

Supreme Court of Florida

THURSDAY, OCTOBER 1, 1992

THE FLORIDA BAR, *
 *
 Complainant, *
 *
 v. *
 *
 JOHN B. THOMPSON, *
 *
 Respondent. *
 *
 * * * * *

CASE NOS. 78,765 & 79,339
 TFB No. 89-71,062(11C) and
 89-71,416(11C)

We approve the uncontested referee's report and direct that respondent be given a public reprimand for professional misconduct, to be administered by the referee.

Judgment for costs in the amount of \$3,000.00 is entered against respondent for which sum let execution issue.

Not final until time expires to file motion for rehearing and, if filed, determined.

A True Copy

TEST:

Sid J. White
 Clerk, Supreme Court

KBB
 cc: Hon. Ronald J. Rothschild,
 Referee
 David G. McGunegle, Esquire
 Arthur M. Wolff, Esquire
 John A. Boggs, Esquire
 John B. Thompson, Esquire

PUBLIC RECORD

IN THE SUPREME COURT OF FLORIDA

(Before a Referee)

Case No. 78,765

Case No. 79,339

THE FLORIDA BAR,)
)
 Complainant,)
 vs.)
)
 JOHN B. THOMPSON,)
)
 Respondent.)

PETITION FOR APPROVAL OF GUILTY PLEA TO RULE VIOLATIONS AND CONSENT JUDGMENT FOR DISCIPLINE

COMES NOW, the Complainant, THE FLORIDA BAR, and files this Petition for Approval of Guilty Plea to Rule Violations and Consent Judgment for Discipline in the above-styled proceeding, and respectfully requests this Honorable Court to approve the attached Guilty Plea to Rule Violations and Consent Judgment for Discipline signed by the Respondent, JOHN B. THOMPSON, in accordance with the terms of the plea and in support thereof says, to-wit:

1. On July 29, 1992, the Complainant, THE FLORIDA BAR, received the Guilty Plea to Rule Violations and Consent Judgment for Discipline which was signed by the Respondent, JOHN B. THOMPSON, on July 28, 1992, the original of which is attached hereto as Exhibit "A".

2. By signing the attached Guilty Plea to Rule Violations and Consent Judgment for Discipline, the Respondent JOHN B. THOMPSON

TRB 8/13
 PUBLIC RECORDS

agreed to the imposition of discipline in the form of a public reprimand to be administered by a Circuit Court Judge of the State of Florida or the Referee in this case with attendant publication of the reprimand in the "Southern Reporter" and to pay costs in the amount of Three Thousand (\$3,000.00) Dollars in accordance with the Guilty Plea to Rule Violations.

3. The Respondent, JOHN B. THOMPSON's, professional address is: 5721 Riviera Drive, Coral Gables, Florida - mailing address Post Office Box 73, Coral Gables, Florida 33114; telephone: (305) 666-4366. The Respondent, JOHN B. THOMPSON, is forty-one (41) years of age (date of birth: July 25, 1951), and he was admitted to practice law in Florida on May 15, 1977.

4. The Board of Governors of The Florida Bar at its July 1992 meeting, on July 30, 1992, has approved the Respondent JOHN B. THOMPSON's Guilty Plea and Consent Judgment for Discipline in the above-sytled proceeding.

WHEREFORE, the Complainant, THE FLORIDA BAR, respectfully requests this Honorable Court to approve the Guilty Plea to Rule Violations and Consent Judgment for Discipline signed by the Respondent JOHN B. THOMPSON (Exhibit "A" hereto), in accordance with the terms of the plea and to enter a Final Order of Discipline consistent with the terms of the plea, whereby the following discipline is requested, to-wit:

(A) That the Respondent, JOHN B. THOMPSON, pleads guilty to a violation of Rule 4-4.2 of the Rules of Professional Conduct in that he communicated about the subject matter of

representation with a person he knew to be represented by another lawyer in the matter without the consent of the other lawyer in the two instances set forth in the Guilty Plea and Consent Judgment for Discipline attached hereto as Exhibit "A"; and,

(B) That the Respondent, JOHN B. THOMPSON, pleads guilty to a violation of Rule 4-8.4(d), of the Rules of Professional Conduct, in that he engaged in conduct which is prejudicial to the administration of justice as more fully set forth in the Guilty Plea and Consent Judgment for Discipline attached hereto as Exhibit "A"; and,

(C) That the Respondent, JOHN B. THOMPSON, shall pay THE FLORIDA BAR's costs in this matter in the amount of Three Thousand (\$3,000.00) Dollars in the manner set forth in the Guilty Plea and Consent Judgment for Discipline attached hereto as Exhibit "A".

Dated: This 31st day of July, 1992.

RESPECTFULLY SUBMITTED,

LAW OFFICE OF ARTHUR M. WOLFF
Attorney for Complainant,
THE FLORIDA BAR

BY: 

ARTHUR M. WOLFF, ESQUIRE
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JOHN A. "TONY" BOGGS, ESQUIRE
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JOHN BERRY, ESQUIRE
Staff Counsel, Legal Division
The Florida Bar
650 Apalachee Parkway
Tallahassee, Florida 32399-2300
The Florida Bar No. 217395

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

Case No. 78,765
Case No. 79,339

THE FLORIDA BAR,
Complainant,
vs.
JOHN B. THOMPSON,
Respondent.

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

The undersigned was appointed to preside in the above-styled disciplinary action as Referee by Order of the Supreme Court of Florida in Case No. 78,765 on October 22, 1991, and in Case No. 79,339 by Order of the Supreme Court of Florida on April 27, 1992. The pleadings and all other papers filed with the undersigned, which are forwarded to the Court with the Report of Referee, constitute the entire record in this case.

During the course of these proceedings, the Respondent, JOHN B. THOMPSON, was represented by Attorney John R. Price of Burroughs & Price, 8140 Knue Road, Suite 107, Indianapolis, Indiana 48250.

The Complainant, THE FLORIDA BAR, was initially represented by John A. "Tony" Boggs, Director of Lawyer Regulation, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300, and by David McGunegle, Branch Staff Counsel, Orlando Office, The Florida Bar, 880 North Orange Avenue, Suite 200,

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Orlando, Florida 32801, and thereafter by Attorney Arthur M. Wolff, 3045 North Federal Highway, Fort Lauderdale, Florida 33306.

II. FINDINGS OF FACT AS TO THE MISCONDUCT OF WHICH THE RESPONDENT IS CHARGED:

Based upon the Guilty Plea to Rule Violations and Consent Judgment for Discipline signed by the Respondent, JOHN B. THOMPSON, in accordance with the terms of the plea, a copy of which is attached to this Report of Referee as Exhibit "A", I find as follows:

A. The Respondent JOHN B. THOMPSON's professional address is: 5721 Riviera Drive, Coral Gables, Florida; mailing address - Post Office Box 73, Coral Gables, Florida 33114; telephone: (305) 666-4366. The Respondent, JOHN B. THOMPSON, is forty-one (41) years of age (date of birth: July 25, 1951), and he was admitted to practice law in Florida by the Supreme Court of Florida on May 15, 1977.

B. The Board of Governors of The Florida Bar at its July 1992 meeting did on the 30th of July, 1992, approve the Respondent JOHN B. THOMPSON's Guilty Plea to Rule Violations and Consent Judgment for Discipline in the above-sytled proceeding.

C. The Respondent, JOHN B. THOMPSON, admits the facts with respect to the matter assigned The Florida Bar No. 89-71,416(11C) set forth at paragraphs 5(a), 5(b), 5(c), 5(d), 6(a), 6(b) and

6(c), of the Guilty Plea to Rule Violations and Consent Judgment for Discipline, in that he, the Respondent, JOHN B. THOMPSON, communicated about the subject matter of representation with persons he knew to be represented by other lawyers in the matter without the consent of the other lawyers in violation of Rule 4-4.2 of the Rules of Professional Conduct.

D. Additionally, the Respondent, JOHN B. THOMPSON, admits that in Case 78, 765 now pending in the Supreme Court of Florida, styled The Florida Bar, Complainant vs. John B. Thompson, Respondent, that he filed a verified pleading on the 24th of January, 1992, making certain representations to the Court and that in doing so he violated Rule 4-8.4(d), of the Rules of Professional Conduct, in that he did not make an adequate pre-filing investigation and thus engaged in conduct which is prejudicial to the administration of justice.

E. The Referee recommends to the Supreme Court of Florida that the Guilty Plea to Rule Violations and Consent Judgment for Discipline approved by the Board of Governors of The Florida Bar which is dated July 28, 1992 and was sworn to by the Respondent, JOHN B. THOMPSON, be approved by the Supreme Court of Florida, and that pursuant to Rule 3-7.8 of the Rules of Discipline of the Rules Regulating The Florida Bar, the Respondent, JOHN B. THOMPSON, receive as a disciplinary sanction the following:

(1) A public reprimand to be administered by a Circuit Court Judge of the State of Florida or the Referee at the

directions of the Supreme Court of Florida, with attendant publication of the reprimand in the "Southern Reporter"; and further,

(2) That Respondent, JOHN B. THOMPSON, pay costs in the amount of Three Thousand (\$3,000.00) Dollars as provided for at paragraph eight (8) of the Guilty Plea to Rule Violations and Consent Judgment for Discipline.

III. RECOMMENDATION OF THE REFEREE AS TO WHETHER OR NOT THE RESPONDENT SHOULD BE FOUND GUILTY:

Based upon the Respondent, JOHN B. THOMPSON's, Guilty Plea to Rule Violations and Consent Judgment for Discipline approved by the Board of Governors of The Florida Bar which is dated July 28, 1992 and was sworn to by the Respondent, JOHN B. THOMPSON, I, the Referee, find the Respondent, JOHN B. THOMPSON, guilty of the following Rule violations:

A. The Florida Bar Case No. 89-71,416(11C):
Rule 4-4.2 of the Rules of Professional Conduct - the Respondent communicated about the subject matter of representation with persons he knew to be represented by other lawyers in the matter without the consent of the other lawyers in violation of Rule 4-4.2 of the Rules of Professional Conduct.

B. Case No. 78,765 now pending in the Supreme Court of Florida, styled The Florida Bar, Complainant vs. John B. Thompson, Respondent: Rule 4-8.4(d), of the Rules of Professional Conduct - the Respondent did not make an adequate prefiling investigation and thus engaged in conduct which is prejudicial to the administration of justice.

IV. RECOMMENDATION OF THE REFEREE AS TO DISCIPLINARY

MEASURES TO BE APPLIED:

The Referee recommends to the Supreme Court of Florida that the Guilty Plea to Rule Violations and Consent Judgment for Discipline approved by the Board of Governors of The Florida Bar which is dated July 28, 1992 and was sworn to by the Respondent, JOHN B. THOMPSON, be approved by the Supreme Court of Florida, and that pursuant to Rule 3-7.8 of the Rules of Discipline of the Rules Regulating The Florida Bar, the Respondent, JOHN B. THOMPSON, receive as a disciplinary sanction the following:

(1) A public reprimand to be administered by a Circuit Court Judge of the State of Florida or the Referee at the directions of the Supreme Court of Florida, with attendant publication of the reprimand in the "Southern Reporter"; and further,

(2) That Respondent, JOHN B. THOMPSON, pay costs in the amount of Three Thousand (\$3,000.00) Dollars as provided for at paragraph eight (8) of the Guilty Plea to Rule Violations and Consent Judgment for Discipline.

V. PERSONAL HISTORY OF RESPONDENT, JOHN B. THOMPSON:

The Respondent, JOHN B. THOMPSON, is forty-one (41) years of age (date of birth: July 25, 1951), and he was admitted to practice law in Florida by the Supreme Court of Florida on May 15, 1977.

VI. STATEMENT AS TO RESPONDENT'S PAST DISCIPLINE:

The Respondent, JOHN B. THOMPSON, has no prior disciplinary record.

VII. STATEMENT OF THE COSTS OF THE PROCEEDING:

The Respondent, JOHN B. THOMPSON, will pay costs in the amount of Three Thousand (\$3,000.00) Dollars as provided for at paragraph eight (8) of the Guilty Plea to Rule Violations and Consent Judgment for Discipline.

RENDERED this 17th day of August, 1992 at Fort Lauderdale, Broward County, Florida.

RONALD J. ROTHSCHILD
RONALD J. ROTHSCHILD, REFEREE

Copies furnished to:

A TRUE COPY

RESPONDENT:

JOHN B. THOMPSON, Attorney, in pro se and as co-counsel
Post Office Box 73
Coral Gables, Florida 33114

JOHN PRICE, ESQUIRE
Co-counsel for Respondent, JOHN B. THOMPSON
8140 Knue Road, Suite 107
Indianapolis, Indiana 48250

ARTHUR M. WOLFF, ESQUIRE
Attorney for Complainant, THE FLORIDA BAR
3045 North Federal Highway
Post Office Box 11875
Fort Lauderdale, Florida 33339

JOHN A. "TONY" BOGGS, ESQUIRE
Director of Lawyer Regulation
The Florida Bar
650 Apalachee Parkway
Tallahassee, Florida 32399-2300

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IN THE SUPREME COURT OF FLORIDA

Case No. 78,765
Case No. 79,339

The Florida Bar No. 93191

THE FLORIDA BAR,)
)
 Complainant,)
)
 vs.)
)
 JOHN B. THOMPSON,)
)
 Respondent.)

GUILTY PLEA AND
CONSENT JUDGMENT FOR DISCIPLINE

The Respondent, JOHN B. THOMPSON, having been fully advised of his procedural rights under the Rules Regulating The Florida Bar, hereby tenders his Consent Judgment for Discipline pursuant to Rule 3-7.8 of the Rules of Discipline of the Rules Regulating The Florida Bar, in the above-referenced proceeding and says:

1. The Respondent, JOHN B. THOMPSON, is, and at all times hereinafter mentioned was, a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. The Respondent, JOHN B. THOMPSON, is currently the subject of grievances filed against him which have been assigned The Florida Bar File Nos. 89-71,062(11C) and 89-71,416(11C).

3. The Eleventh Judicial Circuit Grievance Committee "C" found probable cause in the above-captioned matters on October 16, 1990. The Grievance Committee finding of probable cause was amended on October 5, 1990.

4. In accordance with Rule 3-7.9(a) of the Rules of Discipline, the Respondent, JOHN B. THOMPSON, hereby submits a Guilty Plea and Consent Judgment for Discipline (hereinafter "consent judgment") prior to filing of a formal complaint.

5. The Respondent, JOHN B. THOMPSON, admits the facts with respect to the matter assigned The Florida Bar File No. 89-71,416(11C), as set forth below:

(a) The Respondent THOMPSON was a plaintiff pro se in an action against the Defendant, WINZ, Inc. Radio, filed in the Circuit Court of the 11th Judicial Circuit, in and for Dade County, Florida, Case No. 87-41584.

(b) During the pendency of the lawsuit the Respondent, JOHN B. THOMPSON, spoke on the telephone with Robert Gilbertson, a non-lawyer and Executive Vice-President of Guy Gannett Publishing Company and obtained Mr. Gilbertson's agreement to the entry of a temporary restraining order against WINZ and secured entry by the Court of the temporary injunction.

(c) At the time of communication and the securing of the temporary injunction Mr. Gilbertson was represented by an attorney who had instructed the Respondent THOMPSON not to

contact his client or any of its officers, agents or representatives which would include Robert Gilbertson, the Executive Vice-President of Guy Gannett Publishing Company, Inc.

(d) The Respondent THOMPSON pleads guilty to a violation of Rule 4-4.2 of the Rules of Professional Conduct in that he communicated about the subject matter of representation with a person he knew to be represented by another lawyer in the matter without the consent of the other lawyer.

(e) The Respondent, JOHN B. THOMPSON, in mitigation states that it was his understanding from speaking with an employee of another law office representing WINZ, Inc. in parallel litigation that it was permissible for him to speak directly with Robert Gilbertson.

6. The Respondent, JOHN B. THOMPSON, admits certain facts and pleads guilty to Rule violations as set forth below:

(a) The Respondent THOMPSON in the context of Circuit Court of the 11th Judicial Circuit, in and for Dade County, Florida, Case No. 89-61751 and Case No. 89-6180, appearing pro se communicated directly with James Kennedy, Chairman of Cox Enterprise, Inc., and Ann Cox Chambers, President of Cox Enterprises, Inc., and in-house counsel Jim Hatcher of Cox Enterprises, Inc., by telephone and in writing, although he had been instructed not to do so by the attorney representing Cox Enterprises, Inc.

(b) At the time of these communications the Respondent THOMPSON knew that the parties contacted were represented by counsel and he had been informed by counsel not to communicate with them.

(c) The Respondent THOMPSON pleads guilty to a violation of Rule 4-4.2 of the Rules of Professional Conduct in that he communicated about the subject of representation with persons he knew to be represented by another lawyer in the matter without the consent of the other lawyer.

(d) The Respondent in mitigation says that the communications were made after he contacted The Florida Bar Ethics Advisory Hotline and received a verbal advisory opinion by a staff member, which opinion the Respondent construed as permission for him to make the communications. The Florida Bar acknowledges that on the 8th of April, 1988, the Respondent telephoned The Florida Bar Ethics Advisory Hotline but denies that the Respondent was told that he could communicate with represented parties in the manner in which he did.

7. The Respondent, JOHN B. THOMPSON, admits certain facts and pleads guilty to a disciplinary rule violation as set forth below:

(a) In Case 78,765 now pending in the Supreme Court of Florida, styled The Florida Bar, Complainant vs. John B. Thompson, Respondent, the Respondent filed a verified

motion on the 24th of January, 1992, making certain representations to the Court that one Trevor DaCosta-Levy, then an employee of the Law Firm of Grossman & Roth, P.A., made unsolicited contact with the Respondent and related facts concerning alleged misuse by Attorney Stuart Z. Grossman of his position as a member of the Board of Governors of The Florida Bar and other alleged illegalities.

(b) The Respondent, JOHN B. THOMPSON, pleads guilty to the allegation or charge that his verified motion was filed without adequate pre-filing investigation violative of Rule 4-8.4(d), of the Rules of Professional Conduct, in that he engaged in conduct which is prejudicial to the administration of justice.

8. The Complainant, THE FLORIDA BAR, and the Respondent, JOHN B. THOMPSON, agree on costs to be assessed against the Respondent, JOHN B. THOMPSON, in the amount of Three Thousand (\$3,000.00) Dollars. This sum shall be paid by the Respondent, JOHN B. THOMPSON, over a period of twelve (12) consecutive months and interest will accrue on the unpaid balance at the statutory rate of twelve (12%) percent per annum. The payments must be made by the Respondent, JOHN B. THOMPSON, on a monthly basis.

9. Pursuant to Rule 3-7.8, of the Rules of Discipline, the Respondent, JOHN B. THOMPSON, hereby tenders a Guilty Plea and Consent Judgment for Discipline wherein he agrees to accept as a disciplinary sanction a public reprimand to be reported

in the Southern Reporter and to be administered by a Circuit Court Judge or Referee.

10. The Respondent, JOHN B. THOMPSON, recognizes that the disciplinary sanction to be imposed will ultimately be determined by the Supreme Court of Florida which will not be bound to follow the recommendations of either The Florida Bar or any Referee who may be appointed in these proceedings.

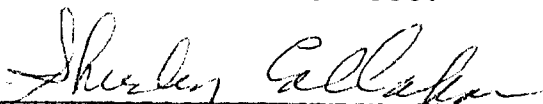
11. The Respondent, JOHN B. THOMPSON, agrees that every factual admission contained herein and specifically, the admissions as set forth above shall have full force and effect only if the subsequent recommendation or action taken with respect to the terms of discipline offered by the Respondent THOMPSON are accepted by the Board of Governors of The Florida Bar and the Supreme Court of Florida.

12. Should this conditional consent Judgment for discipline not be accepted as outlined above, then and in that event, The Florida Bar and the Respondent, JOHN B. THOMPSON, shall proceed as if this guilty plea and conditional consent judgment for discipline had not been tendered.

13. The Respondent, JOHN B. THOMPSON, acknowledges that in tendering this conditional consent judgment for discipline that he has consulted with and is represented by counsel. The Respondent further acknowledges that this document is tendered freely, voluntarily and without fear, threat or coercion.

STATE OF INDIANA :
 : SS
COUNTY OF NANKOCK :

BEFORE ME, the undersigned authority on this 29th day of JULY, 1992, personally appeared before me JOHN PRICE, ESQUIRE, personally known by me, and who has produced INDIANA NAVERA LUCONIA, as his identification, and who after first being duly cautioned and sworn and having taken an oath, deposes and says that he is the attorney for the Respondent John B. Thompson named in the foregoing "Guilty Plea and Consent Judgment for Discipline" in the above-referenced disciplinary proceeding (Case Nos. 78,765 and 79,339, in the Supreme Court of Florida, before a Referee, styled The Florida Bar, Complainant vs. John B. Thompson, Respondent), that he has read the same and that the factual statements contained therein are true and correct.



Notary Public
State of INDIANA

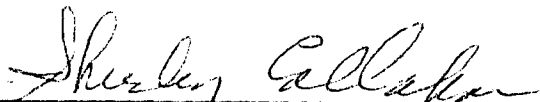
My Commission Expires:

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STATE OF INDIANA :
 : SS
COUNTY OF HANCOCK :

BEFORE ME, the undersigned authority on this 29th day of July, 1992, personally appeared before me JOHN PRICE, ESQUIRE, personally known by me, and who has produced INDIANA POWER OF ATTORNEY, as his identification, and who after first being duly cautioned and sworn and having taken an oath, deposes and says that he is the attorney for the Respondent John B. Thompson named in the foregoing "Guilty Plea and Consent Judgment for Discipline" in the above-referenced disciplinary proceeding (Case Nos. 78,765 and 79,339, in the Supreme Court of Florida, before a Referee, styled The Florida Bar, Complainant vs. John B. Thompson, Respondent), that he has read the same and that the factual statements contained therein are true and correct.



Notary Public
State of INDIANA

My Commission Expires:

8-5-92

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was furnished by U. S. Mail this 31st day of JULY, 1992 to:

RESPONDENT:

JOHN B. THOMPSON, Attorney, in pro se and as co-counsel
Post Office Box 73
Coral Gables, Florida 33114

JOHN PRICE, ESQUIRE
Co-counsel for Respondent, JOHN B. THOMPSON
8140 Knue Road, Suite 107
Indianapolis, Indiana 48250

and that the original was filed with the Referee by mailing the same this 31st day of JULY, 1992 to:

REFeree: THE HONORABLE RONALD J. ROTHSCHILD,
Judge of the County Court in and for Broward County, Florida
Broward County Courthouse, Room 525
201 S. E. Sixth Street
Fort Lauderdale, Florida 33301

LAW OFFICE OF ARTHUR M. WOLFF
Attorney for Complainant,
THE FLORIDA BAR

BY: 

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The Florida Bar No. 93191

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