

FILED

IN THE SUPREME COURT OF FLORIDA SID J. WHITE
(Before a Referee)

JUL 30 1987

CLERK, SUPREME COURT

By: _____

Case No. ~~97,358~~
(TFB No. 06A86H27)

THE FLORIDA BAR,

Complainant,

v.

PETER T. ROMAN,

Respondent.

AMENDED
REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to article XI of the Integration Rule of The Florida Bar, and Rule 3-7.5, Rules of Discipline, a final hearing was held on June 17, 1987. The enclosed pleadings, orders, transcripts and exhibits are forwarded to The Supreme Court of Florida with this report, and constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: BONNIE L. MAHON

For The Respondent: JOSEPH DONAHEY, JR.

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, I find the following:

The respondent admitted each and every allegation of the Bar's complaint with the exception of paragraph 9, which the respondent denied in his answer and affirmative responses to The Florida Bar's complaint. At the final hearing on June 17, 1987, the respondent admitted the allegations of paragraph 9 of the Bar's complaint with the explanation that although he took possession of the assets of the Banner estate, said assets were split equally between himself and a third party.

III. Recommendation as to Whether or Not the Respondent Should Be Found Guilty: I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility:

DR 1-102(A) (4) (engage in conduct involving dishonesty, fraud, deceit or misrepresentation);

DR 1-102(A) (5) (engage in conduct which is prejudicial to the administrative to justice);

DR 1-102(A) (6) (engage in conduct that adversely reflects on his fitness to practice law);

DR 7-102(A) (4) (knowingly use perjured testimony or false evidence);

DR 7-102(A) (5) (knowingly making a false statement of law or fact); and

DR 7-102(A) (6) (participate in the creation of evidence when he knows the evidence is false).

IV. Recommendation as to Disciplinary Measures to be Applied: I recommend that the respondent be suspended from the practice of law for a period of three (3) years retroactive to November 1, 1986, and thereafter until he shall prove his rehabilitation. In addition, I recommend that the respondent be required to take and pass the Ethics portion of The Florida Bar Exam prior to being reinstated. Further, I recommend that the respondent be required to pay all costs incurred in The Florida Bar proceedings.

V. Personal History and Past Disciplinary Record: After a finding of guilt and prior to recommending discipline, pursuant to Integration Rule 11.06(9) (a) (4), and Rule 3-7.5(k) (4), Rules of Discipline, I consider the following personal history and prior disciplinary record of the respondent to wit:

(1) Age: 39

(2) Date Admitted to Bar: 5/22/75

(3) Prior Disciplinary Record: Respondent does not have a past disciplinary record.

(4) Mitigating Factors: At the time of the misconduct involved in this case, the respondent was suffering from an acute anxiety reaction stemming from severe domestic turmoil and was engaged in extensive psychotherapy. The respondent was taking a prescribed medication called Stelazine which is a strong tranquilizer used especially if there is an indication that a patient may be or may become psychotic. In addition, the respondent pled no contest to the criminal offense of grand theft and was placed on probation for a period of five (5) years with a condition of probation being that the respondent was to serve nine (9) months in the Pinellas County Jail. Further, the respondent waived probable cause and cooperated with The Florida Bar's disciplinary proceedings. He was remorseful for his misconduct, and made restitution through the Department of Revenue, State of Florida.

(5) Aggravating Factors: The respondent created a beneficiary to an estate and thereafter converted the assets of the estate to his own use. In addition, the respondent committed a fraud on the Court by submitting false affidavits and sworn statements.

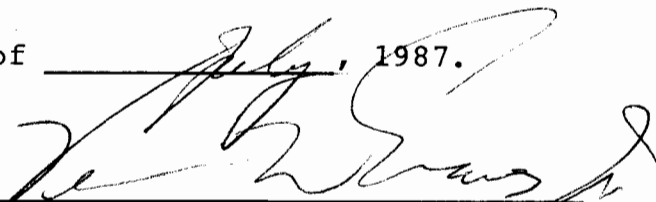
VI. Statement of Costs and Manner in Which Costs Should Be Taxed: I find the following costs were reasonably incurred by The Florida Bar:

A. Grievance Committee Level	
(1) Administrative Costs	\$ 150.00
B. Referee Level	
(1) Administrative Costs	150.00
(2) Court Reporting Costs	648.00
(3) Bar Counsel Expenses	40.56
(4) Staff Investigator Costs	84.00
(5) Miscellaneous Costs	11.00
ESTIMATED COSTS TO DATE:	\$ <u>1,083.56</u>

VII. It is apparent that other costs might be incurred in the future, if further proceedings are necessary in this matter. It is recommended that such future costs, together with the foregoing costs be charged to the respondent and that interest at the statutory rate shall accrue and be payable during beginning thirty (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 28th day of July, 1987.


The Honorable Vernon W. Evans, Jr.
Referee

Copies furnished to:

Joseph Donahey, Jr., Counsel for respondent
Bonnie L. Mahon, Assistant Staff Counsel
John T. Berry, Staff Counsel