

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,
Complainant,

CASE NO. SC07-1155
TFB NO. 2004-10,629(6C)
2004-11,215(6C)

v.

ALAN D. WATSON,
Respondent.

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as Referee to conduct proceedings herein according to Rule 10-7.1(b)(6), Rules Regulating the Florida Bar, the following proceedings occurred:

On June 22, 2007, The Florida Bar filed a three-count complaint against Respondent Alan D. Watson. On June 25, 2007, the Supreme Court issued an Order to appoint a referee and, on July 3, 2007, the undersigned was appointed as Referee in this matter. Subsequently, Respondent and The Florida Bar signed a Conditional Guilty Plea for Consent Judgment. Karen Borough Lopez, Esquire, appeared as counsel for The Florida Bar, and Martin Errol Rice, Esquire, appeared as counsel for the Respondent.

Any pleadings, notices, motions, orders, transcripts, and exhibits are forwarded

to The Supreme Court of Florida with this report and constitute the record in this case.

II. FINDINGS OF FACT

A. Jurisdictional Statement

Respondent, at all times material herein, was and is currently a member of the Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

B. Summary of Allegations

Pursuant to the Consent Judgment, the factual allegations underlying the plea and which provide the factual basis for discipline to be imposed against Respondent are as follows:

On or about October 13, 2003, Respondent met with Harry Lieffers in his office. On October 14, 2003, the family of Mr. Lieffers made Respondent aware of a correspondence from Dr. Mary S. Richardson, which indicated her belief that Mr. Lieffers was not capable of making financial decisions on his own behalf. Respondent spent several hours with Mr. Lieffers and concluded that Mr. Lieffers was competent to make decisions regarding his finances. Mr. Lieffers expressed a desire to place the Respondent in charge of his financial affairs and towards that end, executed a Power of Attorney.

Mr. Lieffers transferred funds into an escrow account through which Respondent paid Lieffers' bills, and paid his attorney's fees.

On or about October 16, 2003, Respondent utilizing the Power of Attorney that Mr. Lieffers had given to him, signed on Mr. Lieffers' behalf a renewed real estate listing agreement with real estate agent, Gerald Growney. The Listing Agreement was a renewal of a prior Listing Agreement on the same terms as one previously granted by Mr. Lieffers to Mr. Growney. Mr. Growney was also a client of Respondent.

In late 2003, Mr. Lieffers' family filed a Petition seeking to have a Guardianship established on Mr. Lieffers' behalf. Prior to the entry of the Order Appointing a Limited Guardian on Behalf of the Person and

Property of Harry Lieffers, the Respondent paid to himself an attorneys fee in the amount of \$933.33.

“Accident & Injury Attorney Hotline” (“Hotline”) is a Lawyer Referral Service as the same is defined in the Rules Regulating The Florida Bar, Respondent accepted the case of Bihn Van Doan from Accident & Injury Attorney Hotline, and thereby assumed the duty of assuring that the Hotline was in compliance with the Rules Regulating The Florida Bar.

In its Complaint, The Florida Bar alleged that Respondent violated the following rules: The Florida Bar: Rule 3-4.3 (Misconduct and Minor Misconduct); Rule 4-1.1; Rule 4-1.7(a) (Conflict of Interest, a lawyer should not represent a client if the representation of that client will be directly adverse to the interest of another client.); Rule 4-1.7 (b) (Conflict of Interest, Duty to avoid limitation of independent professional judgment.)Rule 4-8.4(a) (Misconduct, a lawyer should not violate or attempt to violate the Rules of Professional Conduct; Rule 4-4.2 (Communication with Person Represented by Counsel, a lawyer should not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer had the consent of the other lawyer.); and 4-3.4(a) (Fairness to Opposing Party and Counsel, a lawyer shall not unlawfully obstruct another party’s access to evidence or conceal a document); 4-3.4 (c) (Fairness to Opposing Party and Counsel, a lawyer shall not knowingly disobey and obligation under the rules of a tribunal); Rule 4-1.5 (Fees and Costs for Legal Services, a lawyer shall not charge a clearly excessive fee).

However, pursuant to the Consent Judgment, Respondent pled guilty to violating only the following Rules: Rule 4-1.7(b), Conflict of Interest (duty to avoid limitation on independent professional judgment); and Rule 4-7.11(b), A lawyer who accepts referrals from a lawyer referral service is responsible for ensuring that any advertisement or written communications used by the service comply with the requirements of the Rules Regulating The Florida Bar, and that the service is in compliance with the provisions of this subchapter. Furthermore, pursuant to the Consent Judgment, The Florida Bar dismissed the remaining alleged violations to which Defendant did not plead guilty.

C. Findings of Fact as to Each Item of Misconduct Charged:

After considering the pleadings and the Consent Judgment, the Referee adopts as her findings those facts set forth in the Consent Judgment, which is incorporated herein by reference.

III. RECOMMENDATIONS AS TO WHETHER THE RESPONDENT SHOULD BE FOUND GUILTY

As to the Complaint, and in light of the Consent Judgment, the Referee hereby recommends that Respondent be found guilty of violating the following Rules Regulating The Florida Bar: Rule 4-1.7(b), Conflict of Interest (duty to avoid limitation on independent professional judgment); and Rule 4-7.11(b), A lawyer who accepts referrals from a lawyer referral service is responsible for ensuring that any

advertisement or written communications used by the service comply with the requirements of the Rules Regulating The Florida Bar, and that the service is in compliance with the provisions of this subchapter.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

After the finding of guilt and prior to recommending discipline to be recommended pursuant to Rule 3-7.6(m)(1), the Referee has considered the following personal history and prior disciplinary record of the Respondent, to wit:

Year of Birth: 1947

Date Admitted to Bar: October 27, 1980

Prior Disciplinary Record: Private Reprimand (1989)

The Referee notes that the Respondent is not certified in any area of practice.

Additionally, the Referee has considered the discipline outlined in the Consent

Judgment in light of the three purposes of lawyer discipline:

First, the judgment must be fair to society, both in terms of protecting the public from unethical conduct and at the same time not denying the public the services of a qualified lawyer as a result of undue harshness in imposing penalty. Second, the judgment must be fair to the respondent, being sufficient to punish a breach of ethics and at the same time encourage reformation and rehabilitation. Third, the judgment must be severe enough to deter others who might be prone or tempted to become involved in like violations.

The Florida Bar v. Shoureas, 892 So. 2d 1002 (Fla. 2004) (citations omitted).

Consequently, based upon the factual allegations and admitted violations as stated in the Consent Judgment, as well as Respondent’s personal history and relative lack of prior disciplinary history, the Court finds the following recommendations will satisfy the aforementioned tenets:

- A. A suspension from the practice of law for a period of fifteen (15) days.
- B. Respondent to attend and complete The Florida Bar’s Ethics School.

V. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

The Referee finds the following costs were reasonably incurred by The Florida

Bar:

Administrative costs pursuant to	
Rule 3-7.6(q)(1)(I)	\$1,250.00
Court Reporting Expenses:	
May 17, 2005 G/C hearing.....	\$1,119.00
January 16, 2007 G/C hearing	547.00
Assistant Staff Counsel Expenses:	
November 8, 2005 G/C hearing.....	17.46
February 21, 2006 G/C hearing	11.13
January 16, 2007 G/C hearing	18.02
Staff Investigator Expenses	375.99
Staff Investigator time	1,904.75
Miscellaneous Expenses:	
April 30, 2005 computer research report.....	12.00
May 31, 2005 computer research report.....	5.00
June 30, 2005 computer research report.....	5.00
286 copies @ .15 per page	42.90
TOTAL ITEMIZED COSTS:.....	\$5,308.25

Dated this 25th day of October, 2007.

Barbara Fleischer, Referee

Copies:

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