

IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

BRYAN S. FLANGEL,

Attorney-Movant,

No. 6210644.

Supreme Court No. M.R.

Commission No. 2021PR00029

MOTION PURSUANT TO SUPREME COURT RULE 762(a)

Movant, Bryan S. Flangel, respectfully represents to the Court that:

1. Movant was licensed to practice law in Illinois on November 5, 1992.
2. Movant desires to have his name stricken from the Roll of Attorneys pursuant to Rule 762(a), effective immediately.
3. Filed contemporaneously with this motion is a statement of charges prepared by the Administrator and Movant's affidavit in support of this motion.

WHEREFORE, Movant respectfully requests that the Court enter an order striking his name from the Roll of Attorneys.

Respectfully submitted,

/s/ Bryan S. Flangel
Bryan S. Flangel

Bryan S. Flangel
Movant
2201 Payne Street
Evanston, IL 60201
Telephone: (847) 733-9987
Email: bflangel20@gmail.com
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In the Matter of:

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STATEMENT OF CHARGES PURSUANT TO
SUPREME COURT RULE 762(a)

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Jonathan M. Wier, pursuant to Supreme Court Rule 762(a), states that on the date Bryan S. Flangel (hereinafter “Movant”) filed a motion requesting that his name be stricken from the Roll of Attorneys, the Administrator was investigating allegations that Movant provided financial assistance to two clients, misrepresented the status of matters to at least two clients, and forged a client’s signature on a settlement release. Had Movant’s conduct been the subject of a hearing, the Administrator would have introduced the evidence described below, and that evidence would have clearly and convincingly established the misconduct set forth below:

I. FACTUAL BASIS

Movant’s admissions and testimony, bank records and other documents, and the testimony of various other individuals would establish the following facts:

A. *Respondent’s Background*

1. Movant is 53 years old and was licensed to practice law in Illinois on November 5, 1992. Movant was a partner with a law firm in Chicago, and he handled primarily personal injury and medical malpractice suits for plaintiffs.

2. On September 16, 2008, this Court suspended Movant from the practice of law for sixty (60) days. *In re Flangel*, M.R. 22465, 06 CH 93. In that matter, Movant settled a workers’

compensation claim for \$60,000 without the client's consent. Movant then falsely advised the client that he had settled the claim for \$115,000, and that the client would receive at least \$89,975. Respondent resumed active status on December 5, 2008. He registered as inactive, effective January 12, 2021.

B. *Providing Financial Assistance to a Client, Misrepresenting the Status of the Client's Case, and Concealing Matters from his Law Partners – Daniel Wood*

3. In 2015, Daniel Wood was struck by an uninsured motorist while he was working as a Lyft driver. Movant agreed to represent Mr. Wood in claims against Lyft and its insurer, Zurich North America. After a series of dismissals and the filing of a second amended complaint, Movant filed a third amended complaint on September 29, 2020. Lyft filed a motion to dismiss that complaint on November 4, 2020 and moved for sanctions against Movant and Mr. Wood.

4. During the time that Movant represented Mr. Wood, Movant handled the signing of checks issued from his firm's operating account. Beginning in November 2019, Movant wrote five checks totaling \$12,000 from the operating account payable to Daniel Wood and misrepresented the purpose of the payments to the firm's bookkeeper or on the memo line for four of the checks. The checks that Movant wrote and gave to Mr. Wood were the following:

- a. Check number 21897 was issued on November 21, 2019 for \$2,000. Movant falsely advised the firm's bookkeeper that the check was for a function capacity evaluation ("FCE"), even though Mr. Wood never underwent such an evaluation.
- b. Check number 21988 was issued on December 18, 2019 for \$3,000. Movant again falsely advised the firm's bookkeeper that the check was for a FCE, even though Mr. Wood never underwent such an evaluation.
- c. Check number 22077 was issued on March 10, 2020 for \$3,000. The memo line of the check falsely referred to a litigation loan company from which Mr. Wood had obtained financial assistance, even though the check had nothing to do with that entity or a loan from that entity.

- d. Check number 22213 was issued on April 10, 2020 for \$3,000. The memo line of the check falsely referred to a litigation loan company from which Mr. Wood had obtained financial assistance, even though the check had nothing to do with that entity or a loan from that entity.
- e. Check number 22292 was issued on June 4, 2020 for \$2,000. The memo line of the check correctly referred to an improper “advance” to Mr. Wood.

5. Movant wrote the checks described above without the knowledge of his partners, and he gave the checks to Mr. Wood.

6. Even though the complaint in the circuit court had been dismissed twice and motions for sanctions had been filed against Movant and Mr. Wood, Movant falsely told Mr. Wood that his case had proceeded to arbitration. Movant falsely told Mr. Wood that the arbitration had been resolved with an award in Mr. Wood’s favor of at least one million dollars. Movant falsely told Mr. Wood that Lyft had been defiant about paying the award and, for that reason, substantial interest had accrued. At the time that Movant made those statements to Mr. Wood, he knew that they were false because the matter had not been in arbitration, nor had any award ever been made in favor of Mr. Wood.

C. Unauthorized Use of Law Firm Funds, and Misrepresentations Regarding Payments to Expert Witnesses – Medical Malpractice Claim of Minor, M.H.

7. In the course of representing a minor (“M.H.”) in a medical malpractice claim, Movant wrote two checks from his firm’s operating account purporting to be for the payment of expert witnesses.

8. Movant wrote the following checks in the M.H. matter:

- a. Check number 22235 was issued on May 7, 2020 for \$2,500 payable to Movant. The memo line of the check falsely referred to an “Expert Reimbursement Fee.”

- b. Check number 2256 was issued on October 15, 2020 for \$250 payable to Movant. The memo line of the check falsely referred to a meeting with “Nurse Weintraub.”

9. Movant misrepresented on the memo line of the checks the purpose of the payments described above, and then he negotiated the checks and used the funds for his own personal or business purposes without the knowledge of his law firm partners. At no time were the funds used for the purposes described by Movant on the memo lines of the checks.

D. *Misrepresenting the Status of the Client’s Case, Settling a Claim Without the Client’s Authority, and Forging the Client’s Signature on a Settlement Release – Jeffrey McIntyre*

10. Movant represented Jeffrey McIntyre in a lawsuit relating to injuries sustained in a vehicle collision on April 10, 2014. The defendant’s insurance policy limit was \$750,000. The case was submitted to arbitration, and the arbitrator awarded \$300,000 to Mr. McIntyre. The settlement proceeds were distributed in December 2018.

11. After distribution of the arbitration award, Movant advised Mr. McIntyre and his wife, Bridget McIntyre, that he would pursue an additional underinsured motorist claim on their behalf. That statement was false because the claim had settled for less than the policy limit, which meant that there could be no additional underinsured motorist claim. Movant knew that his statement regarding the additional claim was false when he made the statement to the McIntyres.

12. Movant also represented Mr. McIntyre in another case relating to injuries that he sustained in a second vehicle collision that took place on October 2, 2014. In that case, the other driver’s insurance policy limit was \$50,000. Movant filed a lawsuit on behalf of Mr. McIntyre against the other driver’s insurance company and also made a demand for underinsured motorist benefits against Mr. McIntyre’s insurance carrier.

13. In the first quarter of 2020, Movant settled the claim against the other driver’s insurance company for \$21,500. The McIntyres did not authorize Movant to settle the matter, and

Movant did not tell the McIntyres that he was settling the claim. On March 18, 2020, Movant, without authority, signed Mr. McIntyre's name to a release that purported to settle Mr. McIntyre's claim against the defendant's insurance company. Rather than having the release notarized, Movant falsely signed his own name to the release as a witness to Mr. McIntyre's purported signature.

14. When Movant signed Mr. McIntyre's name and his own, as a witness, to the release, he knew that Mr. McIntyre had not authorized him to settle the claim for \$21,500, or any amount. By settling the claim for \$21,500, \$28,500 less than the policy limit, Movant relinquished any ability to recover any underinsured motorist benefits on behalf of Mr. McIntyre.

15. On June 1, 2020, Movant falsely told Mrs. McIntyre that the case had settled for \$50,000, and that Movant would be able to pursue underinsured motorist benefits against the McIntyre's insurer. Movant knew that these statements to Ms. McIntyre were false when he made them because he had already settled the underlying case for less than the policy limit and he knew that, because of that settlement, the McIntyres had no claim for underinsured motorist benefits.

16. On June 4, 2020, Movant sent the release that had been purportedly signed by Mr. McIntyre to the defendant's attorneys. He apologized for the delay in sending the release and explained that "[t]he delay is my fault, as shortly after I had Jeff sign the release, I went out on medical leave..." Those statements were false because Mr. McIntyre had not signed the release, and Movant had not been out on medical leave. Movant knew that those statements were false when he made them because he had forged Mr. McIntyre's signature on the release and he had not gone on medical leave.

17. On September 23, 2020, movant again falsely told Ms. McIntyre that the claim had settled for \$50,000 and that he would pursue "a much larger recovery" of underinsured motorist

benefits. Movant knew that these statements were false because he had settled Mr. McIntyre's claim for \$21,500, not \$50,000, and had relinquished any rights to underinsured motorist benefits by settling Mr. McIntyre's claim for less than the policy limit.

E. *Providing Financial Assistance to the Client – Richard Swearingen*

18. Movant represented Richard Swearingen in a personal injury case. After settling Mr. Swearingen's case, but prior to receiving the settlement funds, Movant issued a check from his law firm's operating account to Mr. Swearingen in the amount of \$2,000 on May 14, 2020.

19. After receiving the settlement funds, Movant gave Mr. Swearingen the full amount of his settlement, but did not reimburse the firm for the \$2,000 from the operating account that he had advanced to the client. Movant advanced the funds to Mr. Swearingen and then failed to reimburse the firm without the knowledge of his law partners and without their authority to use the firm's funds for that purpose.

II. CONCLUSIONS OF MISCONDUCT

20. By reason of the conduct described above, Movant has engaged in the following misconduct:

- a. failing to abide by a client's decision whether to accept an offer of settlement, by conduct including settling the McIntyre claims without the client's authority, in violation of Rule 1.2(a) of the Illinois Rules of Professional Conduct (2010);
- b. failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation, by conduct including settling the McIntyre claims without the client's authority, falsely telling Mr. Wood that his claim had settled in excess of a million dollars, and falsely telling the McIntyres that he had settled their claim for the policy limit for \$50,000 and that they could pursue underinsured motorist benefits, in violation of Rule 1.4(b) of the Illinois Rules of Professional Conduct (2010);

- c. providing financial assistance to a client, by conduct including writing checks amounting to \$12,000 to Mr. Wood, and writing the \$2,000 check to Mr. Swearingen before receiving any settlement funds, in violation of Rule 1.8(c) of the Illinois Rules of Professional Conduct (2010);
- d. knowingly making false statements of material fact or law to third persons, by conduct including falsely telling Mr. Wood that his claim had settled in excess of a million dollars, falsely telling the McIntyres that he had settled their claim for the policy limit of \$50,000 and that they could pursue underinsured motorist benefits, and falsely telling defendant's counsel that Mr. McIntyre had signed the settlement release, in violation of Rule 4.1(a) of the Illinois Rules of Professional Conduct (2010); and
- e. conduct involving dishonesty, fraud, deceit or misrepresentation, by conduct including falsely telling Mr. Wood that his claim had settled in excess of a million dollars, falsely telling the McIntyres that he had settled their claim for the policy limit for \$50,000 and that they could pursue underinsured motorist benefits, forging Mr. McIntyre's signature on a settlement agreement, bearing false witness to the signature of Mr. McIntyre on the unauthorized settlement agreement, and using law firm funds to pay his own business or personal expenses, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Jonathan M. Wier
Jonathan M. Wier

Jonathan M. Wier
Attorney Registration and
Disciplinary Commission
One Prudential Plaza
130 East Randolph St., Suite 1500
Chicago, Illinois 60601
Telephone: (312) 565-2600
Email: jwier@iadc.org
MAINLIB-#1367746-v1

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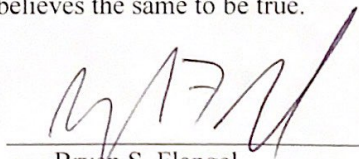
AFFIDAVIT

Affiant, Bryan S. Flangel, being first duly sworn, states:

1. Affiant has filed with this Court a motion to strike his name from the Roll of Attorneys licensed to practice law in Illinois, pursuant to Rule 762(a).
2. Affiant has received and reviewed a copy of the Administrator's statement of the charges that were pending against Affiant as of the filing of the instant motion. If the case proceeded to a hearing, the Administrator would present the evidence described in the statement of charges, and the evidence would clearly and convincingly establish the facts and conclusions of misconduct set forth in the statement of charges.
3. Affiant's motion is freely and voluntarily made.
4. Affiant understands the nature and consequences of this motion.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and, as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.

Date:

5/6/21

 Bryan S. Flangel

Bryan S. Flangel
 Movant
 2201 Payne Street
 Evanston, IL 60201
 (847) 733-9987
bflangel20@gmail.com
 MAINLIB-1375987-v1

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NOTICE OF FILING

TO: Bryan S. Flangel
Movant
2201 Payne Street
Evanston, IL 60201
Telephone: (847) 733-9987
E-mail: bflangel20@gmail.com

PLEASE TAKE NOTICE that on May 6, 2021, electronic copies of Movant's MOTION PURSUANT TO SUPREME COURT RULE 762(a), Administrator's STATEMENT OF CHARGES, and Movant's AFFIDAVIT, were submitted to the Clerk of the Supreme Court for filing. On that same date, copies were served on Movant, by e-mail to bflangel20@gmail.com, at or before 5:00 p.m.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Jonathan M. Wier
Jonathan M. Wier

Jonathan M. Wier
Counsel for the Administrator
130 East Randolph Drive, Suite 1500
Chicago, Illinois 60601-6219
Telephone: (312) 565-2600
Email: jwier@iadc.org
Email: ARDCeService@iadc.org

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PROOF OF SERVICE

The undersigned, an attorney, hereby certifies, pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/109, that the Administrator served copies of the Notice of Filing, Movant's MOTION PURSUANT TO SUPREME COURT RULE 762(a), Administrator's STATEMENT OF CHARGES PURSUANT TO SUPREME COURT RULE 762(a) and Movant's AFFIDAVIT, on the individual listed on the forgoing Notice of Filing, by e-mail at bflangel20@gmail.com on May 6, 2021 at or before 5:00 p.m.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Jonathan M. Wier

Jonathan M. Wier

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