

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

IN THE MATTER OF:

MATTHEW ERIC GURVEY,
Attorney-Respondent
No. 6225090

Commission NO. 2021 PR 00073

NOTICE OF FILING

TO: Matthew D. Lango
Counsel for the Administrator
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Chicago IL 60601
mlango@iardc.org
ARDCeService@iardc.org

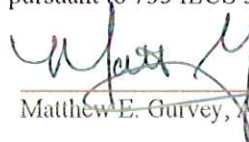
PLEASE TAKE NOTICE that on September 20, 2021, I caused to be filed with the Administrator, the attached Answer to the Complaint, a copy of which is herewith served upon you.


Matthew E. Gurvey, Attorney-Respondent

Matthew Gurvey, #6225090
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PROOF OF SERVICE VIA ELECTRONIC DELIVERY

The undersigned, an attorney, on oath state, I caused this notice to be electronically filed with the Odyssey eFileIL and caused a copy of the Notice and referenced documents to be electronically delivered to the above counsel at the e-mail address set forth on the Service List, as soon as accepted by the e-file service provider, on or after September 20, 2021. Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth are true and correct.


Matthew E. Gurvey, Attorney-Respondent

FILED
9/20/2021 2:31 PM
ARDC Clerk

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RESPONDENT'S ANSWER TO THE COMPLAINT

NOW COMES Respondent, Matthew E. Gurvey, *pro se*, and for his answer to the Administrator's Complaint in this matter, states as follows:

COUNT I

(Conversion of escrow funds in relation to Ruben Ybarra)

1. On or about April 24, 2018, Respondent agreed to represent Jonathan Moss ("Moss"), who was a defendant in a then-pending foreclosure action against the property located at 10135 South Princeton Avenue, Chicago, Illinois ("Princeton Property").

Answer: Respondent admits to the allegation contained in paragraph 1, but notes that his representation of Mr. Moss began in December 2012.

2. On April 24, 2018, Respondent filed his appearance on behalf of Moss in case number 11 CH 42782, New Penn Financial, LLC d/b/a Shellpoint Mortgaging Servicing v. Jonathan Moss; Moss Property & Management, LLC, Cook County Circuit Court, Chancery Division.

Answer: Respondent admits to the allegation contained in paragraph 2.

3. On April 24, 2018, the Honorable Anna Loftus granted the Plaintiff's Motion for Summary Judgment and entered a Judgment of Foreclosure and Sale in case number 11 CH 42782. The order provided the Princeton Property would be sold to the highest bidder at a public auction that would be held July 25, 2018.

Answer: Respondent admits to the allegation contained in paragraph 3.

4. On July 25, 2018, the Princeton Property was sold at the public auction to Marshall Thompson ("Thompson"), a real estate strategist for MMT Services.

Answer: Respondent admits to the allegation contained in paragraph 4 as to when the judicial sale occurred, but has no information as to Mr. Thompson's employment or job description.

5. Between July and September 2018, Moss and Respondent discussed Moss's desire to buy back the Princeton Property from Thompson. At the time, Moss indicated that he did not have the funds to purchase the Princeton Property himself, but wished to acquire an interest in the property at a later date. Respondent agreed to assist Moss in rebuying the Princeton Property and would seek out potential investors for the Princeton Property.

Answer: Respondent admits to the allegation contained in paragraph 5, but notes that since the 2012 representation of Mr. Moss, it was always Mr. Moss' intention to do whatever was necessary to retain the properties he owned, including Princeton.

6. In or about September 2018, Respondent, on behalf of his client, Moss, contacted Thompson to discuss the purchase of the Princeton Property from Thompson. Respondent and Thompson entered into a verbal agreement wherein Respondent would wire-transfer Thompson \$25,000 in exchange for the interest and all rights of the Princeton Property to be assigned to an LLC that Respondent would create.

Answer: Respondent denies the allegation contained in paragraph 6 as Respondent had been in communication with Thompson prior to September about other business unrelated to Princeton and never had an actual oral agreement with Marshall. The \$25,000 price was the price being offered by Thompson, but was still in negotiation in mid-October.

7. In or about September, Respondent created a holding company, Junkyard Properties LLC and registered the entity with the Illinois Secretary of State's Office on September 10, 2018.

Answer: Respondent admits to the allegation contained in paragraph 7.

8. On or about September 4, 2018, pursuant to the verbal agreement described in paragraph six, above, Thompson executed an Assignment of Certificate of Sale and assigned his interest in the Princeton Property and all rights over to Respondent's holding company, Junkyard Properties, LLC. The Assignment of Certificate of Sale was contingent upon the receipt of \$25,000 in escrow funds from Respondent.

Answer: Respondent denies the allegation contained in paragraph 8 for the reasons stated in paragraph 6.

9. Shortly thereafter, Respondent, acting on behalf of his client Moss, contacted Rubin Ybarra ("Ybarra") regarding a possible purchase of the Princeton Property. Respondent and Ybarra entered into a verbal agreement whereby Ybarra would purchase the Princeton Property. The verbal agreement provided Ybarra wire-transfer \$25,000 to Respondent, which Respondent would hold in escrow. Per the terms of their agreement, Respondent would then assign Junkyard

Properties LLC's rights and interests in the Princeton Property to Ybarra and at the same time, wire transfer Ybarra's \$25,000 to Thompson.

Answer: Respondent admits to the allegation contained in paragraph 9, but notes that the discussion involved several Moss properties, including Princeton. The entity created was for the benefit of Ybarra and Moss and myself. We were going to be partners in the real estate currently owed by Moss that was either lost in foreclosure (Princeton) or in need of capital contributions due to unpaid real estate taxes, past due water bill and/or city violations. However, due to Moss' divorce proceedings and Ybarra's continued legal troubles and ongoing citations to discover assets against him personally, I was to be Managing Member of said entity for the reasons stated above.

10. As escrowee, Respondent had a duty to both Thompson and Ybarra to hold and maintain the escrow funds in an interest-bearing account for the mutual benefit of both parties until the transaction was completed.

Answer: Respondent denies to the allegation contained in paragraph 10 as there was no final agreement between the parties nor was I acting as Ruben's attorney in the matter, but as a partner.

11. On October 9, 2018, pursuant to their verbal agreement, Ybarra wired-transferred \$10,000 to Respondent's account number ending in the four digits "8037" at Bank of America. That account was entitled "Law Offices of Matthew E. Gurvey PC" and was used by Respondent for his own business and personal purposes. Account number ending in "8037" was not a separate identifiable trust account. The \$10,000 represented partial payment of the escrow funds Ybarra agreed to remit in connection with the agreement to purchase the Princeton Property.

Answer: Respondent admits to the allegation contained in paragraph 11 as to the Bank of America account not being an IOLTA account and was used for personal and business reasons. The \$10,000 deposited was to be used for the purchase of Princeton, but no final agreement had been reached as to price.

12. On October 15, 2018, Ybarra wired \$15,000 to Respondent's account "8037" the balance of the escrow funds Ybarra agreed to remit in connection with the agreement to purchase the Princeton Property.

Answer: Respondent admits to the allegation contained in paragraph 12 as to the deposit, but further affirms that no final agreement had been reached between the parties.

13. At no time did Respondent transfer any funds on behalf of Ybarra to Thompson, and at no time did Respondent effectuate an assignment of any interest in the Princeton Property to Ybarra.

Answer: Respondent admits to the allegation contained in paragraph 13 as the parties could not reach a final agreement as there was an issue of unpaid real estate taxes as well as property condition that was not being address by Mr. Thompson.

14. Between October 9, 2018 and October 29, 2018, prior to any distribution of escrow funds to Thompson on behalf of Ybarra, the balance in Respondent's account number ending in "8037" was overdrawn by -\$11,573.26 as Respondent drew funds on the account in payment of his own business and personal obligations.

Answer: Respondent denies the allegation contained in paragraph 14 as that account was never overdrawn at any time until October 29, 2018 when Ybarra deposited the check for \$15,000 prematurely and without authorization.

15. At no time was the sale of the Princeton Property to Ybarra ever effectuated. On or about October 26, 2018, Ybarra requested that Respondent return the \$25,000 he believed Respondent was holding in escrow to Ybarra's own company, YRY Holdings, LLC.

Answer: Respondent admits to the allegation contained in paragraph 15 as to the sale never being effectuated, but there was a dispute as to what Ybarra was entitled to due to services rendered and other pending matters.

16. On or about October 26, 2018, Respondent tendered check number 1186 to Ybarra's LLC drawn on his account ending in "8037" in the amount of \$15,000. On the memo line of the check, Respondent wrote "Princeton." When Ybarra attempted to negotiate check number 1186, it was returned for insufficient funds.

Answer: Respondent admits to the allegation contained in paragraph 16 but notes the explanation given in paragraph 14.

17. Later, following repeated demands by Ybarra for return of the escrow funds, Respondent tendered a total of \$10,000 to Ybarra as partial return of the \$25,000 that was to have been held in escrow. As of the date of this complaint, Respondent has not returned the remaining \$15,000 to Ybarra.

Answer: Respondent admits to the allegation contained in paragraph 17, but notes that the \$10,000 was returned on October 23, 2018 and that Respondent further tendered an additional \$6,000 in December 2019. The remaining \$9,000 remains in dispute for work performed.

18. At no time did Ybarra, Thompson, or anyone on their behalf, authorize Respondent's use of the escrow funds for his own business or personal obligations.

Answer: Respondent denies the allegation contained in paragraph 18 as Respondent has no legal or fiduciary responsibility or obligation to Thompson and Ybarra received the money he was entitled to. The remaining money owed was the result of continued harassment and threat of ARDC involvement by Ybarra to Respondent whereby Respondent had no choice but to accept the terms and conditions brought by Ybarra or potential risk censure. Moreover, this was not an attorney-client relationship as it related to the Princeton property or for any other "Moss owned" properties. We created an LLC to purchase and hold the assets and divide profits or fees accordingly. Ybarra and I were partners.

19. By using the escrow funds for his own business and personal expenses, without the authority of Thompson or Ybarra, Respondent engaged in conversion of those funds.

Answer: Respondent denies the allegation contained in paragraph 19 for the reasons stated above.

20. At the time Respondent engaged in conversion of the escrow funds, he knew that he was using the escrow funds for his own purposes, and he did so dishonestly.

Answer: Respondent admits to the allegation contained in paragraph 20 for the reasons stated above.

21. By reason of the conduct described above, Respondent 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 causing the balance in Account "8037" to fall below the amount then belonging to Ruben Ybarra on October 29, 2018, thereby converting a total of \$25,000 that belonged to Ybarra 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 \$25,000 of Ybarra's escrow funds for his own personal or business purposes, without authority, in violation of Rule 8.4 (c) of the Illinois Rules of Professional Conduct (2010).


Answer: Respondent denies the allegations contained in paragraph 21(a) and 21(b) respectively as Ybarra and Respondent were partners on a purported business deal that did not occur. He immediately received the \$10,000 back, but there was a dispute as to the remaining money due to services rendered that remained unresolved. Only upon threats of ARDC involvement did Respondent agree to return the \$15,000 but asked Ybarra not to deposit the check until Respondent advised to do so. Respondent ultimately tendered an additional \$6,000 to Ybarra albeit undeserved. If this Commission would do any due diligence on Ybarra, it would discover multiple lawsuits and legal maneuvers to avoid service and repayment of debt obligations. In fact, it is in question if he "owns" YRY Holdings as he has indicated repeatedly on the record in other legal proceedings it is owned by his wife. I have known Ybarra for approximately ten years and have represented him in several matters. In fact, up until this unfortunate situation, I would consider Ruben Ybarra a good friend. This was a business deal that went south and had nothing to do with legal representation. When Ybarra tried to extort me into paying him back the remaining \$15,000, he added an additional \$6,000 for his troubles and added expenses, whatever they could have been. He failed to deduct my legal fees for work I had done on other matters as well as other monies owed for unrelated legal matters he neglected to account for.

WHEREFORE, Respondent requests that this matter be dismissed in its entirety.

RESPONDENT'S DISCLOSURE PURSUANT TO COMMISSION RULE 231

1. Respondent is admitted to practice law in the State of Illinois, but is currently under suspension until June 8, 2022.
2. Respondent currently holds no other professional licenses other than his license to practice law.

Respectfully Submitted



Matthew E. Gurvey, Attorney-Respondent

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