

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

In the Matter of:

SHELDON LEE BANKS,

Attorney-Respondent,

No. 107263.

Commission No. 2020PR00068

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Scott Renfro, pursuant to Supreme Court Rule 753(b), complains of Respondent Sheldon Lee Banks, who was licensed to practice law in Illinois on May 18, 1965, and alleges that Respondent has engaged in the following conduct which subjects him to discipline pursuant to Supreme Court Rule 770:

COUNT I

(Conversion of Client Funds Received as Fees and Costs, Lack of Diligence - Ingram)

1. On December 9, 2014, the State's Attorney of Macon County filed a nine-count information against Undra L. Ingram ("Ingram") in the Circuit Court of Macon County to initiate the matter entitled, *People of the State of Illinois v. Undra L. Ingram*, docket number 14 CF 1529. The information was amended on December 10, 2014 to charge Ingram with predatory criminal sexual assault of a child, criminal sexual assault, and aggravated criminal sexual abuse of a child, among other charges.

2. On April 20, 2018, following a jury trial at which he was represented by attorney Karen Root ("Root"), Ingram was found guilty in case number 14 CF 1529 of each of the charges referred to in paragraph one, above.

3. On or about May 7, 2018, Respondent met with Ingram's sister, Tonya Oldham ("Oldham"), and agreed to review the trial transcripts related to Ingram's prosecution to determine what issues or remedies were available to Ingram to pursue in an appeal. Respondent asked for a \$10,000 fee from Oldham for that purpose. Respondent told Oldham that he required \$5,000 to start, that he considered the funds she paid to be a security retainer (in that he would draw funds from the money she paid as Respondent earned them), and that a portion of the funds were intended as costs to obtain the trial transcripts. Respondent did not reduce his fee agreement with Oldham to writing.

4. On May 7, 2018, Oldham gave Respondent Regions Bank cashier's check number 5503114957, which had been made payable to Respondent's order in the amount of \$6,400, the proceeds of which represented a portion of Respondent's requested fees and costs.

5. On May 8, 2018, Respondent deposited Regions Bank cashier's check number 5503114957 into a Bank of America business account number ending in the four digits "8723." That account was not a separate and identifiable client fund account.

6. The funds that Oldham paid Respondent on May 7, 2018, should have been deposited into a separate and identifiable client fund account and maintained in that account until earned or used to pay costs.

7. On May 7, 2018, immediately prior to Respondent's deposit of Oldham's Regions Bank cashier's check number 5503114957 into his Bank of America account ending in the four digits "8723," the account was overdrawn by -\$1,509.82.

8. On May 31, 2018, Root filed a post-trial motion for judgment notwithstanding the verdict, or, in the alternative, for a new trial on behalf of Ingram in case number 14 CF 1529.

9. On June 4, 2018, prior to his providing any legal services or incurring any cost on behalf of Ingram, Respondent's Bank of America account ending in the four digits "8723" continued to be overdrawn, in the amount of -\$1,591.88, as Respondent drew checks on the account, or transferred funds from it, in payment of his business and personal expenses. As of June 4, 2018, Respondent had used all the funds he had received from Oldham, which he had agreed to use to pay fees and costs relating to his representation of Ingram, for his own business or personal purposes. Respondent's use of those funds constitutes conversion.

10. On July 5, 2018, Respondent met with Ingram at the Macon County Jail to discuss the facts leading to the criminal charges against Ingram, as well as Ingram's impressions of Root's representation of him at trial. Respondent told Ingram that Oldham had not paid him the entire amount he had requested as a retainer, and asked Ingram to make inquiries about the balance of his requested fee.

11. Approximately three weeks after Respondent's meeting with Ingram, on or about July 26, 2018, Oldham gave Respondent Regions Bank cashier's check number 5505014073, which had been made payable to Respondent's order in the amount of \$2,600, the proceeds of which represented an additional payment towards Respondent's requested fees and costs. As of July 26, 2018, the total amount paid by Oldham to Respondent in fees and costs was \$9,000.

12. On July 29, 2018, Respondent deposited Regions Bank cashier's check number 5505014073 into his Bank of America account number ending in the four digits "8723."

13. The funds that Oldham paid Respondent on July 26, 2018, should have been deposited into a separate and identifiable client fund account and maintained in that account until earned or used to pay costs.

14. On July 31, 2018, Respondent's Bank of America account ending in the four digits "8723" was overdrawn by -\$1,357.67, as Respondent drew checks on the account or transferred funds in payment of his business or personal obligations. Respondent's use of those funds constitutes conversion.

15. As of July 31, 2018, the only service provided by Respondent to Ingram was Respondent's July 7, 2018 meeting with Ingram at the jail. Respondent had not obtained or read the trial transcripts, filed any post-trial motion or pleading in case number 14 CF 1529, or taken any other action on Ingram's behalf. As of that date, Respondent had used all of Oldham's funds, which had been paid for the purpose of paying fees and costs on behalf of Ingram, for his own business or personal purposes.

16. After July 31, 2018, Respondent took no action on Ingram's behalf. At no time did Respondent file his appearance in Ingram's criminal matter in the circuit court, case number 14 CF 1529, or in Ingram's subsequent appeal, number 4-18-664, in which Ingram was represented by the Office of the State Appellate Defender. Respondent never ordered, obtained or read the trial transcripts, never filed a motion or brief, and never presented oral argument in Ingram's appeal.

17. On August 8, 2018, the Honorable Phoebe Bowers scheduled a sentencing hearing for Ingram in case number 14 CF 1529 for September 24, 2018.

18. On September 24, 2018, Root appeared on behalf of Ingram at the sentencing hearing in case number 14 CF 1529. Judge Bowers denied Root's post-trial motion referenced in paragraph eight above, and sentenced Ingram to 20 years in the Department of Corrections, mandatory consecutive to each other for Counts 1 through 6, and five years each for Counts 7 through 9. On the same day, in court, Ingram was notified of his right to appeal, the clerk was

directed to file a notice of appeal, and the State Appellate Defender was appointed to represent Ingram in his appeal.

19. Between July 29, 2018, and October 4, 2019, Ingram and Oldham attempted to communicate with Respondent to determine what action, if any, Respondent had taken or intended to take on behalf of Ingram. Respondent did not communicate with Ingram or Oldham after depositing Oldham's second check to him on July 29, 2018.

20. Ingram's trial attorney, Karen Root, concluded case number 14 CF 1529, and Ingram's appellate attorney, Christopher G. Evers, concluded Ingram's appeal, case number 4-18-664, without any action or assistance by Respondent.

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

- a. failure to hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property, by conduct including depositing funds intended as costs and a security retainer for Ingram's matter into a business account and converting those funds to his own purposes, in violation of Rule 1.15(a) of the Illinois Rules of Professional Conduct;
- b. failure to promptly comply with reasonable requests for information, by conduct including failing to provide Oldham or Ingram with information or documents regarding any service he had provided or intended to provide on behalf of Ingram, in violation of Rule 1.4(a)(4) of the Illinois Rules of Professional Conduct; and
- c. failure to act with reasonable diligence and promptness in representing Ingram, by conduct including failing to take any action to advance Ingram's appeal of his conviction, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010).

COUNT II

(Failure to Respond to ARDC Subpoena, Failure to Promptly Repay Oldham)

22. The Administrator realleges the facts set forth in paragraphs one through 20 of Count I above.

23. On October 4, 2018, the Administrator received a request for investigation from Tonya Oldham regarding Respondent's conduct as described in Count I above. In that request, Oldham specifically requested a refund of the funds she had paid Respondent on Ingram's behalf. Based on Oldham's charge, the Administrator docketed investigation number 2018IN03946, and sent Respondent a copy of Oldham's request, which Respondent received shortly thereafter. As of at least sometime in October, 2018, Respondent was aware of Oldham's request that he return unearned fees and unspent costs to her.

24. On or about August 2, 2019, counsel for the Respondent informed counsel for the Administrator that Respondent intended to make a partial refund to Oldham.

25. By letter dated August 6, 2019, Respondent attached a copy of a check to Oldham in the amount of \$1,000, and stated that on September 6, 2019, and October 6, 2019, he intended to send Oldham an additional check in the amount of \$1,000 each, for a total refund of \$3,000.

26. On September 19, 2019, Respondent sent Oldham a second check in the amount of \$1,000.

27. On October 31, 2019, Oldham informed counsel for the Administrator that Respondent had not sent her any further checks in compliance with the refund schedule his attorney had set forth in his August 6, 2019 communication, and that, accordingly, the total refund she had received was only \$2,000.

28. On October 31, 2019, counsel for Respondent was served by email with a subpoena *duces tecum* compelling Respondent to produce, on or before November 18, 2019, any and all

documents, files or statements of services reflecting any services he provided or costs he paid on Ingram's behalf, that would justify his continued retention of \$7,000 he had received from Oldham. Counsel for Respondent acknowledged receipt of the subpoena via email.

29. As of October 9, 2020, the date the investigation of Oldham's allegations against Respondent was referred to a panel of the Commission's Inquiry Board, Respondent had not produced any materials responsive to the Administrator's subpoena *duces tecum*, nor had he returned any additional funds to Oldham.

30. Respondent's production of the materials responsive to the Administrator's subpoena *duces tecum* has never been excused or waived.

31. The services Respondent provided Ingram do not justify his continued retention of \$7,000 he received from Oldham.

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

- a. failing to respond to a lawful demand for information from a disciplinary authority, by conduct including his failure to produce documents in compliance with the Administrator's subpoena requiring Respondent's production of documents, in violation of Rule 8.1(b) of the Illinois Rules of Professional Conduct (2010);
- b. charging and collecting an unreasonable fee and an unreasonable amount for expenses, by conduct including retaining \$7,000 of funds he received from Oldham despite providing no services to Ingram (apart from meeting him in jail one time) and incurring no expenses on his behalf, in violation of Rule 1.5(a) of the Illinois Rules of Professional Conduct; and

- c. failure to promptly deliver to a client or third person (Oldham) funds in his possession that the third person is entitled to receive, by conduct including keeping \$7,000 of funds received from Oldham when the services he provided were worth less than that, and failing to promptly pay even the \$3,000 he admittedly owed Oldham, in violation of Rule 1.15(d) of the Illinois Rules of Professional Conduct.

WHEREFORE, the Administrator 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
Disciplinary Commission

By: /s/ Scott Renfroe
 Scott Renfroe

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