

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

In the Matter of:)	
)	
BRIAN MICHAEL GABOR,)	
)	Commission No. 2025PR00018
Attorney-Respondent,)	
)	
No. 6255962)	

COMPLAINT

Lea S. Gutierrez, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, Ann R. Pieper, pursuant to Supreme Court Rule 753(b), alleges that Respondent, Brian Michael Gabor, who was licensed to practice law in Illinois on November 5, 1998, has engaged in the following conduct which subjects him to discipline pursuant to Supreme Court Rule 770:

COUNT I

(Lack of diligence and failure to keep a client reasonably informed)

1. In 2020 and 2021, Charles Fieldman and Fieldman Construction, Inc. (“Fieldman”) were hired by Andrew and Carrie Johnson (“the Johnsons”) to complete construction on their home. The Johnsons terminated Fieldman and refused to pay for his services.
2. In the fall of 2021, Fieldman and Respondent agreed that Respondent would pursue a breach of contract claim against the Johnsons in Grundy County.
3. On September 8, 2021, Respondent filed a complaint on behalf of Fieldman in Grundy County, case number 2021 LM 112.
4. On October 19, 2021, opposing counsel, attorney John Peacock (Peacock) entered his appearance on behalf of the Johnsons.

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5. Between November of 2022 and March of 2023, Peacock propounded discovery and attempted to schedule depositions on behalf of the Johnsons.

6. Respondent forwarded the discovery and request for depositions to Fieldman, but did not follow up with Fieldman when Fieldman did not respond by the discovery deadline.

7. In March of 2023, Peacock followed up with Respondent when discovery was not tendered, and no depositions were scheduled. Peacock attempted to resolve the outstanding discovery by contacting Respondent through phone and email, but Respondent did not reply to any messages left by Peacock. Peacock finally sent a letter explaining that he would file a motion to compel if discovery was not tendered and depositions were not scheduled within seven days.

8. Respondent did not respond to Peacock nor did Respondent notify Fieldman that discovery was overdue, that depositions needed to be scheduled, or that there would be consequences for failing to respond to discovery.

9. On March 24, 2023, Peacock filed a motion to compel and set the motion for hearing on April 21, 2023.

10. Respondent did not notify his client that a motion to compel was filed or that the motion to compel was set for a hearing.

11. On April 21, 2023, Respondent attended the hearing via Zoom and advised the court that his client needed additional time to respond to discovery and set depositions. Respondent's request was granted and the court ordered discovery to be tendered on or before May 22, 2023.

12. Respondent never notified Fieldman that Respondent appeared in court on April 21, 2023, or that the court ordered Fieldman to respond to discovery by May 22, 2023.

13. On June 5, 2023, Peacock filed a petition for rule to show cause against Fieldman because Fieldman did not comply with the court's extended discovery deadline of May 22, 2023.

The court granted the petition and scheduled a hearing on contempt of court to be held on June 20, 2023. The court's order required Fieldman to personally appear at the June 20, 2023, hearing date.

14. Respondent did not notify Fieldman of Peacock's petition for rule to show cause on June 5, 2023. Respondent did not notify Fieldman of the hearing scheduled for June 20, 2023, and did not notify Fieldman that Fieldman was ordered to personally attend the June 20, 2023, hearing.

15. On June 20, 2023, Respondent attended the hearing via Zoom and agreed to a finding of contempt for Fieldman and further agreed that Fieldman would purge his contempt by answering the opposing parties' interrogatories and request to produce within seven days.

16. Respondent did not, at any time, notify Fieldman about the June 20, 2023, contempt finding or Fieldman's ability to purge the contempt by answering the outstanding discovery.

17. On June 29, 2023, Peacock filed a petition for indirect civil contempt and attorney's fees when Fieldman did not tender discovery or otherwise move to purge his contempt. The hearing on the indirect civil contempt petition and attorney's fees was scheduled for July 11, 2023.

18. Respondent did not notify Fieldman of the June 29, 2023 filings or the July 11, 2023 hearing.

19. Neither Fieldman nor Respondent appeared at the hearing on July 11, 2023. The court ordered Fieldman to pay Peacock's attorney's fees of \$937.60 within 14 days. The court further ordered: "plaintiff and plaintiff's attorney Gabor are to appear in person next hearing." The court sent its order via the portal and required Peacock to serve Respondent via first class mail and scheduled the next hearing for August 3, 2023; the agreed upon status date that was scheduled when Respondent was in court via Zoom on June 20, 2023.

20. Respondent did not notify Fieldman about the court's order assessing attorney's fees or that Fieldman was to appear, personally, on August 3, 2023.

21. On August 3, 2023, neither Respondent nor Fieldman appeared for the hearing. The court entered an order requiring Respondent and Fieldman to appear on August 31, 2023, and to show cause why they should not be held in contempt of court.

22. The court sent the order to Respondent through the service portal and required Peacock to serve the order via first class mail. Respondent received the August 3, 2023 order and did not provide the order to Fieldman or notify Fieldman of the hearing set for August 31, 2023.

23. On August 31, 2023, neither Respondent nor Fieldman appeared in court. The court gave Peacock leave to file a motion for default on his clients' counterclaims and to dismiss Fieldman's amended complaint, and continued the matter for hearing to October 11, 2023, and sent notice to Respondent through the service portal, and required Peacock to serve the order via first class mail.

24. On September 12, 2023, Peacock filed a motion for default judgment on the Johnsons' counterclaim, requested the court dismiss Fieldman's amended complaint, and set that motion for hearing at the October 11, 2023, court date. Respondent received the order of August 31, 2023, as well as the pleadings on September 12, 2023, via the service portal and first-class mail. Respondent did not provide the order or pleadings to Fieldman.

25. On October 11, 2023, neither Respondent nor Fieldman attended the court hearing. The court held the hearing, granted default judgment for the Johnsons' counterclaim, dismissed Fieldman's amended complaint, barred Fieldman and Respondent from presenting any evidence in the matter, barred Fieldman and Respondent from further pleadings requesting relief from the

Johnsons, and ordered that Fieldman would pay the Johnsons' attorney's fees and costs of the litigation. The court set a hearing on damages for December 1, 2023.

26. Respondent received notice of the order of October 11, 2023, as well as the notice of hearing for damages on December 1, 2023. Respondent did not send the court's orders to Fieldman or notify him of the December 1, 2023, hearing date.

27. On December 1, 2023, neither Respondent nor Fieldman appeared at the hearing for damages. The court granted judgment in the amount of \$183,200 in favor of the Johnsons plus attorney fees and costs in the amount of \$6,633.38. The court ordered that Fieldman and Respondent both be personally served with the December 1, 2023, order and set the matter for hearing on pre-judgment interest on January 5, 2025, as well as a status date for March 1, 2024, to determine whether there was personal service on Respondent and Fieldman.

28. Respondent received notice of the order of December 1, 2023, as well as the notice of hearing on pre-judgment interest that would be held on January 5, 2024. Respondent did not send the court's orders to Fieldman or notify him of the January 5, 2024, hearing date.

29. On January 5, 2024, the court awarded the Johnsons' pre-judgment interest in the amount of \$38,545.

30. Respondent received the court's January 5, 2024, order. Respondent did not send the order to Fieldman.

31. On March 1, 2024, neither Respondent nor Fieldman appeared at the hearing. The court was advised that Respondent had not been served and Fieldman was personally served with the order. The court continued the matter for status of service to April 5, 2024.

32. Respondent and Fieldman were both personally served on March 3, 2024.

33. On April 5, 2024, Respondent did not appear in court. Fieldman did appear in court with his subsequent counsel he retained after he was personally served with the court's orders. The court ordered Respondent to personally attend a hearing on April 18, 2024, and show cause why he should not be held in contempt and made clear that a body attachment would issue if he were not present.

34. On April 18, 2024, Respondent appeared in court and was held in contempt. The court set a hearing on sentencing for Respondent's contempt for June 3, 2024. The court accepted attorney Phyllis Roman's ("Roman") appearance on Fieldman's behalf and granted leave for Roman to file a motion to vacate the judgments against Fieldman.

35. On May 20, 2024, Roman argued the motion to vacate the judgments against Fieldman of October 2023, December 2023, and January 2024. The court denied the motions to vacate on May 20, 2024.

36. On June 3, 2024, Fieldman and the Johnsons' notified the court that they entered into a fully negotiated settlement agreement requiring Fieldman to pay the Johnsons \$200,000 and agree not to appeal the court's May 20, 2024, denial of the motion to vacate the default judgments, in return for a full release of judgment in the reduced amount and the immediate cessation of the Johnsons' ongoing post judgment collection efforts. Roman notified the court that Fieldman was filing a malpractice claim against Respondent. Respondent was not sentenced beyond the finding of contempt in light of the parties' settlement and the cessation of the case and Roman's representation to the court that the malpractice claim against Respondent was forthcoming.

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

- a. failure to act with reasonable diligence and promptness in representing a client by conduct including; failing to notify his client that discovery responses were


overdue, failing to timely respond to attempts by opposing counsel to obtain compliance with discovery, failing to notify his client about pleadings filed, orders entered or hearings scheduled as set forth above in paragraphs 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 25, 26, 27, 28 and 30, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);

- b. failure to promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required, by conduct including; failing to notify his client of pleadings, hearings, orders, and judgments, and agreeing to a finding of contempt against his client when his client was not present, as more completely set forth in in paragraphs 6, 8, 10, 11, 12, 14, 15, 16, 18, 20, 22, 24, 25, 26, 27, 28 and 30, in violation of Rule 1.4(a)(1) of the Illinois Rules of Professional Conduct (2010); and
- c. failure to keep a client reasonably informed about the status of a matter, by the conduct listed in paragraphs 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 25, 26, 27, 28 and 30, in violation of Rule 1.4(a)(3) 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,

Lea S. Gutierrez, Administrator
Attorney Registration and
Disciplinary Commission

By: 
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One of her attorneys

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