

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:

MICHAEL BERNARD POTERE,

Attorney-Respondent,

No. 6309936.

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Commission No.

2018PR00030

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Ari Telisman, pursuant to Supreme Court Rules 753 and 761(d), complains of Respondent, Michael Bernard Potere, who was licensed to practice law in Illinois on November 1, 2012, and alleges that Respondent has engaged in the following conduct which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

COUNT I

*(Criminal conduct of unauthorized access to a computer to obtain information,
attempted extortion, and transmitting threatening communications)*

1. From 2015 until June 2017, Respondent worked as an associate attorney at Dentons, an international law firm.

2. Prior to December 31, 2015, Dentons gave Respondent access to the email account of a Dentons partner ("Partner C") who had been working on a client matter with Respondent, for the sole purpose of accessing documents that had been emailed to Partner C and were related to the client matter.

3. Prior to July 31, 2016, Respondent concluded all work in connection with the client matter referenced in paragraph 2, above.

FILED

May 01, 2018

4. Accordingly, after July 31, 2016, Respondent no longer had authorization to access Partner C's email account.

5. In March 2017, Respondent informed a partner at Dentons ("Partner A") that Respondent had been accepted into a graduate program, and asked if he could continue working at the firm until graduate school started in the fall. On March 28, 2017, the firm informed Respondent that it would only allow him to continue working there until June 1, 2017.

6. On or about April 15, 2017, and again on or about May 14, 2017, Respondent accessed a computer at Dentons and searched Partner C's email account for emails containing Respondent's name or the word "confidential". Respondent then accessed and downloaded the following documents ("confidential Dentons documents") from Partner C's email account:

- a. Dentons's quarterly financial reports;
- b. documents describing how Dentons determines its billing rates for clients and specific factors relied on to arrive at those rates;
- c. a list of clients, and the dollar amounts charged to those clients;
- d. documents describing how Dentons partners should approach clients who have outstanding and overdue balances with the firm;
- e. documents describing issues to be discussed at meetings for Dentons partners;
- f. documents describing voting for full interest partner candidates;
- g. confidential reviews of associate attorneys; and
- h. detailed analysis describing the recruitment of lateral attorneys, and offers to those attorneys.

7. At no time did Dentons give Respondent permission or authorization to access and download the confidential Dentons documents. At the time Respondent downloaded and obtained the confidential Dentons documents from the Dentons computer, he knew that he was

not authorized to search for, download, or obtain those documents because he knew he never had that authority.

8. At no time prior to May 16, 2017, did Respondent inform Dentons that he accessed and downloaded the confidential Dentons documents.

9. Respondent's conduct of accessing Partner C's email account in April and May 2017, searching for emails containing Respondent's name or the word "confidential", and downloading the confidential Dentons documents by improperly accessing Partner C's email account for Respondent's own purposes was dishonest. At the time Respondent engaged in that conduct, he knew it was dishonest.

10. On May 16, 2017, Respondent met with Partner A and another Dentons partner ("Partner B"). Respondent brought with him two bottles of wine to the meeting. At the meeting, Respondent told the partners he had accessed the email account of another partner at the firm and downloaded various documents.

11. The following day, on May 17, 2017, Partner A and another Dentons partner ("Partner D") had a telephone conversation with Respondent, where Respondent demanded \$210,000 and a piece of artwork at the firm. During the conversation, Respondent threatened to send confidential documents that he obtained from the partner's email account to Abovethelaw.com, a legal news website.

12. On May 18, 2017, Partner D and another partner of Dentons ("Partner E") had a telephone conversation with Respondent. During this conversation, Partner D told Respondent that there were criminal consequences and ethical issues relating to Respondent's conduct. Respondent responded that he did not care about professional disciplinary issues because he did not plan to practice law again.

13. On May 19, 2017, Dentons contacted the Federal Bureau of Investigation (“FBI”) about Respondent’s conduct described in paragraphs 6 through 12, above.

14. On May 25, 2017, Respondent personally met with Partner D and Partner E. Prior to the meeting, FBI agents outfitted the partners with audio and video recording devices, which recorded Respondent’s statements at the meeting. Respondent made the following statements at that time:

- a. Respondent had searched for and obtained confidential firm documents from Partner C’s email account;
- b. Respondent demanded \$210,000 and a specific piece of artwork, among other things, from Dentons;
- c. If his demands were not met, Respondent planned to send the firm’s confidential documents to Abovethelaw.com;
- d. Respondent did not intend to continue practicing law, so he was not worried about bar sanctions.

Respondent also gave the partners a flash drive containing copies of the confidential Dentons documents as proof that he had the documents.

15. At all times alleged in this Complaint, there was in full force and effect Title 18, United States Code, Sections 1030(a)(2)(C) and (c)(2)(A), which provide that a person who intentionally accesses a computer without authorization or exceeds authorized access, and thereby obtains information from any protected computer, commits a crime punishable by a fine and imprisonment for not more than one year.

16. At all times alleged in this Complaint, there was in full force and effect Title 18, United States Code, Section 1951, which provides that a person who attempts to obstruct, delay, or affect commerce or the movement of any article or commodity in commerce, by extortion, commits a crime punishable by a fine and imprisonment for not more than twenty years. The

statute defines extortion as the obtaining of property from another, with consent, induced by wrongful use of actual or threatened force, violence, or fear.

17. At all times alleged in this Complaint, there was in full force and effect Title 18, United States Code, Section 875(d), which provides that a person who, with the intent to extort anything of value from any person, firm, or corporation, transmits in interstate or foreign commerce any communication containing any threat to injure the property or reputation of the addressee or of another, commits a crime punishable by a fine and imprisonment for not more than two years.

18. By engaging in the conduct described in paragraphs 6 through 14, above, Respondent attempted to commit extortion by seeking to obtain at least \$210,000 and a specific piece of artwork from Dentons, with Dentons's consent, induced by the wrongful use of fear, by threatening to cause economic harm by distributing the confidential Dentons documents to Abovethelaw.com, if Dentons refused to transfer the property to Respondent.

19. On June 20, 2017, a criminal complaint was filed against Respondent in the United States District Court, Central District of California. The case was captioned *United States v. Michael Potere*, under magistrate's case number 2:17-mj-01555. On June 22, 2017, Respondent was arrested in case number 2:17-mj-01555.

20. On July 18, 2017, a federal grand jury in the Central District of California charged Respondent in a two-count criminal indictment with the offenses of extortion and attempted extortion affecting interstate commerce, in violation of 18 U.S.C. § 1951, and transmitting threatening communications with intent to extort, in violation of 18 U.S.C. § 875(d). The matter was captioned *United States of America v. Michael Potere*, case number CR17-446-JFW, and

magistrate's case number 2:17-mj-01555 was merged into case number CR17-446-JFW. On July 20, 2017, Respondent was arraigned on the indictment.

21. On October 18, 2017, the parties in *U.S. v. Potere* filed a plea agreement where Respondent agreed to plead guilty via a superseding information to one count of unauthorized access to a computer to obtain information, a class A misdemeanor, in violation of Title 18, United States Code, Sections 1030(a)(2)(C) and (c)(2)(A). The same day, Respondent pled guilty to one count of unauthorized access to a computer to obtain information.

22. During the plea hearing, Respondent admitted the following facts:

- a. On or about April 15, 2017, and again on or about May 14, 2017, he intentionally accessed a Dentons computer without authorization and downloaded confidential information from the computer that he was not authorized to download and obtain, specifically, the confidential Dentons documents;
- b. On May 17, 2017, he spoke to Dentons partners and demanded \$210,000 and a piece of artwork, among other items, from Dentons in exchange for the return of the confidential Dentons documents. He repeatedly stated that if Dentons did not meet his demands, he intended to email the documents to a legal blog website; and
- c. At the time he downloaded and obtained the confidential Dentons documents from the Dentons computer, Respondent knew that he was not authorized to search for, download, or obtain those documents.

23. On January 22, 2018, Judge John F. Walter entered judgment and conviction on Respondent's guilty plea, and sentenced Respondent to the Bureau of Prisons for five months, followed by supervised release for a term of one year. A certified copy of the judgment and commitment order is attached as Exhibit 1.

24. By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. Violating Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010), by committing a criminal act that reflects

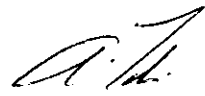
adversely on his honesty, trustworthiness or fitness as a lawyer in other respects, by conduct including: (1) committing and being convicted of unauthorized access to a computer to obtain information, in violation of 18 U.S.C. §§ 1030(a)(2)(C) and (c)(2)(A), (2) committing the crime of attempted extortion, in violation of 18 U.S.C. § 1951, and (3) committing the crime of transmitting threatening communications with intent to extort, in violation of 18 U.S.C. § 875(d); and

- b. conduct involving dishonesty, fraud, deceit, or misrepresentation, including but not limited to accessing and downloading confidential information of the Dentons firm by improperly accessing Partner C's email account for Respondent's own purposes, without Dentons's knowledge or authorization, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator requests that this matter be referred to a panel of the Hearing Board of the Commission, that a hearing be conducted, and that the Hearing Panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: 
Ari Telisman

Ari Telisman
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ADMINISTRATOR'S EXHIBIT 1

JS-3/ent

**United States District Court
Central District of California**

UNITED STATES OF AMERICA vs.

Docket No. CR 17-446(A)-JFWDefendant Michael Potere [66063-112]Social Security No. 3 4 4 1akas: None

(Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person on this date.

MONTH	DAY	YEAR
January	22	2018

COUNSEL Asal Akhondzadeh, DFPD

(Name of Counsel)

PLEA☒

GUILTY, and the court being satisfied that there is a factual basis for the plea.

☐NOLO
CONTENDERE☐NOT
GUILTY**FINDING**

There being a finding of **GUILTY**, defendant has been convicted as charged of the offense(s) of:
Unauthorized Access to a Computer to Obtain Information in violation of 18 U.S.C. §§ 1030 (a) (2) (C),
(c) (2) (A) as charged in the Single-Count First Superseding Information filed on October 18, 2017
[Class A Misdemeanor]

**JUDGMENT
AND PROB/
COMM
ORDER**

The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that:

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant, Michael Bernard Potere, is hereby committed on Count 1 of the First Superseding Information to the custody of the Bureau of Prisons for a term of 5 months.

The Court recommends that the Bureau of Prisons conduct a mental health evaluation of the defendant and provide all necessary treatment.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of one year under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation Office and General Order 05-02.
2. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from custody and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the Probation Officer.
3. The defendant shall participate in an outpatient substance abuse treatment and counseling program that includes urinalysis, breath and/or sweat patch testing, as directed by the Probation Officer. The defendant shall abstain from using alcohol and illicit drugs, and from abusing prescription medications during the period of supervision.

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4. As directed by the Probation Officer, the defendant shall pay all or part of the costs of the Court-ordered treatment to the aftercare contractors during the period of community supervision. The defendant shall provide payment and proof of payment as directed by the Probation Officer. If the defendant has no ability to pay, no payment shall be required.
5. During the period of community supervision, the defendant shall pay the special assessment in accordance with this judgment's orders pertaining to such payment.
6. The defendant shall cooperate in the collection of a DNA sample from the defendant.
7. The defendant shall participate in mental health treatment, which may include evaluation and counseling, until discharged from the treatment by the treatment provider, with the approval of the Probation Officer.
8. The defendant shall submit his or her person, property, house, residence, vehicle, papers, computers [as defined in 18 U.S.C. § 1030(e)(1)], cell phones, other electronic communications or data storage devices or media, office, or other areas under the offender's control, to a search conducted by a United States Probation Officer or law enforcement officer. Failure to submit to a search may be grounds for revocation. Any search pursuant to this condition will be conducted at a reasonable time and in a reasonable manner upon reasonable suspicion that the defendant has violated a condition of his supervision and that the areas to be searched contain evidence of this violation.

The Court authorizes the Probation Officer to disclose the Presentence Report, and/or any previous mental health evaluations or reports, to the treatment provider. The treatment provider may provide information (excluding the Presentence report), to State or local social service agencies (such as the State of California, Department of Social Service), for the purpose of the client's rehabilitation.

The Court authorizes the Probation Office to disclose the Presentence Report to the substance abuse treatment provider to facilitate the defendant's treatment for narcotic addiction or drug dependency. Further redisclosure of the Presentence Report by the treatment provider is prohibited without the consent of the sentencing judge.

It is further ordered that the defendant surrender himself to the institution designated by the Bureau of Prisons at or before **12 noon, on February 28, 2018**. In the absence of such designation, the defendant shall report on or before the same date and time, to the United States Marshal located at the Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012.

It is ordered that the defendant shall pay to the United States a special assessment of \$25, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

Pursuant to Guideline § 5E1.2(a), all fines are waived as the Court finds that the defendant has established that he is unable to pay and is not likely to become able to pay any fine.

Court recommends that the defendant be placed in a facility located in Massachusetts or New England area.

Defendant informed of right to appeal.

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On the Government's Motion, the Court orders the Underlying Indictment filed on July 18, 2017.

Bond exonerated upon self surrender.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

January 22, 2018

Date


U. S. District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Kiry Gray, Clerk Clerk, U.S. District Court

January 22, 2018

Filed Date

By Shannon Reilly /s/
Deputy Clerk

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The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependents and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. the defendant shall notify the probation officer at least 10 days prior to any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
11. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
14. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to conform the defendant's compliance with such notification requirement;
15. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours;
16. and, for felony cases only: not possess a firearm, destructive device, or any other dangerous weapon.

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The defendant will also comply with the following special conditions pursuant to General Order 01-05 (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
 - Private victims (individual and corporate),
 - Providers of compensation to private victims,
 - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and
5. Other penalties and costs.

SPECIAL CONDITIONS FOR PROBATION AND SUPERVISED RELEASE

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure; and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on	_____	to	_____
Defendant noted on appeal on	_____		
Defendant released on	_____		
Mandate issued on	_____		
Defendant's appeal determined on	_____		
Defendant delivered on	_____	to	_____

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at _____
the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

Date

By _____
Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

Filed Date

By _____
Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant

Date

U. S. Probation Officer/Designated Witness

Date