

FILED

SID J. WHITE

FEB 3 1988

CLERK, SUPREME COURT

By _____
Deputy Clerk

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

JEFFREY J. FITOS,

Respondent.

Case No. 70,826

TFB Case Nos. 87-22,305 (05A)

87-22,306 (05A)

87-22,310 (05A)

87-22,314 (05A)

87-22,315 (05A)

and 87-22,338 (05A)

REPORT OF REFEREE ACCEPTING CONDITIONAL PLEA

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Integration Rule and The Rules Regulating The Florida Bar, a hearing was held on December 21, 1987. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits all of which are forwarded to The Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar - David G. McGunegle

For The Respondent - In pro se

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, pertinent portions of which are commented on below, I find:

The respondent tendered an oral Conditional Guilty Plea at the final hearing on December 21, 1987, where his input was taken by telephone since he resides out of state. Bar counsel was present in Chambers. Respondent was on a speaker phone. After full consideration it has been accepted by the undersigned. He practiced law in Marion County, Florida, at the time of these problems. The allegations to which he has tendered his condition plea are as follows:

As to Count I

1. The respondent began negotiating with Valley Forge Military Academy in Pennsylvania for a faculty position several months prior to the close of his law practice. He received an offer of employment in early September, 1986, and decided in mid-September, 1986, to accept it.

2. The respondent arranged for another attorney to handle some of the cases and entered into an agreement whereby the respondent would receive ten percent of any attorney's fees collected. He entered into this agreement without prior knowledge and consent of the affected clients.

As to Count II

3. The respondent represented ██████████ B█████████ in a wrongful termination of employment action. A hearing on a motion to dismiss was scheduled for September 22, 1986, before Circuit Judge, Wallace E. Sturgis. The client had no notice of the hearing.

4. Ms. B█████████ called the respondent's office on September 22, 1986, and was advised by the answering service that the office was closed. She then called the judge's office and was advised the hearing she had no prior notice of had been cancelled that morning. The judge's secretary stated the respondent had previously cancelled other hearings and was giving up the practice of law and leaving the area.

5. Ms. B█████████ again called the respondent's office and left a message requesting him to contact her early the next day or she would notify The Florida Bar. The respondent called her the following day and advised he had turned the case over to another attorney, David Eddy. He further stated that he, the respondent, would represent her if the case proceeded to trial. Ms. B█████████ had no contact with Mr. Eddy, and he later declined to accept her case. Respondent later sent her a letter stating he had arranged with a different attorney to handle it. That attorney also declined. Finally, respondent failed to file a Motion to Withdraw or advise his client of his intent to leave the practice prior to doing so.

6. Ms. B█████████ was unable to find other counsel and dismissed the case herself.

