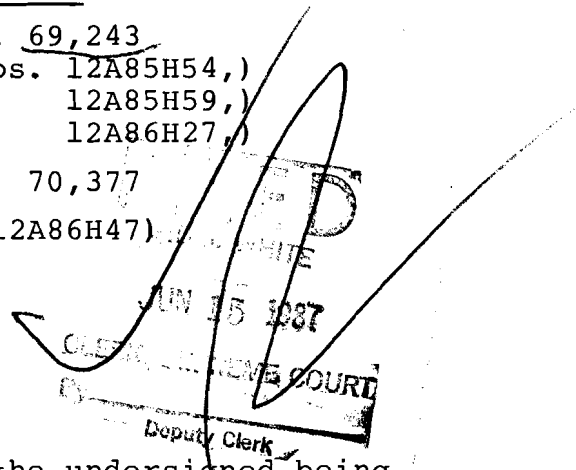
IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,
vs.
GREGORY S. HARTMAN,
Respondent.

CONFIDENTIAL

Case No. 69,243
(TFB Nos. 12A85H54,)
12A85H59,))
12A86H27,))

Case No. 70,377
(TFB 12A86H47)



REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings in the subject numbered cases according to Article XI of the Integration Rule of The Florida Bar, a consolidated final hearing was held on May 5, 1987.

The following attorneys appeared as counsel for the parties:

For the Florida Bar: Thomas Deberg and David R. Ristoff

For the Respondent: Gregory S. Hartman pro se

T - refers to pages in transcript.

II. Finding of Fact as to Each Item of Misconduct of which the Respondent is charged:

Case No. 69,243

(TFB Nos. 12A85H54)
12A85H59)
12A86H27)

After considering the allegations of the complaint; the evidence adduced; the respondent's admissions in his answer and supplemental statements it is the finding of the undersigned that all of the acts of misconduct set forth in Counts 1, 2 and 3 of the complaint are admitted. (See T-10, lines 18-20 as to Count 1; T-13, line 19 as to Count 2; and T-16, lines 21-23 and T-18, lines 22 and 23)

Case No. 70,377

(TFB 12A86H47)

After considering the allegations of the complaint; the respondent's admissions in his answer and supplemental statements it is the finding of the undersigned that all of the acts of misconduct are admitted. (See T-23, lines 19-24)

III. Recommendation as to whether or not the Respondent should be found guilty:

I recommend that the Respondent be found guilty and specifically that he be found guilty of the following violations of the Code of Professional Responsibility:

As to Case No. 69,243

Count 1 (T-25, lines 19-22)

1. Rule 11.02(4)(b) (failure to maintain required records or to produce them upon proper direction.

2. Bylaws Section 11.02(4)(c) (lack of a separate cash receipts and disbursements journal; failure to produce ledger cards or similar records for all receipts and disbursements of trust funds; lack of required trust account balance reconciliations).
3. Disciplinary Rule 9-102(A) (Failure to deposit all funds of clients paid to a lawyer or law firm in one or more identifiable bank accounts).
4. Disciplinary Rule 9-102(B) (failure to promptly notify clients of receipt of their funds, to maintain complete records of properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them, to promptly deliver to client at the client's request money which the client is entitled to receive).

Count 2

1. Rule 11.02(4)(b) (failure to maintain required records or to produce them upon proper direction;
2. Disciplinary Rule 6-101(A)(3) (neglect of a legal matter) and
3. DR 9-102(A)(Comingling) and (B) (failure to preserve the identity of funds of a client, notify client of receipt of funds, maintain complete records of client's funds, and promptly pay to client funds which the client is entitled to receive).

Count 3

1. Rule 11.02(4) (failure to comply with trust fund requirements).
2. Disciplinary Rule 9-102(A) Comingling and (B) (failure to preserve the identity of funds of a client, notify client of receipt of funds, maintain complete records of client's funds, and promptly pay to client funds which the client is entitled to receive).

As to Case No. 70,377 (T-25, lines 23-25)

1. Rule 1-102(A)(6) (conduct that adversely reflects on fitness to practice law).
2. Disciplinary Rule 7-101(A)(3) (prejudice or damage to a client during the course of a professional relationship).
3. Disciplinary Rule 7-102(A)(8) (knowingly engage in illegal conduct or conduct contrary to a disciplinary rule).

IV. Recommendation as to disciplinary measures to be applied:

I recommend that the Respondent receive a one year suspension and a two (2) year supervised probationary period. The probationary period should run concurrently to the suspension in that he should be required to perform his Rehabilitation Contract with Florida Lawyers' Assistance, Inc. (T-33).

V. Personal History and Past Disciplinary Record: After findings of guilt and prior to recommending discipline, I considered as aforesaid the following personal history prior disciplinary record and mitigating circumstances:

- (1) Age: 37
- (2) Date admitted to Bar: October 23, 1975

(3) Respondent had no prior disciplinary history, and has had no complaints filed since this incident.

(4) As noted in paragraph III, the Respondent's violations were extensive, however, these violations were without intent but were attributable to emotional instability (T-36) resulting from marital difficulties, and the concomitant use of drugs and alcohol. (T-36) Although possibly not forthright initially, he cooperated with the Bar's investigation of the charges and acknowledged his guilt. (T-26 & 43).

The Respondent has suffered the consequences of adverse newspaper publicity and the stigma resulting therefrom. (T-12)(T-31). He has faced up to his illness, (T-29 and 33) and pursued rehabilitation, including close monitoring by a fellow attorney. (T-39). He was instrumental in organizing an AA-type of support group for attorneys in Sarasota and surrounding areas. (T-34,35 and 38). His rehabilitation has shown steady progress and his prognosis is good. (T-37,38).

Respondent has made restitution in one case and taking steps to make restitution in the others. (T-30).

The suspension is recommended in view of The Florida Bar v. Breed, 378 So.2d 783.

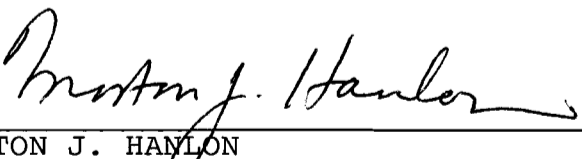
VI. Statement of costs and manner in which costs should be taxed:

I find the following costs were reasonably incurred by The Florida Bar.

A. Grievance Committee Level Costs	
1. Administrative Costs	\$ 150.00
2. Court Reporter Costs 9/18/85	372.50
3. Court Reporter Costs 10/15/86	203.65
4. Audit of Trust Accounts	2,060.29
5. Travel Expenses for Auditor	162.26
B. Referee Level Costs	
1. Administrative Costs	150.00
2. Hearing of May 5, 1987	170.45
3. Staff Investigator Time and Expenses	123.00
TOTAL COSTS TO DATE	<u>\$3,392.15</u>

It is recommended that all such costs and expenses 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 2nd day of June, 1987.


MORTON J. HANLON
Referee

Copies furnished to:

Thomas Deberg, Staff Counsel, The Florida Bar
David R. Ristoff, Staff Counsel, The Florida Bar
Gregory S. Hartman, pro se