

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

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ARDC Clerk

In the Matter of:)	
)	
KEVIN BRIAN DUCKWORTH,)	
)	
Attorney-Respondent,)	Commission No. 2019PR00048
)	
No. 6191668.)	

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Chi (Michael) Zhang, pursuant to Supreme Court Rule 753(b), complains of Respondent, Kevin Brian Duckworth, who was licensed to practice law in the state of Illinois on November 11, 1985, and alleges that Respondent has engaged in the following conduct which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

ALLEGATIONS COMMON TO ALL COUNTS

1. Prior to May 7, 2013, Respondent and Rita Henderson (“Rita”) agreed that Respondent would represent Rita in a probate matter. Rita’s paternal uncle, Wellington Horrace Henderson (“Wellington”), who died on October 26, 2009, had appointed Rita as the executrix of his 2008 will.

2. In Article II of his 2008 will, Wellington bequeathed a nine-unit residential property, along with any income it generated, to his five surviving nieces and nephews in equal shares. Among the five devisees were Rita and Arnold Henderson IV. The property was located on South Evans Avenue in Chicago. (hereinafter, “the South Evans property”)

3. From at least May 7, 2013 to the date this complaint was filed, Rita was a resident of Richmond, Virginia.

4. On May 7, 2013, Respondent filed on behalf of Rita a petition to probate the will of Wellington Horrace Henderson (“Wellington”) in the Circuit Court of Cook County, Probate Division. The clerk of the court docketed the matter as *In re the Estate of Wellington Horrace Henderson*, 13 P 2677 (“the probate matter”).

5. On May 22, 2013, the court admitted Wellington’s 2008 will to probate and issued letters of office to Rita Henderson. On that same date, Rita filed her affidavit of heirship and designated Respondent as attorney for the estate and related matters, as well as her resident agent in Illinois.

6. On June 21, 2013, Respondent filed on behalf of Rita a petition to grant possession of the South Evans property. Wellington had previously entered into an Article of Agreement for Deed with Irfan Sheikh (“Sheikh”) for the South Evans property in September of 2006 with the purchase price of \$410,000. Pursuant to the agreement, Sheikh was to make 60 consecutive monthly payments of \$2,000 to Wellington, with a final lump sum payment of \$331,718.65 due on December 10, 2011. Wellington, in turn, would pay Sheikh \$700 each month in rent for the unit in which Wellington resided. The petition alleged that Sheikh had stopped making payments on the South Evans property after Wellington’s death in October of 2009, and that Sheikh owed the Wellington estate \$362,718.65.

7. On July 8, 2013, Respondent filed on behalf of Rita, as executor of the Estate of Wellington Henderson, a complaint against Sheikh in the Circuit Court of Cook County, Law Division. The clerk of the court docketed the matter as 13 L 7663 (“the law division matter”). Rita’s claims arose out of the facts alleged in paragraph 6, above.

8. The law division matter went to trial on September 6, 2016.

9. On September 7, 2016, the court entered judgment for Rita in the amount of \$95,767.61 in the law division matter. Those funds belonged to the Wellington estate.

10. On November 29, 2016, the court granted Respondent's petition for attorney's fees and costs in the amount of \$60,075.00, for a total amount of \$155,842.61 against Sheikh.

11. On January 5, 2017, Sheikh, through one of his attorneys, filed a motion to satisfy the judgment in the law division matter. Sheikh attached with his motion a certified check, payable to the clerk of the court, in the amount of \$157,505.10, which included interest that had accrued in the 43 days since the judgment was first entered.

12. On January 11, 2017, the court granted Sheikh's motion to satisfy judgment and allowed the check to be deposited with the clerk of the court.

13. On January 20, 2017, the court entered an order and released Sheikh of the judgment that had been entered against him in the law division matter.

14. From at least May of 2013 to the date this complaint was filed, Respondent maintained three accounts with JPMorgan Chase: a Chase Premier Checking account entitled "KEVIN B DUCKWORTH, ATTORNEY AT LAW", account number ending in 6165, which Respondent used for personal purposes (hereafter "personal checking account"); a Chase BusinessSelect Checking account entitled "DUCKWORTH LAW GROUP LLC", account number ending in 1639 (hereafter "business account"); and a Chase IOLTA account entitled "DUCKWORTH LAW GROUP LLC, IOLTA TRUST ACCOUNT", account number ending in 9042 (hereafter "IOLTA account"). Respondent is the sole signatory for all three accounts.

15. On or about August 6, 2013, Rita established two checking accounts at Bank of America, both entitled "ESTATE OF WELLINGTON H HENDERSON RITA HENDERSON

ADM, EXE OR PER REP” One account number ending in 3292, and the second ending in 2115.

Rita is the sole signatory for both accounts.

COUNT I
(Misappropriation of estate proceeds)

16. On January 31, 2017, Respondent deposited into his IOLTA account a check from the Clerk of the Circuit Court of Cook County in the amount of \$157,997.39. That amount represented the proceeds plus attorney’s fees from the law division matter, interest included.

17. Because \$97,922.39 of the \$157,997.39 (after subtracting attorneys’ fees in the amount of \$60,075.00) were proceeds that belonged to the Wellington estate, Respondent was required to deposit those proceeds into one of the estate accounts at Bank of America.

18. Prior to his January 31, 2017 deposit, Respondent’s IOLTA account carried a zero balance.

19. Between January 31, 2017, the date on which Respondent deposited the proceeds from the law division matter into his IOLTA account, and October 31, 2017, Respondent made 21 withdrawals from his IOLTA account, detailed below:

	Date	Amount	Description
1.	2/1/2017	\$45,000	Check number 9990 payable to Duckworth Law Group, and deposited into Respondent’s business account ending in 1639
2.	5/11/2017	\$10,000	Electronic transfer to personal account ending in 6165
3.	5/31/2017	\$7,000	Cash withdrawal
4.	6/5/2017	\$7,500	Cash withdrawal
5.	6/12/2017	\$9,315	Cash withdrawal
6.	6/19/2017	\$3,000	Electronic transfer to personal account ending in 6165
7.	6/29/2017	\$2,000	Cash withdrawal
8.	7/13/2017	\$4,000	Cash withdrawal
9.	7/27/2017	\$3,000	Cash withdrawal
10.	8/4/2017	\$6,000	Electronic transfer to personal account

			ending in 6165
11.	8/8/2017	\$1,443.94	Electronic transfer to personal account ending in 6165
12.	8/14/2017	\$5,000	Cash withdrawal
13.	8/28/2017	\$4,000	Cash withdrawal
14.	9/5/2017	\$3,000	Electronic transfer to personal account ending in 6165
15.	9/18/2017	\$3,000	Cash withdrawal
16.	9/19/2017	\$4,000	Electronic transfer to personal account ending in 6165
17.	9/25/2017	\$1,000	Electronic transfer to personal account ending in 6165
18.	10/2/2017	\$3,000	Cash withdrawal
19.	10/11/2017	\$5,523.40	Electronic transfer to personal account ending in 6165
20.	10/25/2017	\$3,000	Cash withdrawal
21.	10/31/2017	\$5,000	Electronic transfer to personal account ending in 6165

20. Respondent's withdrawals from his IOLTA account, detailed in paragraph 19, above, totaled in the amount of \$134,782.34. Respondent made no additional deposits to his IOLTA account during that time and, by October 31, 2017, only \$23,215.05 of the \$157,997.39 remained in the IOLTA account.

21. On October 16, 2017, the court entered an order in the probate matter and removed Rita as executor of the Wellington Estate. In that order, the court also appointed Arnold Henderson IV, one of Wellington's surviving nephews and a beneficiary of the estate, as successor independent administrator.

22. On November 30, 2017, the court issued against JPMorgan Chase Bank a citation to recover assets. In that citation, the court directed Chase to freeze the sum of \$157,997.39 in Respondent's IOLTA account and appear in court on December 11, 2017 with a check for that amount made payable to "The Estate of Wellington Henderson".

23. On December 8, 2017, Chase turned over the remaining \$23,215.05 from Respondent's IOLTA account to Grant Blumenthal, attorney for the independent successor administrator of the Wellington estate.

24. On January 4, 2018, the court held Respondent in indirect civil contempt for his failures to comply previous court orders. On that day, the court also found that Respondent did not secure permission to withdraw the proceeds of the law division matter, and entered judgment on the pending citation, referenced paragraph 22, above, against Respondent in the amount of \$134,782.34.

25. At no time did Respondent have authority to use any unearned portion of the proceeds from the law division matter for his own personal or business use.

26. As of October 31, 2017, Respondent had used at least \$74,707.34 of the proceeds belonging to the Wellington estate for his own business or personal purposes.

27. By using proceeds belonging to the Wellington estate without authority, Respondent engaged in the conversion of those funds.

28. At the time Respondent engaged in the conversion of the Wellington estate funds, he knew that he was doing so without authority, and, in doing so, he acted dishonestly.

29. As of the date this complaint was filed, the Wellington estate has not recovered any portion of the law division proceeds apart from the \$23,215.05 that was recovered from Respondent's IOLTA account.

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

- a. failure to hold property of a client or third person that is in a lawyer's possession in connection with a representation separate from the lawyer's own property, by conduct including

causing the balance in his IOLTA account to fall to \$23,215.05, thereby converting at least \$74,707.34 in funds belonging to the Wellington estate for his own personal or business purposes, in violation of Rule 1.15(a) of the Illinois Rules of Professional Conduct (2010); and

- b. conduct involving dishonesty, fraud, deceit or misrepresentation, by conduct including knowingly using at least \$74,707.34 in funds belonging to the Wellington estate for his personal and business use, without authority, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(Failure to abide by court orders)

31. On September 30, 2016, Illinois attorney Grant Blumenthal (“Blumenthal”) filed his appearance on behalf of Arnold Henderson IV (“Arnold”) in the probate matter. Arnold is one of Wellington’s surviving nephews and a beneficiary under Wellington’s will. Arnold had previously requested from Rita an accounting of the estate on several occasions but did not receive a response.

32. On December 14, 2016, Blumenthal filed on behalf of Arnold a petition for inventory and accounting in the probate matter.

33. On January 11, 2017, the court entered an order in the probate matter requiring Rita to file an inventory and accounting by February 17, 2017.

34. Neither Rita nor anyone on her behalf filed an inventory or accounting for the Wellington estate by February 17, 2017.

35. On February 21, 2017, the court entered another order directing Rita to file an inventory and accounting by March 7, 2017.

36. Neither Rita nor anyone on her behalf filed an inventory or accounting for the Wellington estate by March 7, 2017.

37. On March 14, 2017, the court entered an order directing Rita to appear in person at the next court date on April 13, 2017 and issued a rule to show cause why Rita should not be removed as executor of the Wellington estate.

38. Neither Rita nor anyone on her behalf appeared in court on April 13, 2017. On that date, the court entered an order directing her to comply with its January 11, 2017 and February 21, 2017 orders.

39. On June 5, 2017, Blumenthal filed on behalf of Arnold a motion for sanctions pursuant to Supreme Court Rule 219(c). Blumenthal's motion sought, *inter alia*, to remove Rita Henderson as executor of the Wellington Estate for her repeated failures to provide an inventory and accounting.

40. On June 21, 2017, the court in the probate matter granted Rita a final opportunity to comply with the court's previous orders directing her to file an inventory and accounting. In that same order, the court also directed Respondent to file documents to show why the proceeds from the law division matter should not be deposited into the Wellington's estate accounts at Bank of America.

41. On August 11, 2017, the court issued a citation for removal against Rita directing her to show cause why she should not be removed as the representative of the Wellington estate for her repeated failures to provide an inventory and accounting. A copy of that citation was hand-delivered to Respondent in court on August 21, 2017.

42. On September 14, 2017, the court issued an alias citation for removal of Rita as representative of the Wellington estate and directed Rita to appear in court on October 16, 2017.

43. Rita did not appear on October 16, 2017. On that date, the court entered an order directing Respondent and Rita Henderson to turn over the \$155,842.61 in proceeds from the law

division matter. On that day, the court removed Rita as executor of the Wellington Estate and appointed Arnold as the successor independent administrator. The court set a hearing on Blumenthal's 219(c) sanctions motion for indirect civil contempt, referenced in paragraph 39, above, for October 31, 2017.

44. On October 31, 2017, the court held Rita in indirect civil contempt and issued a body attachment. On that day, the court again ordered Respondent to turn over the proceeds from the law division matter by November 1, 2017.

45. Respondent did not turn over the proceeds from the law division matter by November 1, 2017.

46. On November 7, 2017, Blumenthal, on behalf of Arnold, filed with the court in the probate matter an emergency motion for sanctions under Illinois Supreme Court Rule 219(c).

47. On November 9, 2017, the court in the probate matter granted Arnold leave to file a petition for rule to show cause and issue a citation to recover against Rita and Respondent, both of which Blumenthal filed on the same day.

48. On November 20, 2017, the court entered an order in the probate matter which found that both Respondent and Rita had failed to comply with the court's orders of October 16, 2017 and October 31, 2017. The court ordered Respondent to turn over the proceeds from the law division matter, and to comply with the court's previous orders by 5:00 p.m. Respondent did not do so.

49. On December 11, 2017, the court ordered the sheriff's deputies to remove Respondent from the courtroom as a result of his disrespectful behavior, after Respondent accused the court of "playing games". On that same day, the court entered an order of default on the citations issued against Rita and Respondent.

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

- a. failure to provide competent representation to a client, by conduct including failing to respond to multiple court orders directing him to file an inventory and accounting, failing to comply with the court's October 16, 2017 and October 31, 2017 orders to turn over the proceeds from the law division matter, leading the court to hold his client in indirect civil contempt and removing her as executor of the Wellington Estate, in violation of Rule 1.1 of the Illinois Rules of Professional Conduct (2010); and
- b. conduct prejudicial to the administration of justice, by repeatedly failing to abide by the court's orders in the probate matter and accusing the court of playing games, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

COUNT III

(Assault, harassment, and threats)

51. The Administrator re-alleges and incorporates paragraphs 16 through 50, above.

52. During the events described in this count of the complaint, there was a statute in effect in Illinois, 720 ILCS 5/26.5-2(a)(2) ("Harassment by telephone") that made it a crime to make a telephone call, whether or not a conversation ensued, with the intent to abuse, threaten or harass the person at the called number.

53. During the events described in this count of the complaint, there was a statute in effect in Illinois, 720 ILCS 5/12-6 ("Intimidation") that made it crime for a person to communicate to another a threat to inflict physical harm on the person being threatened.

54. During the events described in this count of the complaint, there was a statute in effect in Illinois, 720 ILCS 5/12-1 ("Assault") that made it a crime for an individual to engage in conduct which places another in reasonable apprehension of receiving a battery.

55. During the events described in this count of the complaint, there was a statute in effect in Illinois, 720 ILCS 5/12-3 (“Battery”) that made it a crime for a person to knowingly without legal justification make physical contact of an insulting or provoking nature with an individual.

56. On May 9, 2018, upset that his IOLTA account had been frozen and the \$23,215.05 in remaining proceeds turned over to the estate, Respondent called Grant Blumenthal, counsel for the independent successor administrator’s cellphone and left the following voicemail:

Grant, this is Kevin Duckworth. You have one hour, one hour. If you don’t uh...[unintelligible] emails and key at Bank of America. And, um, Bank of America. You will have one hour. One hour. Bank of America...[unintelligible] plus interest.

57. Also on May 9, 2018, Respondent appeared at the office of Alan Rhine, counsel for defendant Irfan Sheikh in the law division matter. Upon being greeted by Rhine in the waiting room, Respondent grabbed Rhine by his tie and demanded that Rhine give Respondent his money. Rhine, who had no involvement in the probate court’s freezing of Respondent’s IOLTA account and the removal of the account’s remaining funds, was able to free himself and call the police, but did not press charges.

58. On May 10, 2018, Respondent, with the intent to abuse, threaten and harass Blumenthal, called a number he knew belonged to Blumenthal and left the following voicemail:

Grant, you’re playing games. I called you yesterday, and I told you if I don’t get my money today by noon, I’m gonna kill you. You’re full of shit. Call me back.

59. On May 14, 2018, in response to the threats he received from Respondent, Blumenthal filed a petition for stalking no contact order in the Circuit Court of Cook County,

Domestic Relations Division. The Clerk of the Court docketed that matter as *Blumenthal v. Duckworth*, 18 OP 73557. Judge Judith Rice presided over that matter.

60. On June 25, 2018, during a hearing for Blumenthal’s petition for sanctions and fee petitions in the Henderson probate matter, 13 P 2677, Respondent appeared, purportedly on behalf of the estate. During that hearing, the following exchanges took place between the Court, Blumenthal, and Respondent:

THE COURT: Let’s wait for the other attorney. Could I have everybody state their name for the record.

MR. DUCKWORTH: Kevin Duckworth.

MR. BLUMENTHAL: Representing?

THE COURT: Who do you represent in this case?

MR. DUCKWORTH: Kevin Duckworth.

THE COURT: Who do you represent in this case?

MR. DUCKWORTH: The estate, Wellington—Wellington Henderson.

THE COURT: Okay. You are the former attorney for Rita Henderson.

MR. DUCKWORTH: Well, that’s—let me—you—I don’t know it. You—you have—you have an opinion is [sic] different. Your opinion is different.

THE COURT: Okay. Well, my orders are different.

...

MR. DUCKWORTH: Judge, I disagree. And I’m a little pissed.

THE COURT: You can’t use that language here in this courtroom. You’re a professional.

MR. DUCKWORTH: Yes, I know.

...

MR. DUCKWORTH: We already—we already got court—we already got court on the—we’re going to be in court already on the 12th.

...

MR. BLUMENTHAL: All right. I would rather get it done --

MR. DUCKWORTH: Let’s go to August.

MR. BLUMENTHAL: -- get it done even earlier, Judge. It will take me seven days.

MR. DUCKWORTH: I’m going to kill him. I’m going to kill him. So August—August fine with me. I got the—I got the papers. I got the papers.

THE COURT: That conduct is unacceptable.

MR. DUCKWORTH: Okay. I know.

61. On July 12, 2018, Judge Rice entered an interim no contact order against Respondent in matter number 18 OP 73557, prohibiting Respondent from stalking or otherwise having any contact with Blumenthal.

62. On November 2, 2018, Judge Rice entered a plenary no contact order against Respondent in matter number 18 OP 73557, prohibiting Respondent from stalking or otherwise having any contact with Blumenthal for a period of two years.

63. On November 30, 2018, attorney Anthony Schumann (“Schumann”) filed on behalf of Respondent a motion to vacate the court’s November 2, 2018 no contact order in matter number 18 OP 73557.

64. On December 20, 2018, the court vacated its November 2, 2018 plenary order and reinstated the July 12, 2018 interim order in matter number 18 OP 73557.

65. Matter number 18 OP 73557 is stilling pending at the time this complaint was filed.

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

- a. committing multiple criminal acts that reflect adversely on his fitness to practice law, by virtue of his violations of sections 720 ILCS 5/12-6, 720 ILCS 5/12-1, and 720 ILCS 5/12-3 of the Illinois Criminal Code, by making the telephone calls to Blumenthal with the intent to abuse, threaten or harass the person at the called number, engaging in conduct which placed Rhine in reasonable apprehension of receiving a battery, making physical contact of an insulting or provoking nature with Rhine without legal justification, and by threatening to inflict physical harm against Blumenthal in open court, in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010); and
- b. engaging in conduct that is prejudicial to the administration of justice, by threatening to kill Blumenthal, which initiated additional proceedings, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator respectfully requests that this matter be assigned to a panel of the Hearing Board, that a hearing be held, and that the 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
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By: /s/ Chi Zhang
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