

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

FILED
6/18/2021 12:21 PM
ARDC Clerk

In the Matter of:

RICHARD GEORGE FONFRIAS,

Attorney-Respondent,

No. 6237079.

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Commission No. 2021PR00049

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Rory P. Quinn, pursuant to Supreme Court Rule 753(b), complains of Respondent, Richard George Fonfrias, who was licensed to practice law in Illinois on November 7, 1996, and alleges that Respondent has engaged in the following conduct which subjects him to discipline pursuant to Supreme Court Rule 770:

ALLEGATIONS COMMON TO ALL COUNTS

1. At all times alleged in the complaint, Respondent worked as a sole practitioner at Fonfrias Law Group, LLC in Chicago, Illinois. Respondent primarily practiced in the area of bankruptcy law.

2. On July 20, 2013, Vicki Blansett (“Blansett”) allegedly fell on a wet floor at the Quad Resort and Casino in Clark County, Nevada (“Quad Resort”). As a result of her fall, Blansett claimed to have suffered serious permanent injuries.

3. On March 3, 2014, Cory Hilton (“Hilton”), a Nevada attorney, filed a personal injury lawsuit on behalf of Blansett against Quad Resort’s parent company, 3535 LV Corporation, a subsidiary of Caesars Casino (“Caesars”) in Clark County, Nevada. The clerk of the Nevada

circuit court captioned the matter as *Blansett v. 3535 LV Corp. d/b/a Caesars Entertainment Corporations*, Case No. A-14-697015-C. The lawsuit sought general damages in excess of \$10,000, past special damages in excess of \$10,000, future special damages in excess of \$10,000, and attorney's fees and costs. As the case progressed, filings in the case showed that Blansett was seeking in excess of \$250,000 in medical special damages.

4. In January 2015, while Blansett's claim was pending, Caesars and more than 170 of its subsidiaries, including 3535 LV Corporation, filed chapter 11 bankruptcy petitions in the United States Bankruptcy Court for the Northern District of Illinois. The clerk of the federal bankruptcy court assigned the bankruptcy petitions case number 15 B 1145. Pursuant to 11 U.S.C. § 362(a), the filing of the bankruptcy petitions stayed Blansett's personal injury claim.

5. In October 2017, Caesars' plan of reorganization became effective. On the plan's effective date, the automatic stay on Blansett's claim was replaced by a discharge injunction. Pursuant to 11 U.S.C. § 524, the discharge injunction prevented the continuation of Blansett's personal injury claim unless Caesars and Blansett reached an agreement that the bankruptcy court approved, or if the bankruptcy court agreed to modify the injunction to allow Blansett to pursue her claim in Nevada.

6. On July 24, 2018, the bankruptcy court entered an order that granted Caesars' proposed procedures for resolving personal injury claims. Pursuant to the procedures laid out by the bankruptcy court, Caesars had 60 days to make an initial settlement offer to Blansett. Then, Blansett had 30 days to accept or reject the settlement offer.

7. On September 21, 2018, Caesars mailed an offer to Blansett, proposing to settle her claim for zero dollars. Blansett had 30 days to accept the offer, reject it, or make a counter-offer. Blansett did not respond to Caesars' offer.

8. On March 11, 2019, Caesars filed a motion in the bankruptcy court seeking an order estimating Blansett's claim at zero dollars. Caesars noticed the motion for hearing on April 17,

2019. Under the case management procedures governing the Caesars cases, Blansett had until April 10, 2019 to file a response to the motion.

COUNT I
(Lack of Diligence – Caesars Bankruptcy)

9. On or around April 10, 2019, Hilton and Respondent verbally agreed that Respondent would appear and oppose the Caesars' estimation motion on behalf of Blansett in the bankruptcy court. Respondent and Hilton agreed Respondent would accept a flat fee of \$850 to represent Blansett in the bankruptcy matter, which included appearing at the April 17, 2019 hearing.

10. Respondent did not file any objection to Caesars' estimation motion by the deadline of April 10, 2019. On April 15, 2019, the bankruptcy court entered an order granting Caesars' estimation motion "without prejudice to the Reorganized Debtors' right to seek further relief" and estimating Blansett's claim at zero dollars.

11. On April 17, 2019, the date the estimation motion was originally set for hearing, Respondent did not appear before the bankruptcy court.

12. Pursuant to Federal Rule of Bankruptcy Procedure 8002(a), Respondent had fourteen days from April 15, 2019 to file a notice of appeal with the bankruptcy clerk to appeal the court's estimation order. Respondent did not file a notice of appeal of the court's estimation order.

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

- a. failing to act with reasonable diligence and promptness in representing a client, by conduct including failing to appear in court on Blansett's behalf in case number 15 B 1145, and failing to file a notice of appeal of the court's estimation

order, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010).

COUNT II
(False Statements to a Tribunal)

14. The Administrator re-alleges paragraphs 9 through 12, above.

15. On July 10, 2019, Caesars filed a motion in the Nevada state court action, referred to in paragraph three above, to dismiss Blansett's personal injury claim based on the bankruptcy court's order estimating the claim at zero dollars and discharging Caesars' debt.

16. On July 22, 2019, Joseph Smith ("Smith"), a Nevada attorney and associate of Hilton, contacted Respondent and requested that he draft an affidavit for filing in opposition of Caesars' motion to dismiss. Smith requested that Respondent include in the affidavit a description of the actions he took his efforts on Ms. Blansett's behalf in the bankruptcy proceeding. Respondent and Smith agreed Respondent would accept a flat fee of \$950 to prepare the affidavit.

17. On or before July 25, 2019, Respondent sent an unsigned draft of an affidavit to Smith. The draft affidavit contained the following statements:

- a. "I, Richard G. Fonfrias, Esq., appeared on April 17, 2019 on Behalf of Ms. Blansett in front of United States Bankruptcy Court Judge A. Benjamin Goldgar;"
- b. "The court entered an order without prejudice to either party;"
- c. "Ms. Blansett will need to refile a motion to amend her proof of claim to the dollar amount. Ms. Blansett must explain the reason for amending (new evidence etc)."

18. Respondent's statements relating to his appearance on April 17, 2019 and the order entered by Judge Goldgar were false.

19. Respondent knew that the statements were false because he had not appeared in court on April 17, 2019, and Judge Goldgar's order was not entered without prejudice to Blansett.

20. On or before July 25, 2019, Smith revised the affidavit referred to in paragraph 17 in support of Blansett's response to Caesars' motion to dismiss the Nevada litigation. This affidavit (the "July Affidavit") was captioned Affidavit of Richard Fonfrias, Esq. in Support of Plaintiff's Opposition to Defendant's Motion to Dismiss and contained the following statements:

- a. "On April 17, 2019, I did personally appear in the bankruptcy case set forth above before United States Bankruptcy Court Judge A. Benjamin Goldgar, with regard to the April 15, 2019 Order Granting Reorganized Debtors' Motion To Estimate Proof Of Claim Number 2791 Filed By Vicki Blansett Against Debtor Caesars Entertainment Operating Company, Inc."
- b. "During said appearance, United States Bankruptcy Court Judge Goldgar informed me that the Order set forth above was entered without prejudice to either party, creditor or debtor, and the Court would permit Ms. Blansett to file a motion to amend her proof of claim to the dollar amount claimed within this Nevada litigation."
- c. "The Court directed me to Paragraph 3 of the April 15, 2019 order, referenced in Paragraph 2, *supra*, as clearly permitting amendment of Ms. Blansett's estimated claim value."

21. On or before July 25, 2019, Smith sent the July Affidavit to Respondent for review and signature.

22. On July 25, 2019, Respondent signed the July Affidavit and had the affidavit notarized. Respondent attested under penalty of perjury, to the truthfulness of the statements in the July Affidavit. Respondent knew the July Affidavit would be filed in Nevada court in support of Blansett's opposition to Caesars' motion to dismiss.

23. Respondent's statements relating to his appearance on April 17, 2019, and the conversation with Judge Goldgar were false.

24. Respondent knew that the statements in the July Affidavit were false because Respondent did not appear in court on April 17, 2019, and Judge Goldgar did not make the statements described above during the April 17, 2019 hearing, or at any other time.

25. On July 26, 2019, Hilton filed Respondent's July Affidavit in support of Blansett's opposition to Caesars' motion to dismiss the Nevada litigation. On July 31, 2019, Caesars filed a reply to Blansett's response to their motion to dismiss. In its reply, Caesars attached a report of the April 17, 2019 proceedings in the Illinois bankruptcy case. The report listed the attendees at the April 17, 2019 hearing and did not include Respondent as an attendee at that hearing.

26. On July 31, 2019, Smith sent Respondent a copy of Caesars' reply brief. Respondent offered to prepare a second affidavit. On the same day, Smith sent Respondent a word document version of the July Affidavit and asked Respondent "please make whatever changes you deem necessary to the language therein, and send me a .pdf version of the resulting Amended Affidavit."

27. On or before August 1, 2019 Respondent, or someone at his direction, edited the July Affidavit. On August 1, 2019, Respondent signed and had notarized this amended affidavit ("August Affidavit"). The August Affidavit omitted the language appearing in the July Affidavit that Respondent had personally appeared in court on April 17, 2019. The August Affidavit also omitted the language appearing in the July Affidavit that Respondent had a conversation with Judge Goldgar. Lastly, the August Affidavit omitted that Judge Goldgar's April 15, 2019 order was granted without prejudice to the Reorganized Debtors' right to seek further relief. At no time did Respondent correct the false statements contained in his July Affidavit.

28. On January 28, 2020, Judge Goldgar denied Blansett's motion to vacate the order estimating her claim at zero dollars. In denying Blansett's motion to vacate, Judge Goldgar denied

speaking to Respondent on April 17, 2020 and stated “(d)isgraceful as it was, Fonfrias’s false affidavit did not produce the estimation order and so could supply no reason to vacate it.”

29. On March 19, 2020, the Honorable Trevor Akin entered an order dismissing Blansett’s Nevada litigation due to the estimation order barring any recovery by Blansett.

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

- a. knowingly making a false statement of fact or law to a tribunal or failure to correct a false statement of material fact or law previously made to the tribunal by the lawyer, by conduct including falsely claiming in his July Affidavit to have appeared in court on April 17, 2019, falsely claiming to have spoken to Judge Goldgar, and failing to correct his July Affidavit in violation of Rule 3.3(a)(1) of the Illinois Rules of Professional Conduct (2010);
- b. knowingly making a false statement of fact or law to a third person, by conduct including falsely claiming in communication with Joseph Smith to have appeared in court on April 17, 2019 and falsely claiming to have spoken to Judge Goldgar in violation of Rule 4.1(a) of the Illinois Rules of Professional Conduct (2010); and
- c. engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including falsely claiming in his July Affidavit and in communication with Blansett’s Nevada Counsel to have appeared in court on April 17, 2019, falsely claiming to have spoken to Judge Goldgar, and failing to correct the false statements in his July Affidavit in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

COUNT III
(False Statements to the ARDC)

31. The Administrator re-alleges paragraphs 14 through 29, above.

32. On October 9, 2020, counsel for the Administrator took Respondent's sworn statement and asked him about the drafting of the July Affidavit and August Affidavit, referred to

in paragraphs 20 and 27, respectively above. Respondent testified that he did not draft these affidavits, did not tell Hilton what to put in the affidavit, and did not have any input in the drafting of the affidavits.

33. Respondent's October 9, 2020 testimony regarding the drafting of the July Affidavit and August Affidavit was false, because he drafted an outline of the July Affidavit and made edits to the July Affidavit to produce the August Affidavit. At the time Respondent gave this testimony, he knew it was false.

34. Also, at his October 9, 2020 testimony, Respondent testified that Hilton drafted the August Affidavit and Respondent did not know why Hilton made changes to the July Affidavit to produce the August Affidavit.

35. Respondent's October 9, 2020 testimony regarding the drafting of the August Affidavit was false, because Respondent, or someone at his direction, made edits to the July Affidavit to produce the August Affidavit.

36. Respondent's statement that he did not know why Hilton made changes to produce the August Affidavit was also false, because Respondent made the edits to the July Affidavit and did so in response to receiving Caesars' reply brief. At the time Respondent gave this testimony, he knew it was false.

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

- a. knowingly making a false statement of material fact in connection with a disciplinary proceeding, by conduct, including but not limited to, testifying in his sworn statement that he did not draft the July Affidavit and August Affidavit, did not tell Hilton what to put in the affidavits, did not have any input in the drafting of the affidavits, Hilton drafted the August Affidavit and Respondent did not know why Hilton made changes to the July Affidavit to produce the August

Affidavit, in violation of Rule 8.1(a) of the Illinois Rules of Professional Conduct (2010); and

- b. engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including testifying in his sworn statement that he did not draft the July Affidavit and August Affidavit, did not tell Hilton what to put in the affidavits, did not have any input in the drafting of the affidavits, Hilton drafted the August Affidavit and Respondent did not know why Hilton made changes to the July Affidavit to produce the August Affidavit, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

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/ Rory P. Quinn
Rory P. Quinn

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