

In re Sean Patrick Cullinan
Attorney-Respondent

Commission No. 2020PR00043

Synopsis of Hearing Board Report and Recommendation
(October 2021)

The Administrator filed a two-count Complaint against Respondent. Count I alleged that he committed a criminal act and engaged in dishonest conduct by acquiring title to a family member's home through deception or intimidation. Count II alleged that he engaged in further dishonest conduct in connection with the property after acquiring title.

At hearing, a majority of the Hearing Panel made a directed finding in Respondent's favor as to Count II. The majority subsequently found the Administrator failed to prove the allegations in Count I and recommended that the Complaint be dismissed. The dissenting member found the allegations of engaging in dishonest conduct proven by clear and convincing evidence as to both Counts and would recommend a censure or a suspension of one to three months.

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

In the Matter of:

SEAN PATRICK CULLINAN,

Attorney-Respondent,

No. 6209141.

Commission No. 2020PR00043

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

A majority of the Hearing Panel found the Administrator did not meet his burden of proving that Respondent engaged in misconduct in connection with a family member's transfer of property to Respondent and his former wife.

INTRODUCTION

The hearing in this matter was held remotely by video conference on May 27 and 28, 2021, before a Panel of the Hearing Board consisting of Sonni Choi Williams, Robert Handley, and Charles A. Hempfling. Marcia Topper Wolf represented the Administrator. Respondent was present and was represented by Kathryne R. Hayes.

PLEADINGS AND MISCONDUCT ALLEGED

On June 10, 2020, the Administrator filed a two-count Complaint against Respondent, charging him with committing a criminal act by engaging in the financial exploitation of an elderly person (Count I), and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation (Counts I and II), in violation of Illinois Rules of Professional Conduct 8.4(b) and 8.4(c).

FILED

October 27, 2021

ARDC CLERK

Respondent filed an answer in which he admitted some of the factual allegations, denied others, and denied engaging in misconduct.

EVIDENCE

The Administrator presented testimony from Walter R. Pasulka, Theresa Zera, and Lynn A. Cohen. The Administrator's Exhibits 1-5, 7 and 8 were admitted into evidence. (Tr. 11).

At the close of the Administrator's case-in-chief, Respondent made a motion for directed finding. A majority of the Hearing Panel made a directed finding in Respondent's favor on Count II.

As to the remaining count, Respondent testified on his own behalf and called Monika Jakubowska as a witness. He also called three-character witnesses. Respondent's Exhibits 1-7 were admitted into evidence. (Tr. 13).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Administrator bears the burden of proving the charges of misconduct by clear and convincing evidence. In re Thomas, 2012 IL 113035, ¶ 56. Clear and convincing evidence constitutes a high level of certainty, which is greater than a preponderance of the evidence but less stringent than proof beyond a reasonable doubt. People v. Williams, 143 Ill. 2d 477, 577 N.E.2d 762 (1991). The Hearing Board assesses witness credibility, resolves conflicting testimony, makes factual findings, and determines whether the Administrator met the burden of proof. In re Winthrop, 219 Ill. 2d 526, 542-43, 848 N.E.2d 961 (2006).

I. In Count I, the Administrator charged Respondent with committing the criminal act of financially exploiting an elderly person and engaging in dishonest conduct by obtaining control over Theresa Zera's property by deception or intimidation and failing to explain to Zera that she was relinquishing title to her home when she transferred it to Respondent and his former wife.

A. Summary

The Hearing Panel found the Administrator did not meet his burden of proving that Respondent committed a criminal act when he participated in the transfer of Theresa Zera's property to himself and his former wife. A majority of the Hearing Panel also found insufficient proof that Respondent's conduct was dishonest.

B. Admitted Facts and Evidence Considered

Respondent has been licensed to practice law in Illinois since 1992. He has worked for the Illinois Department of Revenue for 29 years. (Tr. 271).

The charges in this matter arose from Theresa Zera's transfer of the title to her home, a two-flat located at 5057 West Carmen Avenue in Chicago, to Respondent and his former wife, Monika Jakubowska. Monika is Zera's cousin. (Ans. at par. 1).

At the time of the events at issue, Zera was 69 or 70 years of age. (Tr. 177). She is not married and has no children. She is a high school graduate and has completed some college courses. Zera has lived in the Carmen Avenue home for 34 years. Her mother, Jean, and sister, Cathy, also lived there until they passed away, in 2005 and 2015, respectively. (Tr. 151-55). In addition to the Carmen Avenue property, Zera owned a three-flat income property at 3040 West Lyndale Street. She was the landlord for the Lyndale Street property for fifteen years, until she sold it in 2017. Zera handles her own bank accounts. (Tr. 187-189).

Respondent has been Zera's neighbor since 1976. He met Monika when she came to stay with the Zera family after emigrating from Poland. They were married in 2012. (Tr. 241). At the

time of the events at issue, Respondent, Monika, and their children lived across the street from Zera. Respondent testified he and Zera had a good relationship. (Tr. 279).

Monika testified that she helped drive Zera and Cathy to the grocery store and appointments after their mother died. Zera became even more dependent upon Monika after Cathy's death and also asked Monika for money. (Tr. 242-43). Zera denied that Monika loaned her money or bought her groceries. (Tr. 311). According to Zera, Respondent and Monika started inviting her over to their house after Cathy's death. Prior to that time, they had invited Cathy to their house but not Zera. (Tr. 164). Monika offered to help Zera plan for her future. She advised Zera that it would be wise to put the Carmen Avenue property in Monika's name so Zera would not have to worry about losing her house when she got older. (Tr. 244-246).

Respondent never represented Zera in a legal matter, but they discussed property tax issues at times. (Tr. 191). Respondent advised Zera in 2015 to have the Carmen Avenue property appraised. Zera believed the purpose of the appraisal was to get her property taxes lowered. (Tr. 159-62). Respondent and Zera had one conversation about transferring the Carmen Avenue property as part of Medicaid planning¹. In that conversation, according to Zera, Respondent said that because of her age she could "land in a nursing home; that the City would take [her] house." (Tr. 165-66).

During Thanksgiving weekend of 2015, Zera went to the Cullinans' home. While she was there, Respondent went into his home office and returned with quitclaim deeds to transfer title to the Carmen Avenue and Lyndale Street properties to Respondent and Monika. He did not advise Zera that she should consult with another attorney about the deeds. (Tr. 170). Zera did not want to sign them, but Monika kept telling her to sign them. (Tr. 171). Respondent did not do anything to stop Monika from pressuring Zera. (Tr. 202). Zera agreed to sign the deed for the Carmen

Avenue property because she got tired of Monika repeatedly telling her to sign it. She skimmed through the deed before signing it but did not read it carefully. (Tr. 171-74). She did not sign the deed for the Lyndale Street property. (Tr. 178). Monika arranged for a notary to witness the quitclaim deed. (Tr. 246). The deed was recorded on December 7, 2015. (Ans. at par. 13; Adm. Ex. 1).

Respondent testified that he prepared the quitclaim deed because Zera asked him to do so. (Tr. 280). He further testified that he explained to Zera that he and Monika would own the house, and that Zera read the quitclaim deed thoroughly. According to Respondent, he and Monika explained that the property was being transferred because of the Medicaid look-back period, and they would transfer the property back to Zera if she ever wanted to do so. (Tr. 281). He did not pay Zera anything in exchange for transferring the property. Respondent acknowledged he told Zera she could sell the property or do anything she wanted to with it. (Tr. 291).

Zera denied that Respondent told her when she signed the quitclaim deed that she would no longer own her home. (Tr. 169). According to Zera, Respondent said she would own the property jointly with him and Monika. (Tr. 169, 187). She trusted Respondent because he is an attorney. (Tr. 170).

Zera continued paying taxes on the Carmen Avenue property after signing the quitclaim deed. (Tr. 176). At some point after signing the deed, she asked someone at the public library to help her check on her properties and learned she did not own the Carmen Avenue property. (Tr. 179). It is not clear from Zera's testimony when this occurred.

In 2017, Zera hired her friend, attorney Walter R. Pasulka, to handle the sale of the Lyndale Street property. (Tr. 55, 188). During that representation, she asked Pasulka to check on whether the Cullinans were getting divorced. Pasulka obtained a copy of the Cullinans' divorce decree and

saw that they identified the Carmen Avenue property as a marital asset. (Tr. 58). Pasulka then reviewed the deed for that property and saw that Zera had conveyed it by quitclaim deed to the Cullinans. (Tr. 59). Pasulka testified that Zera was not aware she had given up her ownership interest in the property. (Tr. 63). He believes she relinquished ownership as a result of fraud, coercion, and undue influence on the Cullinans' part because she did not receive any consideration for transferring title to her home. Pasulka also thought it was unusual that the Cullinans signed the quitclaim deed. (Tr. 67-69).

Pasulka testified that his understanding was that "if you plan to avoid Medicaid that could be unlawful or illegal." He based that belief on his feeling that "it sounds wrong," but later acknowledged that Medicaid planning is lawful. (Tr. 99-100). Pasulka also acknowledged that if Zera wished to engage in Medicaid planning with respect to the Carmen Avenue property she would have been required to remove herself from the deed and convey title to another person. (Tr. 110). He did not believe there was any reason for Zera to engage in Medicaid planning, however, because she did not have a spouse or children and had sufficient assets to cover her expenses. There were also alternative methods of preserving the property without conveying it, such as arranging for it to be transferred upon Zera's death or placing it in trust. (Tr. 112-114).

C. Analysis and Conclusions

Committing a Criminal Act

Rule 8.4(b) provides that it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. The Administrator charges Respondent with violating Rule 8.4(b) by engaging in financial exploitation of an elderly person, in violation of 720 ILCS 5/17-56. That statute provides as follows in relevant part:

- (a) A person commits financial exploitation of an elderly person . . . when he or she stands in a position of trust or confidence with the elderly person . . . and he or she knowingly:
 - (1) by deception or intimidation obtains control over the property of an elderly person . . . ; or
 - (2) illegally uses the assets or resources of an elderly person

- (c) For purposes of this Section:

- (1) “Elderly person” means a person 60 years of age or older.

- (3) “Intimidation” means the communication to an elderly person . . . that he or she shall be deprived of food and nutrition, shelter, prescribed medication or medical care and treatment or conduct as provided in Section 12-6 of this Code

- (4) “Deception” means, in addition to its meaning as defined in Section 15-4 of this Code, a misrepresentation or concealment of material fact relating to the terms of a contract or agreement entered into with the elderly person...; or the use or employment of any misrepresentation, false pretense or false promise in order to induce, encourage or solicit the elderly person or person with a disability to enter into a contract or agreement.

The Administrator asserts that Respondent instilled fear in Zera that she could lose her home if she did not add Respondent and Monika to the title and concealed from Zera the fact that she was relinquishing her ownership interest in her home.

The evidence of alleged intimidation consisted of Zera’s testimony that (1) on one occasion, Respondent mentioned that the government could take her house if she had to go into a nursing home, and (2) she agreed to sign the deed because Monika kept saying, “sign it, sign it, sign it.” With respect to Respondent’s statement, we find it does not meet the statutory definition of intimidation. Respondent was related to Zera by marriage and had known her for most of his

life, so it was not unusual or unreasonable for him to talk with her about planning for her future. It is also significant that Respondent and Zera had only one conversation on this topic, and there was no testimony from Zera that she felt intimidated by Respondent or anything he said.

With respect to Monika's conduct, we do not find credible Zera's testimony that she signed the deed only because Monika told her to do so. Based on Zera's testimony and our observations of her, she is accustomed to making her own decisions and is not naïve when it comes to her property and finances. We do not believe she signed the deed simply because she got tired of listening to Monika. Moreover, even if we did accept Zera's testimony, we must consider Respondent's conduct, not Monika's. The evidence presented did not establish any intimidation by Respondent.

The evidence pertaining to alleged deception consisted of Zera's testimony that she did not intend to relinquish her interest in her home and believed, based on Respondent's statements, that she would hold title jointly with Respondent and Monika. Respondent, on the other hand, testified that he explained to Zera that the property would be in his and Monika's names for the purpose of Medicaid planning, but she could continue treating the home as her own. According to Respondent, he prepared the deed at Zera's request and she read it thoroughly.

We do not find credible Zera's testimony that she did not know she was conveying her interest in the Carmen Avenue property to Respondent and Monika. As we noted above, we do not find Zera to be naïve or unsophisticated in property matters. She was the owner and landlord of her income property for fifteen years and managed her own finances. Although she testified that she only "skimmed over" the quitclaim deed, it was not lengthy or complicated. It clearly stated that she was conveying the property to Respondent and Monika and releasing all rights she had to it. We find more credible Respondent's testimony that he and Zera discussed conveying

the property for the purpose of Medicaid planning, Zera indicated that she wanted to do so, and she read and signed the deed with the understanding that she would no longer hold title. We do not give any weight to Pasulka's testimony regarding Zera's understanding of the transfer. He had no direct knowledge of what Zera, Respondent, and Monika discussed at the time Zera signed the quitclaim deed. For these reasons, we find insufficient proof that Respondent deceived Zera.

Due to the insufficient evidence of intimidation or deception, the Administrator failed to prove that Respondent committed the crime of financial exploitation of an elderly person and therefore failed to prove a violation of Rule 8.4(b).

Conduct Involving Dishonesty, Fraud, Deceit or Misrepresentation

Rule 8.4(c) provides that it is professional misconduct for an attorney to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Conduct prohibited by Rule 8.4(c) has been broadly construed as any act or omission that is calculated to deceive. See In re Allen, 2017PR00074 (Complaint dismissed, Jan. 11, 2019) (Hearing Bd. at 14) .

The Administrator alleges that Respondent acted dishonestly by obtaining title to the Carmen Avenue property through deception and intimidation, failing to explain to Zera that she was relinquishing her interest in the property, failing to advise her to seek independent advice from another attorney, and failing to disclose that the transfer could be deemed fraudulent.

For the same reasons set forth in our discussion of Rule 8.4(b) above, we find insufficient proof of the allegations that Respondent obtained title to the property through deception and intimidation. We reiterate that we find Respondent's version of events more credible than Zera's.

The allegation that Respondent acted dishonestly by failing to explain to Zera that she was relinquishing her interest fails for two reasons. First, the Administrator did not establish any obligation on Respondent's part to provide an explanation to Zera. It is undisputed that he did not act as Zera's attorney at any time, and there was no other basis presented for imposing a duty to

explain the transaction. Moreover, even if such an obligation existed, we found credible Respondent's testimony that he did explain the transaction to Zera, and she wanted to proceed with the transfer. We did not find credible Zera's testimony that she did not understand the consequences of the transaction.

Similarly, we find the Administrator failed to prove that Respondent acted dishonestly by failing to advise Zera to seek another attorney's advice and failing to advise her that the transaction could be viewed as fraudulent. There was simply no evidence of an obligation on Respondent's part to do these things. Consequently, we decline to infer any impropriety from the evidence that he did not provide such admonitions. After considering the evidence presented, we find it was insufficient to prove that Respondent's involvement in the transfer of the Carmen Avenue property constituted conduct involving dishonesty, fraud, deceit or misrepresentation.

II. The Administrator alleged in Count II that Respondent engaged in dishonest conduct after Zera transferred the Carmen Avenue property by listing the property as an asset in his dissolution proceeding, failing to disclose to the court that he obtained title through improper means, transferring his interest to Monika as part of their marital settlement agreement, and refusing to return the property to Zera until she filed suit against him.

A. Summary

At the close of the Administrator's case in chief, a majority of the Hearing Panel found that Respondent was entitled to a directed finding on Count II.

B. Admitted Facts and Evidence Presented

On April 7, 2017, a judgment for dissolution of Respondent and Monika's marriage was entered. The judgment incorporated a marital settlement agreement, which listed the Carmen Avenue property as a joint marital asset and provided that Respondent would transfer his interest in the property to Monika. (Adm. Ex. 4). On June 6, 2017, Respondent signed a quitclaim deed

conveying his interest in the property to Monika. The quitclaim deed was recorded on August 2, 2017. (Adm. Ex. 3).

Attorney Lynn Cohen, who is now retired, represented Monika in the dissolution proceeding. (Tr. 123). The marital settlement agreement instructed that Cohen and Respondent's attorney were not to do any discovery to verify or investigate the parties' assets. (Adm. Ex. 4). Consequently, Cohen did not verify that the Cullinans owned the Carmen Avenue property. (Tr. 136). Cohen testified that she would have withdrawn from representing Monika had she known of the events alleged in the disciplinary complaint. (Tr. 140).

Attorney Pasulka testified that in 2017, while he was handling the sale of Zera's Lyndale Street property, Zera asked him to help her recover title to the Carmen Avenue property. On July 27, 2017, Pasulka sent a letter to Respondent and Monika demanding that they return title to Zera. He sent a copy of his letter to the ARDC as well. (Tr. 66; Adm. Ex. 1). On September 11, 2017, Pasulka and Emil Caliendo, an attorney who shares office space with Pasulka, filed a complaint on Zera's behalf against Respondent and Monika in the Circuit Court of Cook County. The complaint alleged financial exploitation of an elderly person. (Adm. Ex. 2).

The Administrator submitted into evidence text messages between Monika and Zera that were sent between August 2, 2017 and August 22, 2017. (Adm. Ex. 8). In the messages, Zera asked Monika to return title to her and stated she wanted the home back in her name because "I can't get my freeze on my house because I don't own it." Monika told Zera she would not execute the deed until Zera's attorney withdrew and complained that Zera's conduct was threatening Respondent's law license and livelihood. Nonetheless, Monika transferred the property back to Zera on September 20, 2017. (Adm. Ex. 7). Zera's complaint was voluntarily dismissed on December 11, 2017. (Tr. 108; Resp. Ex. 2).

C. Analysis and Conclusions

The Administrator alleged the following factual bases for the charge that Respondent engaged in dishonest conduct after Zera conveyed the Carmen Avenue property to him and Monika: (1) listing the property as a marital asset in his dissolution proceeding, knowing he had obtained title under false pretenses; (2) failing to disclose to the court how he obtained title to the Carmen Avenue property; (3) transferring his interest in the property to Monika pursuant to their marital settlement agreement; and (4) refusing to take steps to return the property to Zera.

At the close of the Administrator's case in chief, Respondent moved for a directed finding. The ruling on a motion for directed finding is a two-step process. The Hearing Panel must first determine whether the Administrator presented sufficient evidence to establish a *prima facie* case by presenting at least some evidence on every element necessary to prove the alleged misconduct. The Hearing Panel will grant a motion for directed finding if the Administrator failed to establish a *prima facie* case. If the Hearing Panel determines the Administrator established a *prima facie* case, it must then determine whether all the evidence presented, including evidence favorable to the Respondent, is sufficient to prove the misconduct by clear and convincing evidence. Judgment should be entered for the Respondent only if, after the weighing process, the Panel determines the evidence is not sufficient to meet the Administrator's burden of proof. See Kokinis v. Kotrich, 81 Ill. 2d 151, 154-55 (1980); In re Bush, 09 CH 73 (Feb. 10, 2011) (reprimand) (Hearing Bd. at 17-18).

In deciding the motion for directed finding, we considered the testimony of Administrator's witnesses Zera, Pasulka, and Cohen, as well as Administrator's Exhibits 1-5, 7, and 8. For the following reasons, we find that the Administrator presented a *prima facie* case, but the evidence was not sufficient to establish a violation of Rule 8.4(c) by clear and convincing evidence. Therefore, Respondent is entitled to a directed finding on Count II.

With respect to the allegation that Respondent listed the Carmen Avenue property as a marital asset despite knowing he obtained it under false pretenses, the Administrator established that Respondent and Monika identified the property as a marital asset in their marital settlement agreement. The Administrator put forth some evidence, through Zera's testimony, to show that Respondent obtained title to the property by falsely representing to Zera that she would own the property jointly with Respondent and Monika. As we found in Count I, though, we did not find Zera credible on this issue. We find she understood what she was doing at the time she transferred the property, and that Respondent did not deceive her. Accordingly, the Administrator did not present sufficient proof to establish that Respondent obtained title under false pretenses.

The testimony from Cohen that the attorneys in the dissolution matter were instructed not to investigate the marital assets does not convince us that Respondent sought to conceal how he acquired title. It is quite possible that Respondent and Monika had an innocent reason to so instruct their attorneys, such as minimizing the cost of their dissolution. We also give no weight to Cohen's testimony that she would have withdrawn from representing Monika had she known of the circumstances surrounding the transfer. Cohen had no direct knowledge of Respondent's conduct or intentions at the time the property was transferred or at the time the marital settlement agreement was entered. For all of the foregoing reasons, we do not find credible evidence supporting the allegation that Respondent knew at the time of the marital settlement agreement that he obtained title through wrongful means.

We further find insufficient proof of the allegation that Respondent acted dishonestly by failing to advise the court of the means by which he obtained title to the property. The evidence demonstrated that Zera first notified Respondent and Monika that she wanted title returned to her on July 27, 2017, approximately three months after the dissolution judgment was entered. There

is no evidence before us showing that Respondent had knowledge of Zera's desire to regain title prior to July 27, 2017. Moreover, there was no evidence establishing an obligation on Respondent's part to volunteer information about how he acquired title. Given the absence of clear and convincing proof that the transaction was deceptive or that that title was disputed at any time before the entry of the dissolution judgment, we find the Administrator has not presented sufficient evidence to prove dishonesty based on a lack of disclosure to the court.

With respect to Respondent's transfer of his interest to Monika, we find insufficient evidence that this was done for a dishonest reason. The mere fact of the transfer, without more, is not sufficient to establish dishonesty on Respondent's part. Respondent and Monika had to divide their assets as part of their dissolution. We find it logical, rather than deceptive, that Monika, Zera's blood relative, would retain the Carmen Avenue property. Additionally, Respondent's transfer of his interest to Monika took place before attorney Pasulka sent the demand letter, so there was no evidence that title was in dispute at the time Respondent transferred his interest.

For similar reasons, the Administrator failed to present sufficient evidence to establish that Respondent refused to return the property to Zera. By the time Pasulka sent the demand letter, Respondent no longer had a legal interest in the property. Although the deed from Respondent to Monika was recorded on August 2, 2017, the Administrator presented no evidence establishing that Respondent had any responsibility for or control over recording the deed. It is unclear what the Administrator believes Respondent could have or should have done after he was notified that Zera wanted title returned to her, given that he had already relinquished his interest. For all of these reasons, we find the Administrator failed to present sufficient evidence to establish the charges in Count II by clear and convincing evidence.

EVIDENCE IN AGGRAVATION AND MITIGATION

Aggravation

Theresa Zera paid \$6,500 in legal fees to Pasulka to regain title to the Carmen Avenue property. (Adm. Ex. 5).

Mitigation

Retired attorney Ron Forman worked with Respondent at the Illinois Department of Revenue from 2000 until 2019. They also volunteered together as union stewards. (Tr. 210-213).

Judge James Pieczonka knows Respondent from his prior work as an administrative law judge for the Illinois Department of Revenue. He last worked with Respondent in 1996 and has kept in touch with him sporadically. (Tr. 223-24). Joseph Onofrio has known Respondent for 15 years through parish and volunteer activities. (Tr. 230). Respondent assists with numerous parish events and projects and also provides *pro bono* legal services. (Tr. 232, 277-78). He has been given awards for his service. (Tr. 233-35). All of the character witnesses have a high opinion of Respondent's honesty and integrity. (Tr. 216, 223, 234).

Respondent regrets preparing the quitclaim deed because it caused a rift between Monika and Zera. (Tr. 284). He was trying to help Zera and to abide by her wishes. (Tr. 306-307).

Prior Discipline

Respondent has no prior discipline.

RECOMMENDATION

Based on our findings that the Administrator did not prove any of the charges against Respondent, we recommend that the Complaint be dismissed.

Respectfully submitted,

Sonni Choi Williams
Robert Handley

Charles A. Hempfling, dissenting in part:

I concur with the majority's finding that the Administrator did not prove a violation of Rule 8.4(b), as Respondent's conduct did not rise to the level of criminal conduct. However, I dissent from the majority's findings as to Rule 8.4(c). Unlike the majority, I find credible Theresa Zera's testimony that she did not fully understand she was relinquishing title to her home. In addition to Zera's testimony, the following evidence convinced me that Respondent acted with a dishonest motive. He was in a position of trust and had superior knowledge and experience. He was present when Monika pressured Zera into signing the quitclaim deed but did nothing to prevent the transaction from going forward. He facilitated the transfer by preparing the deed and knowingly included himself on the deed. He misrepresented to Zera that, after transferring her home, she could still sell it or do anything she wanted with it.

Respondent emerged from the transaction with title to a property but none of the responsibility for the expenses associated with ownership. I find it difficult to believe that Zera would have agreed to convey title and continue paying all taxes and expenses but receive nothing in return. For these reasons, as to Count I, I find the Administrator proved Respondent acted dishonestly by taking advantage of Zera for his own benefit.

I also dissent with respect to the majority's directed finding in Respondent's favor on Count II. For the reasons stated above, I find the Administrator established that Respondent and Monika obtained title to the Carmen Avenue property through dishonest means. In addition, Respondent knew Zera was living in the Carmen Avenue property, paying the property taxes and expenses, and would continue to do so for the foreseeable future. Consequently, I find it was dishonest for Respondent to represent to the Court that he and Monika had free and clear title to the property. Even though he was not representing a client in his dissolution proceeding, he was still an officer

of the court whose ethical duty of honesty applied. Because he chose not to give the Court accurate information, I find the Administrator presented sufficient evidence to prove the dishonesty charge in Count II as well. I would recommend that Respondent be censured or suspended for one to three months.

CERTIFICATION

I, Michelle M. Thome , Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Hearing Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on October 27, 2021.

/s/ Michelle M. Thome

Michelle M. Thome, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

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¹ Generally speaking, Medicaid planning involves engaging in financial planning so that the potential recipient is eligible for Medicaid and the recipient's assets are preserved to the extent possible. See 28 Illinois Jurisprudence ELDER LAW § 7:37 (2021).