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## **The Florida Bar v. David A. Barrett**

CHIEF JUSTICE E: THE NEXT CASE ON THE COURT'S CALENDAR THIS MORNING IS THE FLORIDA BAR VERSUS BARRETT. THE PARTIES ARE READY?

WE ARE .

CHIEF JUSTICE: ALL RIGHT. MR . BIRCHFIELD.

YES, MA 'AM . MAY IT PLEASE THE COURT. I AM JIM DAVIE, BAR COUNSEL FOR THE FLORIDA BAR. I REQUEST TO RESERVE SEVEN MINUTES OF MY TIME .

CHIEF JUSTICE: THAT'S RIGHT. THIS IS A BAR APPEAL.

YES. WE HAVE APPEALED , SOLELY ON THE BASIS OF THE QUANTUM OF THE DISCIPLINE. THE REFEREE IN THIS CASE RECOMMENDED A ONE-YEAR SUSPENSION. WE ARE ASKING YOU TO DISBAR MR. BARRETT . THIS IS NOT AN ORDINARY SOLICITATION CASE , BUT WE SUBMIT THE MOST EGREGIOUS , THIS CASE, THE COURT HAS EVER HEARD.

HOW DO YOU SEE THIS AS BEING DIFFERENT THAN THE DISCIPLINE THAT WAS GIVEN IN THE FLOWERS AND WAS IT VANTURE OR WHATEVER THE NAME OF THE OTHER CASE WAS.

EXTREMELY DIVERSE. FLOWERS AND VAN TOUR WERE MINOR PLAYERS IN THIS. BY COMPARISON , IT WAS A LITTLE MOST INCONSEQUENTIAL THIS. IS EXTREMELY EGREGIOUS. MR . FLOWERS AND MR . VANTURE WERE NOT INVOLVED IN LYING. THERE WAS NO IN-HOSPITAL SOLICITATION. THERE WAS NO SPLITTING OF THE FEES. BOTH OF THEM ONLY HAD THREE CLIENTS , AND MR . VAN TOUR ESPECIALLY OVER A ONE-WEEK TIME. MR. VANTURE DIDN'T EVEN REALIZE , AT THE TIME THAT THE CLIENTS WERE BROUGHT IN , THAT THEY WERE IMPROPERLY SOLICITED. HE ONLY FOUND THAT OUT LATER , AND HIS PROBLEM WAS ONLY THAT HE DIDN'T WITHDRAW FROM REPRESENTING THE CLIENTS. IF HE HAD DONE SO , I WOULD HAVE CLOSED THE FILE .

THERE SEEMS TO BE TWO SEPARATE SERIES OF INCIDENTS . ARE YOU FOCUSING ON THE INCIDENT WHERE PERMISSION WAS GIVEN OR THE RUNNER WAS ENCOURAGED TO BECOME A MINISTER AND THEN GO TO THE HOSPITAL. COULD YOU GIVE A LITTLE BACKGROUND ON HOW MR. BARRETT WAS INVOLVED , SPECIFICALLY IN THAT SCHEME.

TO US, THIS IS THE MOST EGREGIOUS OF THEM ALL. MR. BARRETT ENCOURAGED HIS RUNNER , CHAD COOPER , TO BECOME CERTIFIED AS A CHAPLAIN AT TALLAHASSEE MEMORIAL HOSPITAL.

IS IT , THE RECORD IS CLEAR THAT IT WAS MR. BARRETT THAT ACTUALLY WAS THE MOVING FORCE IN THAT OCCURRING?

IT IS CLEAR , IN THAT MR. BARRETT , IT IS NOT CLEAR WHO SUGGESTED IT INITIALLY , BUT IT IS CLEAR THAT MR. BARRETT PAID FOR THE COURSE AND ENCOURAGED HIM TO DO SO BY INFLUENCE . ADDITIONALLY , CHAD COOPER DID GO , AND THE LAW FIRM DID PAY FOR HIS ATTENDANCE AT THE CHAPLAIN'S COURSE. MR. BARRETT , AFTER THAT , TOLD CHAD COOPER THAT HE WOULD GIVE HIM \$100,000 IF HE BROUGHT IN A BIG CASE.

NOW, WASN'T MR. COOPER ALREADY AN ORDAINED MINISTER?

YES, HE WAS.

SO WOULD HE, AS ORDAINED MINISTER, HAVE ALREADY HAD ACCESS TO, HE COULD GO TO THE HOSPITAL TO TALK TO PEOPLE, GIVE THEM THEIR COMMUNIONS, THOSE KINDS OF THINGS, SO WHY IS TAKING THE CHAPLAIN COURSE SO IMPORTANT THERE?

TAKING THE CHAPLAIN'S COURSE AS I UNDERSTAND IT, GIVES HIM ENTRY INTO EMERGENCY ROOM AND NEO-INTENSIVE CARE. IT GIVES HIM THE OFFICE OF CHAPLAIN, SO THAT WHEN HE GOES TO SOMEBODY, HE CAN TELL THEM I AM A HOSPITAL CHAPLAIN.

AND WERE THE PEOPLE THAT HE WAS SEEING, RELATED TO ANY CONGREGATION HE WAS SERVING, OR REFERRED BY DENOMINATIONAL PREFERENCE?

NO, THEY WERE NOT. THEY WERE STRANGERS. MR. COOPER WALKED IN, MOLLY GLASS WAS THERE. HER SON WAS DYING. HE WAS DRESSED AS A PASTOR IN A DARK SUIT WITH A LITTLE WHILE CLERICAL COLLAR, AND HE OFFERED TO PRAY WITH THEM. HE, THEN, HANDED THEM A BUSINESS CARD OF THE BARRETT LAW FIRM AND SUGGESTED THAT THEY CALL. SUBSEQUENTLY THEY DID CALL. THE SON DIED.

WAS THIS MR. HOFFMANN'S BUSINESS CARD OR WAS IT MR. BARRETT'S BUSINESS CARD? BECAUSE THERE IS SOME DISCREPANCY HERE, AS TO WHETHER OR NOT HE WAS ACTUALLY WORKING FOR MR. HOFFMANN OR MR. BARRETT.

HE WAS, IT WAS MR. HOFFMANN'S CARD. BUT AS THE REFEREE FOUND, HE WAS WORKING FOR MR. BARRETT.

NOW, AS WE REVIEW THE MATTER TODAY, CERTAINLY IT IS NOT WHETHER WE WOULD SUBSTITUTE OUR JUDGMENT FOR THAT OF THE REFEREE BELOW AND THE SUGGESTED SUSPENSION. THE STANDARD WE ARE LOOKING TO IS WHETHER IT IS WITHIN THE RANGE OF ACCEPTABLE FLORIDA LAW, BECAUSE THERE IS A DIFFERENT RANGE THAT WE COME IN HERE. WHAT DO YOU SEE AS THE MOST COMPARABLE CASE TO THE BEHAVIOR THAT WE ARE DEALING WITH OR THAT YOU HAVE PRESENTED IN CONNECTION WITH THIS CASE, SO THAT WE MAY APPLY THAT PARTICULAR STANDARD? WHICH ONE OF THESE CASES, DO YOU THINK?

IN MY OPINION, THE WEINSTEIN CASE AND THE OUT-OF-STATE CASES THAT I HAVE CITED ARE MOST CLOSELY ASSOCIATED WITH IN-HOSPITAL SOLICITATION AND THE COMBINATION OF LYING.

YOU ARE SAYING THAT, REALLY, IF WE LOOK AT OUR REPORTED CASES INVOLVING SOLICITATION OR HAVING RUNNERS AND SPLITTING FEES WITH RUNNERS, THAT WE WON'T SEE ANYTHING THAT IS AS EXTENSIVE AS THIS, IS THAT YOUR POINT? IN OTHER WORDS THAT THE REFEREE, REALLY, AND WE LOOK AT A BENCHMARK THAT THIS CASE IS, REALLY, THE KIND OF CASE THAT CRIES OUT FOR A GREATER SANCTION, BECAUSE OF, AND THEN THAT IS WHAT I WANT TO MAKE SURE I UNDERSTAND. THE COMBINATION OF THE IN-HOSPITAL SOLICITATION AND THEN, BUT THAT STOPPED AFTER A WHILE, AND WHY DID IT STOP?

BUT THEN, AFTER THAT, CHAD COOPER BECAME AN INDEPENDENT CONTRACTOR, AND YOU HAD THE SCENE OF HIM, OF THE ACCIDENT REPORTS BEING OUT THE BACK DOOR OF DR. ANTOLICK'S OFFICE AND MR. BARRETT'S PARTNER AND A SECRETARY HIDING IN THE BACK ALLEY AND TAKING THESE ACCIDENT REPORTS IN BOXES TO MR. BARRETT'S OFFICE, AND THEN SPLITTING THE FEE IN THE TERRY CHARLESTON CASE. THAT WAS THE SECOND SCHEME. THE THIRD SCHEME, HE ASKED RANDY PELLAN IF HE WOULDN'T HACK INTO THE STATE'S COMPUTER SYSTEM, IN ORDER TO GET INFORMATION ON WORKERS COMPENSATION CASES IMPROPERLY. THAT WAS FOUR YEARS AFTER, SO WE HAVE A FOUR-YEAR PATTERN OF SOLICITATION ANIMAL HE HAS LENT

INTENT , PLUS AND MALEVOLENT INTENT, PLUS THE LYING TO THE REFEREE.

WHAT WAS THE LIE TO GET REFEREE?

THE LYING TO THE REFEREE WAS ABOUT THE BONUSES.

AND WHAT WAS THE EXPLANATION OF THE BONUSES? IT IS ALWAYS ON THE HEELS OF DEFENDANT, SAYING I WASN'T LYING . THE REFEREE JUST FOUND DIFFERENTLY. CAN YOU EXPLAIN HOW WE KNOW IT WAS LYING.

BECAUSE THE ANSWERS GIVEN WERE COMPLETELY LUT CRUISE. MR . BAR LE WD CRUISE. MR. BARRETT SAID THAT HE FIT THAT FEE THAT, HE GAVE CHAD COOPER A BONUS BECAUSE OF PERSONAL SERVICES. CHAD COOPER WAS ALREADY BEING PAID \$20,000 A YEAR TO DO THAT VERY THING. WHY DO YOU NEED TO PAY HIM EXTRA FOR PERSONAL SERVICES TO A CLIENT?

WHAT WAS THE AMOUNT OF THE BONUS COMPARED TO THE SALARY?

THE SAL WEREY WAS \$ THE SALARY WAS \$20,000 AND THE BONUS THAT YEAR , 1996 , WAS \$40500.

AS I RECALL THE TESTIMONY OF MR . COOPER , HE TESTIFIED DIRECTLY THAT HE WAS PAID \$47500, FOR BRINGING IN THAT CASE. THE QUADRIPLEGIC CASE. IS THAT CORRECT?

YES, SIR. ALTHOUGH I THINK HE HAD ANOTHER REASON. HE HAD TWO REASONS. PART OF IT WAS FOR BRINGING IN THE CASE, AND PART OF IT WAS FOR THE PERSONAL SERVICES.

AND WERE THERE OTHER INSTANCES THAT HE, IN SUBSEQUENT YEARS, PAID HIM \$80,000 AND SOME OTHER AMOUNT OF MONEY THAT WAS CONSIDERED TO BE A BONUS?

IN THE PRIOR YEAR A BONUS?

IN THE PRIOR YEAR, HE PAID A \$20,000 BONUS AND IN THE SUBSEQUENT YEAR HE PAID HIM A \$20,000 BONUS, SO IT WAS A TOTAL OF \$80,000.

WHAT ABOUT SENDING COOPER TO SOLICIT BUSINESS ON A VALUE JET , WAS THAT A SEPARATE INCIDENT, AND DID THAT INVOLVE THIS PARTICULAR RESPONDENT? IN OTHER WORDS TRYING TO DISTINGUISH BETWEEN THINGS THAT MR. HOFFMANN DID AND MR. BARRETT DID .

VALUE JET INCIDENT, THAT IS BASED UPON MR. BARRETT'S OWN TESTIMONY , WHICH THE REFEREE FOUND TO BE NOT CREDIBLE, AND THE ENTRY IN THE BOOKKEEPING RECORDS THAT SHOW THAT THE LAW FIRM DID PAY THAT \$947 FOR HIM TO FLY TO BOTH PLACES , AND MR. BARRETT WAS A MICROMANAGER OF HIS OFFICE AND KNEW ABOUT ALL OF THE FINANCES, ALL THE TESTIMONY IS THAT ANY MONEY THAT WENT OUT OF THAT FIRM, HE KNEW ABOUT IT.

DID THE BAR ASK FOR DISBARMENT BELOW? DID THEY URGE DISBARMENT TO THE REFEREE?

YES , WE DID .

CHIEF JUSTICE: I THINK YOU ARE IN YOUR REBUTTAL, IF YOU WOULD LIKE RESERVE SOME TIME.

I WOULD LIKE TO RESERVE. THANK YOU.

MAY IT PLEASE THE COURT. MY NAME IS GIL BIRCHFIELD AND JACK WEISS IS CO-COUNSEL IN THIS MATTER AND MR. BARRETT IS IN THE AUDIENCE.

COUNSEL , YOU HAVE A MOUNTAIN TO CLIMB. THIS APPEARS TO BE THE CLASSIC COURTS' AND BAR'S AND PUBLIC'S WORST FEAR, AND THAT IS THAT WE HAVE LAWYERS OUT THERE THAT ARE

ACTUALLY PAYING PEOPLE, IN THAT THIS CASE, PERHAPS, THE - - IN THIS CASE, PERHAPS, THE MOST, WORST SCENE IMAGINABLE, THAT IS ACTUALLY PAYING SOMEBODY WHO IS A MINISTER, TO SOLICIT CASES FROM PEOPLE WHO WERE IN GREAT DISTRESS, BOTH PHYSICALLY AND EMOTIONALLY, YOU KNOW, BECAUSE OF INJURIES OR HEALTH ISSUES. SO IT LOOKS LIKE, AS I SAID INITIALLY, OUR WORST FEAR TO COME TRUE, SO CAN YOU EXPLAIN TO THIS COURT WHY THE CIRCUMSTANCES OF THIS CASE, AND AS I READ THE REFEREE'S ORDER, REALLY, HE HAS FOUND AGAINST YOUR CLIENT ON CREDIBILITY AND EVERY OTHER ISSUE WHERE THE COURT IS ENTITLED TO DO THAT OR THE REFEREE IS ENTITLED TO DO THAT, DOWN THE LINE. IN TERMS OF CREDIBILITY, BELIEVABILITY, SO CAN YOU BELIEVABILITY, SO CAN YOU EXPLAIN TO THIS COURT WHY YOU BELIEVE YOUR CLIENT SHOULD NOT BE DISBARRED FOR WHAT APPEARS TO BE AS EGREGIOUS OF CONDUCT AS THIS COURT HAS SEEN?

I CAN'T, BUT FIRST I WOULD LIKE TO DISCUSS THE REFEREE'S FINDINGS FOR A MOMENT, BECAUSE THAT SEEMS TO BE THE BASIS OF OR THE PREMISE FOR YOUR COMMENTS.

AM I CORRECT THAT THE REFEREE DOWN THE LINE, REALLY, WITH REFERENCE TO CREDIBILITY AND THE RESOLUTION OF FACTUAL DISPUTES, HAS FOUND AGAINST YOUR CLIENT DOWN THE LINE?

I CANNOT TELL THAT, YOUR HONOR. AND I THINK ABOUT THE RECENT CASE YOU HAD, HAVING TO DO WITH A SITUATION WHERE A COURT BELOW COPIED VERBATIM, THE PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW OF ONE OF THE PARTIES. THAT IS EXACTLY WHAT HAPPENED HERE.

LET ME ASK YOU THIS, THOUGH, WHAT THIS REFEREE FOUND, I UNDERSTAND THE PROBLEM WITH WHETHER THE ORDER IS VERBATIM, THE BAR'S ORDER, BOTH SIDES SUBMITTED ORDERS HERE, BUT THE FINDING THAT MR. BARRETT DID SET UP THIS SCHEME WITH THE CHAPLAIN, THAT IS IN THE RECORD HERE. I LOOK AT THE TESTIMONY OF CHAD COOPER, WHICH THE REFEREE COULD FIND, AND IT SAYS, DID YOU EVER ATTEND THE CHAPLAIN TRAINING COURSE AT TALLAHASSEE? YES, I DID. WHEN WAS THAT? I DON'T REMEMBER THE EXACT YEAR. WHOSE IDEA WAS IT FOR YOU TO DO THAT? AFTER HAVING THOUGHT ABOUT IT, AFTER HAVING GIVEN MY FIRST STATEMENT TO CLAY MASON IT REFRESHED MY RECOLLECTION. ORIGINALLY IT WAS MR. BARRETT'S IDEA. CAN YOU DESCRIBE HOW THAT CAME ABOUT, AND HE TALKS ABOUT HOW THE REGULAR CHAPLAIN OUT THERE WAS A FRIEND OF BARRETT'S AND BARRETT SAID, TOLD HIM IT WAS A GOOD IDEA TO GO OUT THERE AND BE A CHAPLAIN.

YOUR HONOR, THAT IS CERTAINLY ONE OF THE VERSIONS IN THE RECORD. THERE IS ANOTHER VERSION WHERE MR. COOPER SAYS IT MAY HAVE BEEN MY IDEA, AND NOT REALLY SURE HOW IT CAME ABOUT. I DON'T KNOW WHETHER I THOUGHT ABOUT IT, WHETHER MR. BARRETT THOUGHT ABOUT IT.

THERE IS NO QUESTION THAT THE LAW FIRM PAID FOR THIS COURSE.

THAT'S CORRECT.

THAT, ITSELF, I MEAN, WHAT COULD JUSTIFY A LAW FIRM PAYING FOR A CHAPLAIN'S COURSE FOR SOMEBODY WHO IS THEIR EMPLOYEE?

YOUR HONOR, THIS GENTLEMAN, IF MR. BARRETT'S VERSION IS CORRECT, THOUGHT IT WAS A GOOD IDEA AND WANTED TO DO IT, AND I DON'T KNOW THAT THIS IS CERTAINLY AN UNUSUAL

HOW WOULD IT HELP, WHAT, ADD CREDIBILITY WHEN HE WENT OUT AND SOLICITED CLIENTS?

YOUR HONOR, IF THIS WAS TO SOLICIT CLIENTS IN THE HOSPITAL, HE DID A MIGHTY POOR JOB. THE ONLY CLIENT THAT CAME INTO THIS FIRM FROM HIS HOSPITAL VISIT WAS THE MOLLY G

LASS TRAGEDY IN THE LOSS OF HER SON , WREN.HE DID NOT GO TO MOLLY GLASS OF HIS OWN VIOLATION. CHAPLAIN HAWKINS OF HIS OWN HAVELITION. CHAPLAIN HAWKINS HIS OWN VOLITION. CHAPLAIN HAWKINS SENT HIM THERE.HE WAS EITHER A CHAPLAIN OR WAS TR YING TO BEC OME A CHAPLAIN. THE FIRM PAID FOR IT .

I GUESS WE ARE GOING OVER THE FINDINGS OF FACT , AND JUSTICE ANSTEAD'S Q UESTION SAID YOU HAVE GOT THESE FINDINGS OF FACT AND YOU KNOW THAT , HOWEVER MUCH W E MIGHT HAVE A LIT TLE LEEWAY WITH DISCIPLINE , WHEN IT COMES TO THE REFEREE , WE G IFT REFEREE LIKE WE GIVE THE TRIAL JUDGE WHO IS HEARING A NONJURY CASE , WIDE DEFERENCE , AND SI NCE WE ARE UNABLE TO BE THE JUDGES OF CREDIBILITY , SO YOU KNOW, AGAIN, WHEN YOU SAY THERE IS ANOTHER VERS ION, THAT THE REFEREE FOUND AGAINST YOU ON THAT AND THERE IS EV IDENCE AS JUSTICE WELLS POINTS OUT IN THE RECORD, TO SUPPORT EVERY FACTUAL FINDING THAT THE REFEREE MADE A S TO GUILT , SO I WOULD THINK THAT YOUR BEST BET MIGHT BE TO SAY , ASSUMING THESE FINDINGS OF GUILT , IN ANS WER TO JUSTICE ANSTEAD'S QUESTION, WHY ISN'T THE ULTIMATE SANCTION OF DISBARMENT REQUIRED, TO , AS NOT ONLY FAIR TO, IN THIS CASE, BUT AS A DETERRENT AND A WORD TO OTHER LAWYERS IN THIS PUBLIC , THAT WE TAKE THIS T YPE OF ACTION SERIOUSLY , AND WE WILL NOT TOLERATE LAWYERS DOING THIS T YPE OF SOLICITATION? WHY IS THAT NOT THE APPROPRIATE SANCTION?

BECAUSE I DO NOT BE LO AF THAT HIS CONDUCT IS AS E GREGIOUS AS THE CONCLUSION THE REFEREE CAME TO . ONE IN STANCE OF SOLICITATION , IN QUOTES , A T THE HOSPITAL , AFTER SHE CAME IN AND SIGNED HER CONTRACT, OVER A MO NTH LATER . THAT IS THE ONLY IMP ROPER ALLEGATION OF IMPR OPER SOLICITATION, WHILE HE WAS AN EM PLOYEE

THE REFEREE DO ES NOT PAINT A PICTURE, HOWEVER , OF AN ICE LIGHT OF AN ISOLATED INC IDENT, WHERE P ERHAPS A LAWYER LET HIS GUARD DOWN AND A CASE WAS BROUGHT TO HIM BY SOMEBODY AT THE HOSP ITAL SUCH AS A , THE REFEREE , WOULDN'T YOU AGREE, PAINTS A MUCH DARKER PICTURE, IN TE RMS OF YOUR CLIENT'S MOTIVATION AND ACTIONS HERE. DOES HE NOT?

YOUR H ONOR , I BELIEVE THE BAR IS A REFEREE SEE ING EYEDOG , JUST THAT , BUT WE DON'T KNOW WHAT THE REFEREE SAID , OTHER THAN THAT HE SIGNED THIS ORDER.

DOESN'T HE GIVE REFERENCE TO THE 21 CLIENT S, NOT ONLY IS IT IN THIS ORDER BUT IS IN COLLOQUY WITH COUNSEL , AND WHEN BAR COUNSEL ASKS DID YOU FIND G UILT AS TO MOLLY GLASS AND DID YOU FIND GUILT AS TO THE 21 CLIENTS THAT I HAD SUBMITTED IN MY PROPOSAL TO THE REFEREE , THE COURT'S ANSWER TO THAT IS YES , SO F ROM THE JUDGE'S OWN STATEMENTS, NOT JUST ORDER , THAT H E FOUND GU ILTY NOT JUST AS T O MOLLY G L ASS BUT AS TO 21 CLIENTS THAT HE HAD BROUGHT TO THE FIRM?

THAT IS WHAT HE SAID. YOUR HONOR, I DO NOT BELIEVE THE EVIDENCE SUPPORTS THAT FINDING. MR. BARRETT SI GNED TEN CHECKS TO CHAD COOPER , AFTER HE HAD BEEN TERMINATED .

BUT LET'S G ET, REALLY, TO THE HEART OF THIS. THOSE 21 PEO PLE WERE HAD, I N FACT , B R OUGHT TO THE CLIENT FROM THOSE, I GUESS IT WAS A CHIROPRACTOR'S OFFICE , MR . COOPER WOULD GO THERE AND G ET ALL OF THESE FI LES OF THE PEOPLE WHO HAD GONE TO THE DOCTOR'S OFFICE AND BRING THEM BACK TO MR. BARRETT 'S OFFICE. ISN'T THAT A FACT, AND ISN'T THAT WHAT THE REFEREE FOUND ?

THAT IS A FACT.

AND SO

HE BROUGHT THEM BACK TO MR. HOFFMANN.

WHAT IS WR ONG WITH THAT FACT, I MEAN , IF THAT IS TRUE, THEN THESE ARE CLIENTS THAT

WERE, ALSO , BROUGHT TO HIM BY MR. COOPER.

MR. BARRETT IS THE ONE BEFORE YOU TO DAY NOT MR . HOFFMANN, NOT THE LAW FIRM , AND MY POINT I S THAT MR . - -

THESE ONE INCI DENTS WERE A BOX OF THESE FILES WERE BROUGHT DIRE CTLY TO MR. BARRETT 'S OFFICE . ISN'T THAT WHAT THE REFEREE FOUND , ALSO?

IS THAT AN IMPROPER SOLICITATION? I DO NOT BELIEVE SO.

WHAT WAS THE \$10,000 A MONTH THAT THEY WERE PAY ING MR. COOPER A T THIS T IME, WHAT SERVICES WAS H E RENDERING , OTHER THAN GOI NGTO THE CHIROPRACTIC OFFICE? \$10,000 A MONTH IS A PRETTY G OOD SALARY. SO WHAT WERE THEY PAYING HIM FOR, OTHER THAN SOLICITING ?

MR . COOPER OWED M R . HOFFMANN MONEY. MR . COOPER SAYS I DID NOT ASK FOR COMPENSATION. MR . HOFFMANN VOLUNTEERED TO PAY ME \$ 2 00, SO THAT I COULD REPAY, THIS WAS MY INTERPRETATION, SO THAT , THE MONEY WOUND UP GOING TO MR . HOFFMANN IN REDUCTION OF HISDEBT. THAT IS THE GENESIS O F THE \$200.

WAS THE \$200 BEING PAID BY THE CHIROPRACTOR?

THE RECORD , I BELIEVE , REFLECTS THAT MONDAY FO LLOW ING COOPER 'S DISCHARGE , HOFFMANN CALLED HIM UP, AND HE SAYS MY PART NER DID YOU DIR T.I HAVE TAL KED ABOUT DR . ANTOLY. HE HAS GOT A GOOD RATE DEAL FOR YOU. YOU SH OULD CALL HIM. DR. A N TOLIC SAYS I WILL PAY YOU \$1 0,000 A MONTH. YOUR JOB IS TO GO TO THE P OLICE STATION , GET ACCIDENT REPORTS , M AKE COLD CALLS ON THESE PEOPLE , AND I HAVE GOT TWO LE GAL OPINIONS THAT SAY THERE IS ABSOLUTELY NOTHING W RONG WITH A DOCTOR DOING THAT. I THINK THE ONLY THING THAT F ELL DOWN THERE , WAS THEFACT THAT HE DID NOT GET PAID \$10,000 A MONT H. I THINK THE RECORD SHOWS THAT SUBSEQUENTLY IT WAS REDUCED TO \$6,000 A MONTH.

WHAT IS THE EXPLANATION ON, I MEAN , EVERYONE RECALLS THE V ALUE JET TRAGEDY AND HOW LAWYERS DESCENDED ON THE FAMILIES, AND THE FACT THAT SOMEONE IS NOT SUCCESSFUL IN GETTING A CLIENT , ISN'T THE , DOESN'T EXCUSE THE UNDERLYING VI OLATION. WHAT IS THE EXCUSE , SO TO SPEAK, FOR SENDING A R UNNER DOWN TO THE V A LUE JET TRAGEDY AND ATTEMPTING TO GET BUSINESS?

CHAD COOPER WENT TO CHICAGO. CHAD COOPER WENT TO M IAMI . SOMEONE IN THE LAW FIRM ASKED HIM IF HE KN EW AN YONE IN THE CR ASH. THE RECORD DOES NOT SAY IT WAS MR. BARR ETT. HIS RESPONSE IN THE RECORD , IS THAT I KNEW ONE OF THE PARENTS OR CHILDREN OF ONE OF THE VICTIMS THAT LIVES IN MIAMI , AND I KNEW SI MILAR RELATIONSHIP IN CHICAGO. HE WENT TO MI AMI , TO MEET WITH THE PE RSON HE KNEW , AND WILLIE G ARY HAD ALREADY BEAT HIM THERE .

I GUESS WHAT I AM HE ARING HERE AND WHAT HAPPENED, WHAT THE BAR IS TALKING ABOUT, I THINK , AND THIS IS A TOUGH SITUATION , YOU ARE DE FENDING YOUR CLIENT, BUT IT SO UNDS AS IF YOU ARE TRYING TO MAKE EXCUSES FOR WHAT THE RECORD APPEARS TO B E CLEAR VI OLATIONS OF THE E THIC A.M. RULES. IF WE , AG AIN, AS SUME THAT THESE ETHICAL VI OLATIONS WERE FOUND, CAN YOU TELL ME WHY , BECAUSE YOU DIDN'T C ROSS APPEA L AND SAY ONE YEAR WAS , OR DID YOU , ARE YOU SAY ING ONE YEAR IS TOO MUCH? ARE YOU GRE G .

YES, MA'AM.

SO WHAT IS YOUR SUGGESTION ARE YOU AGREEING

YES, MA'AM.

SO WHAT IS YOUR SUGGESTION?

WE ARE SUGGESTING THREE THINGS, BUT IT WAS WITH RELATIONSHIP TO CROSS APPEAL AND PUNISHMENT, WHAT IS WARRANTED. WE SUGGESTED IT SHOULD BE THE SAME THING AS VANTURE OR FLOWERS.

WHICH WOULD BE?

TWENTY DAYS.

TWENTY.

TWENTY DAYS.

MR. COOPER SAYS THAT HE WAS PAID \$2,000 BY MR. VANTURE. THE BAR'S FINDINGS SHOW, IF THEY ARE CREDIBLE, THAT MR. BARRETT PAID EIGHT CHECKS OF \$200 EACH TO MR. COOPER THAT IS LESS THAN WHAT MR. VANTURE PAID.

IN THIS CASE, WE HAVE AN ATTORNEY WHO, OVER A PERIOD OF TIME, PAID IN EXCESS OF \$80,000 TO MR. COOPER, DON'T WE?

YES. MAY I ADDRESS THAT, BECAUSE THE REFEREE'S FINDINGS, THE FINDINGS THAT ARE INTERESTING, THE REFEREE CONSIDERED WHAT HE SAID WERE THREE REASONS GIVEN. THERE WAS ACTUALLY A FOURTH REASON GIVEN, WHICH WAS IGNORED.

A FOURTH REASON GIVEN FOR WHAT.

FOR THE BONUS TO MR. COOPER. FOR THE BONUS TO MR. COOPER. PASTORING, PERSONAL SERVICES, COUNSELING, BUT THE FOURTH REASON

IF IT WAS PERSONAL SERVICES, WHICH BRINGS UP ANOTHER QUESTION IN MY MIND, IF HE WAS GIVING PERSONAL SERVICES TO THE CLIENT.

THAT'S CORRECT.

THEN THE LAW FIRM SHOULD NOT HAVE BEEN PAYING THOSE OUT OF THEIR MONEY, SHOULD THEY? THE LAW FIRM IS NOT ALLOWED TO GIVE MONEY ON BEHALF OF THEIR CLIENT, ARE THEY?

THE EXPLANATION THAT MR. BARRETT GAVE DOES NOT, IS NOT SHOWN AS THE FOURTH REASON ANYWHERE, IS THAT, IN DISCUSSIONS WITH THE CLIENT, HE INDICATED WHEN HIS MONEY CAME IN, HE WANTED TO GIVE MONEY TO MR. COOPER FOR ALL OF THE WORK THAT HE HAD DONE.

THE CLIENT.

THE CLIENT.

IS THAT REFLECTED ON WHEN THE MONIES CAME IN AND YOU PREPARE A STATEMENT, IS THAT MONEY REFLECTED ON THE STATEMENT AS COMING OUT OF THE CLIENT'S FUNDS?

NO, IT WAS NOT OUT OF THE CLIENT'S FUNDS. MR. BARRETT AND MR. HOFFMANN, ACCORDING TO MR. BARRETT'S TESTIMONY, AGREED THAT THAT SEEMED TO BE AN UNDUED BURDEN ON MR. CHARLESTON AND THAT THEY SHOULD PICK THAT UP. WHEN THE SETTLEMENT WAS CONSUMMATED, THE FIRM GAVE MR. COOPER \$12,500 LESS WITHHOLDING. THE REMAINDER OF

THE MONEY THAT IS COMPLAINED ABOUT, WAS PAID AT THE END OF THE YEAR, AFTER THE FIRM LOOKED AT THE PERFORMANCE FOR THE WHOLE YEAR, PAID HIM IN TWO SEPARATE CHECKS

CHIEF JUSTICE: MR. BEFERN FIELD, YOUR TIME IS UP, YOUR TIME IS UP, AND IF YOU WANTED TO JUST MAKE CONCLUDING REMARKS. REBUTTAL.

THANK YOU. I WILL BE VERY BRIEF. WE ASK THIS HONORABLE COURT TO SEND A MESSAGE TO ALL OF THE LAWYERS IN FLORIDA THAT THE COMBINATION OF IN-HOSPITAL ROOM SOLICITATION AND LYING, MANDATES DISBARMENT.

WAS THE CASE OF DISBARMENT, WAS THAT THE ATTORNEY PERSONALLY GOING TO THE HOSPITAL AND SOLICITING THE HOSPITAL AND SOLICITING THE CLIENT, AS OPPOSED TO SENDING A RUNNER TO DO SO, AND DOES THAT MAKE ANY DIFFERENCE?

THE WEINSTEIN CASE WAS A PERSONAL SOLICITATION, ALTHOUGH IT WAS ONLY AN ATTEMPT. IT WAS NOT SUCCESSFUL FROM THE OTHER OUT-OF-STATE CASES, INVOLVED BOTH, BOTH IN PERSON AND SENDING SOMEBODY ELSE TO DO IT. I SEE NO DIFFERENCE, EXCEPT THAT, IN THIS CASE, THE MANNER IN WHICH THE RUNNER WAS USED, DESECRATING THE OFFICE OF CHAPLAINS OF HOSPITALS, IS WAY BEYOND THE ELEMENT. THAT SOUTH OF SIGHT. IS WAY BEYOND THE PALE. THAT IS OUT OF SIGHT.

HOW DO WE DISTINGUISH THIS CASE FROM FLOWERS AND VANTURE.

FLOWERS AND VANTURE WERE VERY MINOR CASES AND THIS IS ONE OF THE MOST EGREGIOUS, AND THAT IS BECAUSE THEY WERE IN IT FOR A VERY LIMITED PERIOD OF TIME. MR. VANTURE EXPRESSED HIS SINCERE REMORSE. HE CAME TO US IMMEDIATELY AFTER THIS BECAME PUBLIC AND TOLD US, THREW HIMSELF ON THE MERCY OF THE FLORIDA BAR AND TOLD US ALL ABOUT HOW IT HAPPENED AND HOW HE REGRETTED IT.

WAS THIS ONE INCIDENT?

FOR THOSE THREE CLIENTS THAT HE SOLICITED, NOT KNOWING AT FIRST THAT THEY WERE IMPROPER BUT DID NOT WITHDRAW FROM THE REPRESENTATION. THAT IS A TREMENDOUS DIFFERENCE. WE CAN, ALSO, DISTINGUISH THIS VERY GREATLY, BECAUSE NEITHER ONE OF THOSE, VANTURE AND FLOWERS, DID THIS IN THE HOSPITAL, EITHER IN PERSON OR BY AN AGENT, AND THAT IS AN EXTREMELY VAST DIFFERENCE, IN-HOSPITAL AND NOT IN-HOSPITAL, AND, ALSO, NEITHER ONE OF THEM LIED AND NEITHER ONE OF THEM SPLIT THE FEES WITH THEIR RUNNERS. NEITHER ONE OF THEM HAD MORE THAN ONE SCHEME. MR. BARRETT HAD THREE.

HOW CAN WE DISTINGUISH THE REFEREE'S ORDER AND FINDINGS HERE, FROM WHAT THE BAR PRESENTED? AS A PROPOSAL. YOUR PROPOSED FINDINGS OF FACT AND ORDER, HOW DO WHAT YOU PROPOSED TO THE REFEREE DIFFER FROM WHAT THE REFEREE ACTUALLY SIGNED?

THE REFEREE AGREED WITH ALMOST EVERYTHING THAT I SIGNED, EXCEPT FOR TWO THINGS. HE HELD A HEARING ON THE CAUSE, HE DISALLOWED \$ 3,000 OF OUR COSTS AND HE DID NOT AGREE WITH MY REQUEST FOR DISBARMENT AND HE SUBSTITUTED THEREFORE, THE ONE-YEAR SUSPENSION. OTHER THAN THAT, HE AGREED WITH MY PROPOSED REPORT OF REFEREE, WHICH INCIDENTALLY, BOTH SIDES SUBMITTED TWICE, TWO WRITTEN FINDINGS AND TWO COMPLETE PROPOSED REPORTS OF REFEREE.

CHIEF JUSTICE: IF THERE IS NO OTHER QUESTIONS.

THANK YOU.

CHIEF JUSTICE: THANK YOU VERY MUCH. BEFORE THE COURT CALLS THE NEXT CASE, WE ARE

GOING TO TAKE A TEN-MINUTE RECESS, SO THE PARTIES CAN GATHER THEIR MATERIALS AND , ALSO , BECAUSE JUSTICE CANTERO WILL NOT BE SITTING ON THE NEXT CASE, SO WITH THAT , WE WILL HAVE OUR MORNING RECESS.

MARSHAL: PLEASE RISE.