

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

JOHN B. THOMPSON,

Respondent.

CASE NO. SC07-80
[TFB Nos. 2005-71,125 (11F)
2006-70,570 (11F)
2006-70,766 (11F)
2006-70,909(11F)]

CASE NO. SC07-354
[TFB Nos. 2007-30,805 (11F)]

**RECOMMENDATIONS AS TO GUILT
AND
NOTICE OF DISCIPLINARY HEARING¹**

After considering the arguments presented by the Florida Bar and the Respondent, observing the Respondent's demeanor during the nine-day trial proceedings, and carefully reviewing the record consisting of four volumes of exhibits totaling 1700 pages and approximately 2400 pages of transcribed testimony, the Court finds that the facts, circumstances and evidence presented, regarding the Respondent's conduct, supports a finding of guilt as to certain Florida Bar rules.

The Court recommends the Respondent be found guilty or not guilty of the following Rules Regulating the Florida Bar, as indicated below:

Case No. SC07-80

[TFB Nos. 2005-71,125 (11F); 2006-70,570 (11F); 2006-70,766 (11F); 2006-70,909(11F)]

¹ This ruling and notice does not constitute the Report of Referee. Following the disciplinary hearing, a separate comprehensive written report will be issued in accordance with Rule 3-7.6(m) of the Rules Regulating the Florida Bar.

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As to Count I:
(Alabama *Pro Hac Vice* Application)

- Rule 4-3.3(a)(1): knowingly making a false statement of material fact or law to a tribunal – **GUILTY**
- Rule 4-3.4(c): knowingly disobeying an obligation under the rules of a tribunal – **GUILTY**
- Rule 4-3.4(h): presenting, participating in presenting, or threatening to present disciplinary charges under these rules solely to obtain an advantage in a civil matter – **GUILTY**
- Rule 4-3.5(c): engaging in conduct intended to disrupt a tribunal – **NOT GUILTY**
- Rule 4-3.5(b): communicating the merits of the cause with a judge before whom the proceeding is pending – **GUILTY**
- Rule 4-3.6(a): making extra-judicial statements that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding due to its creation of an imminent and substantial detrimental effect on that proceeding – **GUILTY**
- Rule 4-4.4 (a): using means that have no purpose other than to embarrass, delay or burden a third person – **GUILTY**
- Rule 4-5.5(a): practicing law in a jurisdiction other than the lawyer's home state, in violation of the regulation of the legal profession in that jurisdiction – **GUILTY**
- Rule 4-8.1(b): failing to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter – **GUILTY**
- Rule 4-8.4(c): engaging in conduct involving dishonesty, fraud, deceit or misrepresentation – **GUILTY**
- Rule 4-8.4(d): engaging in conduct in connection with the practice of law that is prejudicial to the administration of justice including to knowingly or through callous indifference disparage or humiliate litigants or other lawyers – **GUILTY**

As to Count II:
(Judge Moore's Complaint)

- Rule 4-3.4(c) knowingly disobeying an obligation under the rules of a tribunal – **GUILTY**

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- Rule 4-3.5(c): engaging in conduct intended to disrupt a tribunal – **NOT GUILTY**
- Rule 4-8.2(a): making statements that the lawyer knows to be false or with reckless disregard as to the truth or falsity concerning the qualifications or integrity of a judge – **GUILTY**
- Rule 4-8.4(c): engaging in conduct involving dishonesty, fraud, deceit or misrepresentation – **GUILTY**
- Rule 4-8.4(d): engaging in conduct in the connection with the practice of law that is prejudicial to the administration of justice including to knowingly or through callous indifference disparage or humiliate litigants, court personnel or other lawyers – **GUILTY**

As to Count III:
(Blank Rome's Complaint)

- Rule 4-3.3(a)(1): knowingly making a false statement of material fact or law to a tribunal – **GUILTY**
- Rule 4-3.4(c): knowingly disobeying an obligation under the rules of a tribunal – **GUILTY**
- Rule 4-3.4(h): presenting, participating in presenting, or threatening to present disciplinary charges under these rules solely to obtain an advantage in a civil matter – **GUILTY**
- Rule 4-4.2(a): communicating about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter – **GUILTY**
- Rule 4-4.4(a): using means that have no purpose than to embarrass, delay or burden a third person – **GUILTY**
- Rule 4-8.2(a): making statements that the lawyer knows to be false or with reckless disregard as to the truth or falsity concerning the qualifications or integrity of a judge – **NOT GUILTY**
- Rule 4-8.4(c): engaging in conduct involving dishonesty, fraud, deceit or misrepresentation – **GUILTY**
- Rule 4-8.4(d): engaging in conduct in the connection with the practice of law that is prejudicial to the administration of justice including to knowingly or through callous indifference disparage or humiliate litigants or other lawyers – **GUILTY**

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As to Count V:
(Tew Cardenas' Complaint)

- Rule 4-8.4(a) violating or attempting to violate the Rules of Professional Conduct – **GUILTY**²
- Rule 4-8.4(d): engaging in conduct in the connection with the practice of law that is prejudicial to the administration of justice including to knowingly or through callous indifference disparage or humiliate litigants or other lawyers – **GUILTY**

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[TFB Nos. 2007-30,805 (11F)]
(Judge Friedman's Complaint)

- Rule 4-4.4(a): using means that have no purpose than to embarrass, delay or burden a third person – **GUILTY**
- Rule 4-8.2(a): making statements that the lawyer knows to be false or with reckless disregard as to the truth or falsity concerning the qualifications or integrity of a judge – **GUILTY**
- Rule 4-8.4(c): engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation – **NOT GUILTY**
- Rule 4-8.4(d): engaging in conduct in connection with the practice of law that is prejudicial to the administration of justice including to knowingly or through callous indifference disparage or humiliate court personnel – **GUILTY**
- Rule 4-8.4(g): failing to respond, in writing, to any official inquiry by Bar counsel or a disciplinary agency when Bar counsel or the agency is conducting an investigation into the lawyer's conduct; failing to respond, in writing within 15 days of the date of the initial written investigative inquiry by Bar Counsel; and failing to respond, in writing within 10 days of the date of any follow-up written investigative inquiries by Bar Counsel – **GUILTY**

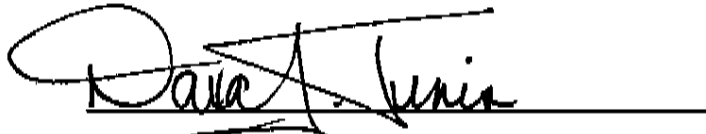
² After further research, this Court is reversing its earlier position in an order entered February 11, 2008 entitled: Order On Motions For Mistrial and Order On Motions To Reopen & Reconvene The Trial. In The Florida Bar v. Feinberg, 760 So.2d 933, 938 (Fla. 2000), the court found that if a Respondent is found guilty of, "... violating the rules of Professional Conduct, ...[the Respondent] is necessarily guilty of violating rule 4-8.4(a)."

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WHEREUPON, it is **ORDERED** and **ADJUDGED** that:

A disciplinary hearing on the sanction to be imposed will be convened at the Richard E. Gerstein (REG) Justice Building, Courtroom 6-3, located at 1351 N.W. 12th Street, Miami, FL on Wednesday, June 4th, 2008 at 2:00 pm.

DONE and **ORDERED** in chambers in Miami-Dade County, Florida, this 15th day of May, 2008.



Dava J. Tunis, Referee
Circuit Court Judge

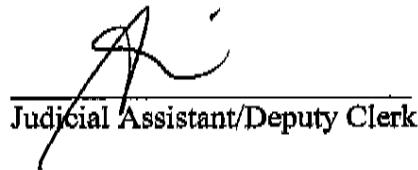
Copies furnished to:

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this 15th day of May, 2008.



Judicial Assistant/Deputy Clerk