

Sample Report of Referee

THE FLORIDA BAR
Complainant,

Case No. (Supreme Court Case No.)
TFB File No. (Bar File No.)

v.

(ATTORNEY NAME)
Respondent.

_____ /

REPORT OF THE REFEREE

I. SUMMARY OF PROCEEDINGS:

II. FINDINGS OF FACT RE: TFB No. _____, and TFB No. _____. (use if multiple case numbers)

- A. Jurisdictional Statement:** Respondent is, and at all times mentioned during this Investigation was, a member of The Florida Bar subject to the jurisdiction and Disciplinary Rules of the Supreme Court.
- B. Narrative Summary of First Case (case number)**
- C. Narrative Summary of Second Case**

III. RECOMMENDATION AS TO GUILT

A. Violation: First Case (First Case Number)

I recommend that the Respondent be found guilty of violating Rules (Insert specific rules violated) of Rules of Discipline of The Florida Bar; and Rules (Insert specific rules violated) of Rules Professional Conduct.

1. Violation (insert first rule violated)
The clear and convincing evidence is
2. Violation (insert second rule violated)
The clear and convincing evidence is

B. Violation: Second Case (Second Case Number)

I recommend that the Respondent be found guilty of violating Rules (Insert specific rules violated) of [Rules of Discipline of The Florida Bar](#); and Rules (Insert specific rules violated) of [Rules Professional Conduct](#).

1. Violation (insert first rule violated)
The clear and convincing evidence is
2. Violation (insert second rule violated)
The clear and convincing evidence is

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that Respondent be found guilty of misconduct justifying disciplinary measures and that he/she be disciplined by:

- A. Probation, *see* [3-5.1\(c\)](#); Admonishment, *see* [3-5.1\(a\) & \(b\)](#); Public Reprimand, *see* [3-5.1\(d\)](#); Suspension, *see* [3-5.1\(e\)](#); Disbarment, *see* [3-5.1\(f\)](#); Forfeiture of Fees, *see* [3-5.1\(i\)](#); and/or Restitution, *see* [3-5.1\(j\)](#)
- B. Costs. *See* [3-7.6\(q\)](#). *NOTE if costs are by consent of Respondent or attach Bar Affidavit*

V. PERSONAL HISTORY, PAST DISCIPLINARY RECORD AND AGGRAVATING AND MITIGATING FACTORS

Prior to recommending discipline pursuant to [Rule 3-7.6 \(m\)\(1\)](#), I considered the following:

A. Personal History of Respondent:

1. Date of birth
2. Education
3. Military experience
4. Employment
5. Date admitted to Bar
6. Medical history
7. Mental health history
8. Addictions
9. Treatment

B. Duties Violated:

1. The duties violated by Respondent to clients. (*See Florida's Standards for Imposing Lawyer Sanctions with Commentary, Section 4.0, pp. 19–34*)
2. The duties violated by Respondent to the public. (*See Florida's Standards for Imposing Lawyer Sanctions; Section 5.0, pp. 34–38*)
3. The duties violated by the Respondent to the legal system. (*See Florida's Standards for Imposing Lawyer Sanctions with Commentary, Section 6.0, pp. 38–43*)
4. The duties violated by the Respondent as a professional. (*See Florida's Standards for Imposing Lawyer Sanctions with Commentary, Section 7.0, pp. 43–45*)

C. The potential or actual injury caused by the Respondent's Misconduct:

D. The existence of aggravating or mitigating circumstances (*See Florida's Standards for Imposing Lawyer Sanctions with Commentary, Sections 9.0, 11.0, 12.0, and 13.21, pp. 47-54, 71*):

1. **Aggravators**: The Court finds the following reference aggravating factors:
 - a. Prior disciplinary offenses;
 - b. Dishonest or selfish motive;
 - c. Pattern of misconduct;
 - d. Multiple offenses;
 - e. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;
 - f. Submission of false evidence, false statements, or other deceptive practices during the disciplinary process;
 - g. Refusal to acknowledge wrongful nature of misconduct;
 - h. Vulnerability of victim;
 - i. Substantial experience in the practice of law;
 - j. Indifference to making restitution;
 - k. Obstruction of fee arbitration award by refusing or intentionally failing to comply with final award;
 - l. Any other factors that may justify an increase in the degree of discipline to be imposed.
2. **Mitigation**: The Court finds the following as to mitigating factors:
 - a. Absence of prior disciplinary record;
 - b. Absence of dishonest or selfish motive;

- c. Personal or emotional problems;
- d. Timely good faith effort to make restitution or to rectify consequences of misconduct;
- e. Full and free disclosure to disciplinary board or cooperative attitude toward proceedings;
- f. Inexperience in the practice of law;
- g. Character or reputation;
- h. Physical or mental disability or impairment;
- i. Unreasonable delay in disciplinary proceeding provided that the respondent did not substantially contribute to the delay and provided further that the Respondent has demonstrated specific prejudice resulting from delay;
- j. Interim rehabilitation;
- k. Imposition of other penalties or sanctions;
- l. Remorse;
- m. Remoteness of prior offense(s);
- n. Prompt compliance with a fee arbitration award;
- o. Any other factors that may justify a reduction in the degree of discipline to be imposed.

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

I find the following cost were submitted to the Court in the form of an Affidavit by The Florida Bar and found to be reasonably incurred by The Florida Bar supported by substantial competent evidence. **OR** The following costs were submitted to the Court in the form of an Affidavit by The Florida Bar and the Respondent has no objection:

A. Grievance Committee Level

- 1. Administrative costs pursuant to [Rule 3-7.6\(q\)\(1\)\(I\)](#)..... \$
 - 2. Court Reporter’s Fees..... \$
 - 3. Bar Counsel Travel..... \$
 - 4. Investigative Costs..... \$
 - 5. Photocopies..... \$
- Subtotal:

B. Referee Level

1.	Administrative costs pursuant to Rule 3-7.6(q)(1)(I)	\$1,250.00
2.	Court Reporter's Fees.....	\$
3.	Bar Counsel Travel.....	\$
4.	Investigative Costs.....	\$
5.	Photocopies.....	\$
6.	Referee Expenses.....	\$
	Subtotal:	
	Total: \$	

C. Manner of Payment:

It is recommended that such costs be charged to the Respondent and that interest at the statutory rate shall accrue and be payable beginning ____ days after the judgment has become final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this ____ day of _____, 20__.

(NAME OF REFEREE)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been sent: by certified mail to THE HONORABLE JOHN TOMASINO, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927; by email to THE HONORABLE JOHN TOMASINO, Clerk, Supreme Court of Florida, e-file@flcourts.org; and that copies were mailed by regular U.S. Mail to _____, Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300; _____, Assistant Staff Counsel, The Florida Bar, 5521 W. Spruce Street, Suite C-49, Tampa, FL 33607-5958 and _____, (Attorney for Respondent, or Respondent if unrepresented): this ____ day of _____, 20__.

(NAME OF REFEREE)
Referee