

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED

SID J. WHITE

JAN 14 1987

CLERK, SUPREME COURT

By _____
Deputy Clerk

THE FLORIDA BAR,
Complainant,

CONFIDENTIAL

v.

CASE NO. 69,274

FREDERICK E. GRAVES,
_____ /

The Florida Bar Case Nos.
17C85114, 17C86104, 17C87F27
and 17C87F35

REPORT OF REFEREE

I. Summary of Proceedings: The undersigned has been duly appointed as referee to conduct disciplinary proceedings herein according to Florida Bar Integration Rule, article XI regarding Case No. 69,274, The Florida Bar Case No. 17C85114. The Respondent has submitted a Conditional Guilty Plea which also includes The Florida Bar Case Nos. 17C86104, 17C87F27 and 17C87F35, as the parties have agreed to include said additional cases in Respondent's Consent Judgment. This Referee has no objection to said inclusion. The Designated Reviewer of The Florida Bar has approved Respondent's Guilty Plea. I approve the Guilty Plea.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Jacquelyn Plasner Needelman

For the Respondent: Lance J. Thibideau

II. Findings of Fact as to Each Item of Misconduct of Which the Respondent is Charged: After considering the Respondent's Consent Judgment, I find:

As to Count I (Case No. 17C85114)

1. In or about September, 1983, one Christopher Alfaro retained Respondent to represent him in a pending traffic case, Case No. 42744LG.

2. Respondent agreed to accept \$1,500 as his legal fee regarding this representation.

3. Between September, 1983, and February, 1984, Respondent failed to appear at scheduled hearings of Case No. 42744LG.

4. Respondent agreed to handle additional traffic relates matters for Mr. Alfaro, Case Nos. 12890, 12891 and 12892MF, 43331ME, 7245ILQ and 77187LP.

5. Regarding Case Nos. 12890MF, 12891MF, and 12892MF, on or about August 24, 1984, Respondent filed his Notice of Appearance and Request for Documents, requesting that all future correspondence in Case Nos. 12890, 12891 and 12892MF be sent to Respondent's then current business address.

6. On or about October 15, 1984, the County Court of the Eleventh Judicial Circuit In and For Dade County, Florida, served notice upon Respondent via mailed correspondence to appear at the trial of Case Nos. 12890, 12891 and 12892MF scheduled for October 24, 1984.

7. On October 24, 1984, Respondent failed to appear at the trial of Case Nos. 12890, 12891 and 12892MF.

8. Respondent had filed an untimely request for a continuance of the trial of Case Nos. 12890, 12891 and 12892MF.

9. Mr. Alfaro had advised the Respondent that he was going out of town and had requested that the Respondent handle Case Nos. 12890, 12891, 12892MF and 43331ME for him if trial dates were scheduled in his absence.

10. On or about October 24, 1984, Bench Warrants were issued for the arrest of Mr. Alfaro resulting from Respondent's aforementioned failure to appear at the trial of Case Nos. 12890, 12891 and 12892MF.

11. Additionally, on October 23, 1984, Respondent failed to appear as required at the trial of Case No. 43331ME on behalf of Mr. Alfaro, which was scheduled for trial at 10:15 a.m. before the Honorable Stanley Goldstein, County Court Judge.

12. On or about October 23, 1984, at or about 11:23 a.m., Respondent filed Defendant's Motion to Continue in Case No. 43331ME in an untimely fashion, more than one (1) hour after the trial of Case No. 43331ME was scheduled to begin.

13. On or about October 23, 1984, a Bench Warrant was issued for the arrest of Mr. Alfaro in Case No. 43331ME.

14. Mr. Alfaro was arrested on the Bench Warrants and spent

approximately three (3) days in jail because of said Bench Warrants.

15. Respondent failed to complete handling for Mr. Alfaro the vacating and return of the bond estreatures in the above-referenced cases.

16. Respondent further failed to appear in court on behalf of Mr. Alfaro in Case Nos. 12890, 12891, 12892MF and 43331ME, and said cases were handled to conclusion by Mr. Alfaro.

17. Respondent additionally failed to appear at court hearings on behalf of Mr. Alfaro in Case Nos. 72451LQ and 77181LP and same were handled by Mr. Alfaro himself.

As to Count II (Case No. 17C85114)

18. In or about November, 1983, Mr. Alfaro retained Respondent to represent him regarding a dissolution of marriage proceeding.

19. During the course of the aforementioned representation, Respondent neglected Mr. Alfaro's dissolution matter in that he failed to take any action on Mr. Alfaro's behalf other than the filing of an answer and a notice of withdrawal of waiver.

20. Respondent failed to file a pre-trial catalogue and witness list although ordered to do so by the presiding Judge.

21. Mr. Alfaro discharged Respondent as no discovery or other action had been done on his behalf by the Respondent.

As to The Florida Bar Case No. 17C86104

1. Ad-A-Girl Temporary Service, Inc. brought a legal action against the Respondent in the County Court in Dade County, Florida.

2. A default was entered in said law suit.

3. Respondent was scheduled for his deposition to be taken by Lawrence J. Spiegel, Attorney for the Plaintiff. Respondent did not appear for his deposition.

4. Mr. Spiegel filed an application for a Rule to Show Cause and same was granted, holding the Respondent in contempt of court.

5. Respondent has now purged himself of the contempt and said contempt order has been vacated.

As To The Florida Bar Case No. 17C87F27

1. Respondent sent a client to Dr. Ervin Lesser for a

neuro-psychological evaluation.

2. Respondent sent a check dated March 6, 1986 to Dr. Lesser for a partial payment of the bill. Said check was issued on Respondent's office account. Respondent's check was returned by the bank for non-sufficient funds.

3. Respondent has now reissued the check to Dr. Lesser.

As To The Florida Bar Case No. 17C87F35

1. Respondent was held in contempt of court in the cause styled United States of America, Plaintiff, vs. Angelo Ciulla and James Hawthorne, Defendants, Case No. 85-6093 civil, in the United States District Court, Southern District of Florida, by the Honorable James C. Paine, United States District Judge, on October 16, 1986, for his tardiness in appearing in court for said case.

III. Recommendation as to Whether or Not the Respondent Should Be Found Guilty: As to each charge, I make the following recommendations as to guilt or innocence:

As to Counts I and II (Case No. 17C85114)

I recommend that the Respondent be found guilty of Disciplinary Rule 6-101(A) (3) (a lawyer shall not neglect a legal matter entrusted to him) of the Code of Professional Responsibility.

As to The Florida Bar Case No. 17C86104

I recommend that the Respondent be found guilty of Disciplinary Rule 1-102(A) (5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice) of the Code of Professional Responsibility.

As to The Florida Bar Case No. 17C87F27)

I recommend that the Respondent be found guilty of Disciplinary Rule 1-102(A) (6) (a lawyer shall not engage in conduct that adversely reflects on his fitness to practice law) of the Code of Professional Responsibility.

As to The Florida Bar Case No. 17C87F35)

I recommend that the Respondent be found guilty of Disciplinary Rule 1-102(A) (5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice) of the Code of Professional Responsibility.

IV. Recommendation as to Disciplinary Measures to be Applied:

Concerning the cases stated in Respondent's Guilty Plea, I recommend that the Respondent be suspended from the practice of law for a period of ten (10) days.

V. Personal History and Past Disciplinary Record:

Age: 40

Date admitted to Bar: February 25, 1972

Prior disciplinary convictions and disciplinary measures imposed therein: Two (2) Private Reprimands for Trust Account Violations

VI. Statement of Costs and Manner in Which Cost Should be Taxed: I find the following costs were reasonably incurred by The Florida Bar.

Case No. 17C85114

Administrative Costs

Grievance Committee Level	\$150.00	
Referee Level	<u>150.00</u>	\$300.00
Photocopying		113.00
Witness Fees		15.12
Cost of Court Reporter and transcript, January 20, 1986 hearing		<u>364.05</u>
		\$792.17

Case No. 17C86104

<u>Administrative Cost</u>	
Grievance Level	150.00

Case No. 17C87F27

<u>Administrative Cost</u>	
Grievance Level	150.00

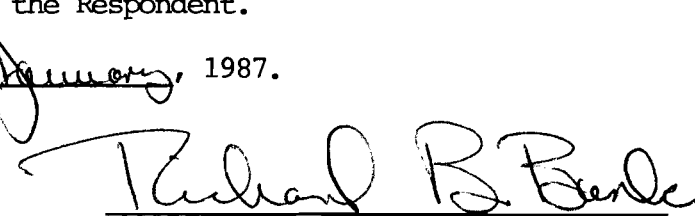
Case No. 17C87F35

<u>Administrative Cost</u>	
Grievance Level	<u>150.00</u>

TOTAL COSTS DUE THE FLORIDA BAR \$1,242.17

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.

DATED this 9th day of January, 1987.


Referee

Copies furnished to:
Jacquelyn Plasner Needelman, Bar Counsel
Lance J. Thibideau, Attorney for Respondent
John T. Berry, Staff Counsel