

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

In the Matter of:

**MARK A. HAMILL,**

Attorney-Respondent,

No. 6206975.

Commission No. 2021PR00016

**REPORT AND RECOMMENDATION OF THE HEARING BOARD**

**DEFAULT PROCEEDING**

The hearing in this matter was held on October 21, 2021, before a Hearing Board Panel consisting of Kenn Brotman, Chair, Michael P. Rohan, and Julie McCormack. The hearing was held by videoconference. Tammy L. Evans appeared on behalf of the Administrator. Respondent was not present at the hearing, and no counsel appeared on his behalf. At the conclusion of the Administrator's presentation, Counsel for the Administrator recommended that Respondent be suspended for three years and until further order of the Court and until he pays restitution of \$2,975 to Linda Curcio. We agree with the Administrator's recommendation.

We have considered the Administrator's two-count Complaint, a copy of which is attached as Exhibit 1. We have also considered the Order entered on September 7, 2021, deeming the allegations of the Complaint admitted, a copy of which is attached as Exhibit 2.

While representing Linda Curcio in a patent application, Respondent received notice from the United States Patent and Trademark Office (USPTO), requiring him to pay a filing fee and file additional documentation or the application would be considered abandoned. Respondent did not take any action in response to that notice or inform Curcio of its contents. Respondent billed

**FILED**

October 25, 2021

**ARDC CLERK**

Curcio for \$2,975, which she paid. Respondent never performed the work or incurred the costs outlined in the bill and has never refunded the \$2,975. After receiving notice of abandonment of the application, Respondent did not take any action or inform Curcio of the notice. When Curcio inquired about the status, Respondent falsely informed her that the application was still pending. Respondent did not respond to any of Curcio's multiple attempts to contact him further. During the ARDC's investigation, although he did reply to some emails from counsel for the Administrator, Respondent did not respond to other inquiries. He did not attend his sworn statement, even though he received a subpoena directing him to appear.

In aggravation, the Panel considered the harm Respondent's misconduct caused his client, Respondent's exclusion from practice before the USPTO and his removal from the master roll for failure to register. Respondent's minimal participation in these proceedings, particularly his failure to answer the Complaint or appear at the hearing, represents a significant aggravating factor.

Respondent has no prior discipline in Illinois. The Panel considered that factor in mitigation, but it did not cause us to recommend a different sanction.

Accordingly,

1. Respondent agreed to accept electronic service and was served with the Complaint by email on March 19, 2021. A copy of the Affidavit of Agreed Service is attached as Exhibit 3.
2. The allegations of the Complaint were deemed admitted in an Order filed on September 7, 2021. A copy of that Order is attached as Exhibit 2.
3. In consideration of the Order deeming the allegations of the Complaint admitted, this Panel finds Respondent committed the misconduct charged in the Complaint.

4. Given Respondent's misconduct, the aggravating factors present, and the case law cited by the Administrator, we recommend that Respondent, Mark A. Hamill, be suspended for three years and until further order of the Court and until he makes restitution of \$2,975 to Linda Curcio.
5. The Panel has concluded this report format will adequately and appropriately communicate its recommendation to the Court.

Respectfully submitted,

Kenn Brotman  
Michael P. Rohan  
Julie McCormack

#### **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 25, 2021.

/s/ Michelle M. Thome

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

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# **Exhibit 1**

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

In the Matter of:

MARK A. HAMILL,

Commission No. 2021PR00016

Attorney-Respondent,

No. 6206975.

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Tammy L. Evans, pursuant to Supreme Court Rule 753(b), complains of Respondent, Mark A. Hamill, who was licensed to practice law in Illinois on November 7, 1991, and alleges that Respondent has engaged in the following conduct which subjects him to discipline pursuant to Supreme Court Rule 770:

COUNT I

*(Lack of diligence, failure to communicate, failure to return unearned fee and false statement to a client—Linda Curcio)*

1. Respondent was registered as a patent attorney with the United States Patent and Trademark Office (“USPTO”) on October 8, 1993. On December 4, 2019, Respondent was excluded from the practice of patent, trademark, and non-patent law before the USPTO for engaging in misconduct. Respondent is eligible to file for reinstatement no earlier than at least five years from the effective date of exclusion, and must establish full compliance with the conditions set forth in § 11.58 of Title 37 of the Code of Federal Regulations.

2. At all times related to this complaint, a provisional patent application allowed an inventor to quickly protect their invention while giving them an opportunity to conduct more

research or finish the invention before filing a nonprovisional utility patent application. A provisional patent application does not get reviewed by the USPTO. An inventor has one year from the date of filing a provisional patent application to convert the application to a nonprovisional utility patent application. Once a nonprovisional utility patent application is filed, the USPTO will review the application and determine whether to grant a patent to the inventor.

3. On or about March 16, 2015, Respondent and Linda Curcio (“Curcio”) agreed that Respondent would represent Curcio to conduct a patentability search and file a provisional patent application for Curcio’s collapsible food storage container invention. Respondent and Curcio agreed that Curcio would pay Respondent a flat fee of \$750 to conduct the patentability search and would send invoices to Curcio for any additional work he performed for her. On March 16, 2015, Curcio paid Respondent \$750.

4. On April 10, 2015, Respondent sent Curcio an email with a copy of the patentability search results. On or after April 10, 2015, Respondent and Curcio agreed that Respondent would file a provisional patent application for Curcio’s invention.

5. On or before November 2, 2015, Respondent sent an invoice to Curcio for \$500 for work he performed on the provisional patent application. On November 2, 2015, Curcio paid Respondent \$500.

6. On December 4, 2015, Respondent filed a provisional patent application for Curcio’s invention with the USPTO. The patent application named Curcio as the sole inventor and owner of the invention.

7. On or before February 5, 2016, Respondent sent an invoice to Curcio for \$500, which included filing fees for the application and the work Respondent performed on her provisional patent application. On February 5, 2016, Curcio paid Respondent \$500.

8. On or before May 25, 2016, Respondent sent an invoice to Curcio for \$2,100 for work he performed in relation to her provisional patent application, including final corrections to the application, and updates and corrections to the drawings that he submitted to the USPTO with her application. On May 25, 2016, Curcio paid Respondent \$2,100.

9. On or before November 14, 2016, Respondent sent an invoice to Curcio for \$770 for additional work he performed on her provisional patent application. On November 14, 2016, Curcio paid Respondent \$770.

10. On December 1, 2016, Curcio contacted Respondent and spoke to him about converting her provisional patent application to a nonprovisional utility patent application. On December 2, 2016, Respondent's assistant sent Curcio an email confirming that Respondent would begin working on the conversion of Curcio's provisional patent application to a nonprovisional utility patent application, and that the fee for the legal work would be between \$2,500 and \$3,000.

11. On December 5, 2016, Respondent filed a nonprovisional utility patent application on behalf of Curcio with the USPTO. The application named Curcio as the sole inventor and owner.

12. On December 8, 2016, Respondent sent Curcio a letter informing her that the application had been filed. Respondent provided Curcio with a copy of the nonprovisional utility patent application, electronic filing acknowledgment receipt, application data sheet, power of attorney, declaration, nonprovisional utility patent application transmittal, and the USPTO electronic acknowledgement receipt. Respondent's letter informed Curcio that she would need to provide Respondent with an executed declaration and a new power of attorney form, and pay the statutory basic filing fee, which Respondent said should total about \$850. In his letter, Respondent

stated that he would inform Curcio of the exact amount when he received the notice from the USPTO.

13. On January 23, 2017, the USPTO issued a notice to file missing parts in the application that Respondent filed for Curcio. The notice was sent to the address to which Respondent authorized the USPTO to send correspondence pertaining to the application, which was Respondent's business address, 788 Willis Street in Glen Ellyn, Illinois. The notice advised Respondent that a payment of \$800 in filing fees was required to avoid abandonment of the application, and that there was a shortened statutory period of two months to respond but that an extension of time may be obtained by filing a petition with the USPTO. The notice further advised that Curcio's application required replacement drawings and a properly executed inventor's oath or declaration. Respondent received the USPTO's notice to file missing parts regarding Curcio's application.

14. At no time did Respondent inform Curcio about the notice to file missing parts that he received from the USPTO or advise her as to the potential consequences of not responding to the notice. Respondent did not file a response to the notice he received from the USPTO and did not file a petition to request an extension of time to respond as set forth in the notice he received from the USPTO.

15. On or before April 28, 2017, Respondent sent an invoice to Curcio for \$2,975 for additional changes that Respondent made to Curcio's patent application and application renewal fees, both of which, according to Respondent, were requested by the USPTO. On April 28, 2017, Curcio paid Respondent \$2,975.

16. Between December 8, 2016 and April 28, 2017, Respondent did not perform any legal work that he agreed to do for Curcio, and did not pay any filing fees to the USPTO.

17. On September 25, 2017, the USPTO issued a notice of abandonment of Curcio's application to Respondent. The USPTO mailed the notice to Respondent at the address to which Respondent had authorized the USPTO to send correspondence pertaining to the application, which was Respondent's business address, 788 Willis Street in Glen Ellyn, Illinois. Respondent received the USPTO's notice of abandonment of Curcio's application.

18. At no time did Respondent inform Curcio about the notice of abandonment that he received from the USPTO, or advise her of her potential courses of action to respond to the notice of abandonment, or the potential consequences if no response was filed. Respondent did not file a response to the notice of abandonment and did not inform Curcio that he did not file a response to the notice.

19. In March 2018, Curcio contacted Respondent about the status of her patent application. At no time during that conversation did Respondent inform Curcio that he had received a notice of abandonment from the USPTO or advise her of her potential courses of action. Instead, Respondent informed Curcio that her patent application was still pending.

20. Respondent's statement to Curcio that her patent application was still pending was false because he had received a notice of abandonment of Curcio's application from the USPTO six months earlier.

21. At the time Respondent made the statement to Curcio that her patent application was still pending, he knew the statement was false.

22. Between July 2018 and January 2019, Curcio left Respondent several voicemail messages, sent numerous emails to Respondent, and attempted to contact him via social media requesting information on the status of her patent application. At no time did Respondent return Curcio's voicemail messages or respond to her emails or social media contacts.

23. As of the date this complaint was filed, Respondent has not refunded any portion of the fee that he received from Curcio.

24. 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 respond to the notice of missing parts, and the notice of abandonment that he received from the USPTO, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);
- b. failing to keep the client reasonably informed about the status of the matter, by conduct including failing to inform Curcio about the two notices he received from the USPTO when he spoke to her in March 2018, and failing to respond to Curcio's emails, voicemail messages, and social media contacts regarding the status of her case, in violation of Rule 1.4(a)(3) of the Illinois Rules of Professional Conduct (2010);
- c. failing to promptly comply with reasonable requests for information, by conduct including failing to respond to Curcio's emails, voicemail messages, and social media contacts regarding the status of her case, in violation of Rule 1.4(a)(4) of the Illinois Rules of Professional Conduct (2010);
- d. failing to refund an unearned fee, by conduct including failing to return any portion of the fee that Respondent received from Curcio in connection to her patent application, in violation of Rule 1.16(d) of the Illinois Rules of Professional Conduct (2010); and
- e. engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including making the false statement to Curcio that her patent application was still pending when Respondent knew the application had been abandoned by the USPTO because he received a notice of abandonment of application six months earlier, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

COUNT II  
*(Failure to cooperate with a disciplinary investigation)*

25. On or about January 22, 2019, Curcio submitted a request for investigation to the Administrator regarding Respondent's conduct with respect to his representation of her.

26. On January 29, 2019, the Administrator sent Respondent a letter pursuant to Commission Rule 53, requesting that Respondent send a letter to the Administrator setting forth the material facts related to Curcio's request for investigation within 14 days.

27. At no time did Respondent submit a written response to the Administrator's January 29, 2019 letter.

28. On February 26, 2019, the Administrator sent a second letter to Respondent requesting the information specified in the January 29, 2019 letter. The second letter reminded Respondent of his obligations to provide such information to the Administrator pursuant to Commission Rule 53 and Rule 8.1(b) of the Illinois Rules of Professional Conduct (2010).

29. At no time did Respondent submit a written response to the Administrator's February 26, 2019 letter.

30. On March 26, 2019, Karyn Bart ("Bart"), counsel for the Administrator, sent Respondent an email at the email address Respondent registered with the ARDC. In her email, Bart informed Respondent that the Administrator had attempted to contact him by United States mail and telephone at his registered business address and telephone number, and asked that he contact her immediately. Bart provided Respondent with her telephone number.

31. At no time did Respondent reply to Bart's March 26, 2019 email or contact her by telephone.

32. On April 15, 2019, Bart sent an email to Respondent at the email address that Respondent registered with the ARDC. In her email, Bart informed Respondent that she was

preparing a subpoena for him to appear for a sworn statement in the Commission's Chicago office, and asked that he contact her immediately. On April 15, 2019, Respondent sent Bart an email acknowledging receipt of her email and stated that he would call her the following day.

33. On April 16, 2019, Respondent contacted Bart, and, after their conversation, Bart memorialized their discussion in an email to Respondent. Bart included a copy of Curcio's request for investigation and a copy of the Administrator's January 29, 2019 letter in her email to Respondent, and asked Respondent to submit a written response with the information requested in the letter within 14 days.

34. At no time did Respondent submit a written response to Bart as requested in her April 16, 2019 email.

35. On June 19, 2019, the Administrator served Respondent with a subpoena to appear for a sworn statement by email to the email address Respondent registered with the ARDC. The subpoena commanded Respondent to appear in the Commission's Chicago office on June 26, 2019, at 10:00 a.m. Respondent received the subpoena but did not appear for the sworn statement.

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

- a. knowingly failing to respond to a lawful demand for information from a disciplinary authority, by conduct including failing to respond to Bart's March 26, 2019 and April 16, 2019 emails, and failing to appear for his June 26, 2019 sworn statement, in violation of Rule 8.1(b) 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

/s/ Tammy L. Evans  
Tammy L. Evans

Tammy L. Evans  
Counsel for the Administrator  
3161 West White Oaks Drive, Suite 301  
Springfield, Illinois 62704  
Telephone: (217) 546-3523  
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MAINLIB#1353809

# **Exhibit 2**

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

In the Matter of:

**MARK A. HAMILL,**

Attorney-Respondent,

No. 6206975.

Commission No. 2021PR00016

**ORDER**

A telephonic pre-hearing conference was held in this matter on September 7, 2021, at 9:30 a.m. Participating were Kenn Brotman, Chair; and Tammy L. Evans, Counsel for the Administrator. The Clerk of the Commission provided Respondent with call-in information but Respondent did not participate. Counsel for the Administrator advised the Chair as to the status of the matter. Accordingly,

**IT IS ORDERED:**

1. The Administrator's Motion to Deem the Allegations of the Complaint Admitted Pursuant to Commission Rule 236 is granted. No further proof of the allegations of the complaint is required. At hearing, the parties shall be limited to presenting evidence of aggravating and mitigating factors and arguments regarding the form and amount of discipline to be imposed;
2. The parties shall exchange any exhibits they propose to offer at hearing on or before October 14, 2021;
3. The hearing in this matter is scheduled for October 21, 2021, commencing at 9:30 a.m., and will be held remotely by Webex video conference. The Clerk of the Commission shall provide the parties with Webex access information; and

**FILED**

September 07, 2021

**ARDC CLERK**

4. On the Chair's own motion, the Clerk of the Commission is directed to serve Respondent for the pendency of this matter at his home address and registered email address, in addition to his registered office address.

**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 order, approved by the Hearing Board Chair, entered in the above entitled cause of record filed in my office on September 7, 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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## **PROOF OF SERVICE**

I, Michelle M. Thome, hereby certify that I served a copy of this Order on the Attorney-Respondent listed at the addresses shown below by e-mail and by regular mail by depositing it with proper postage prepaid, by causing the same to be deposited in the U.S. Mailbox in Chicago, Illinois on September 7, 2021, at or before 5:00 p.m. At the same time, a copy of this Order was sent to Counsel for the Administrator by e-mail service.

Mark A. Hamill  
Attorney-Respondent  
450 Village Green, #312  
Lincolnshire, IL 60069

Mark A. Hamill  
Attorney-Respondent  
Law Office of Mark A. Hamill, P.C.  
1850 S. Milwaukee Avenue, Suite 409  
Libertyville, IL 60048

Mark A. Hamill  
Attorney-Respondent  
[mh@hamillaw.com](mailto:mh@hamillaw.com)

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 she verily believes the same to be true.

/s/ Michelle M. Thome

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Michelle M. Thome

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# **Exhibit 3**

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

FILED  
3/22/2021 1:29 PM  
ARDC Clerk

In the Matter of:

MARK A. HAMILL

Attorney-Respondent,  
No. 6206975.

Commission No. 2021PR00016

**AFFIDAVIT OF AGREED SERVICE  
PURSUANT TO COMMISSION RULE 214-c**

I, James F. Burton, ("Affiant") being duly sworn, hereby state:

1. Affiant possesses firsthand knowledge of the facts presented in this Affidavit and, if called as a witness, Affiant will testify to the truth of the facts as presented in this Affidavit.
2. Affiant is a Senior Investigator for the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois ("The Commission") and, as such, is authorized to serve process.
3. On Monday March 15, 2021 at approximately 10:28 AM Affiant sent Respondent an email at his registered email address as located on the Master Roll of mh@hamillaw.com asking Respondent if he would accept electronic service of the disciplinary complaint and associated documents.
4. On Monday March 15, 2021 at 10:45 AM Affiant called both the office phone number (ac/630-793-0790) and home phone number (ac/630-545-0556) that were listed for the Respondent on the Master Roll. Both phone numbers were disconnected.
5. On Tuesday March 16, 2021 at approximately 2:51 PM Affiant sent Respondent a second email at his registered email address as located on the Master Roll of mh@hamillaw.com

asking Respondent if he would accept electronic service of the disciplinary complaint and associated documents.

6. On Wednesday March 17, 2021 at approximately 8:25 AM Affiant called Respondent at phone number ac/630-217-7029. No one answered the phone, but Affiant left a voice mail message for Respondent to call Affiant at the Springfield Office of the ARDC.

7. On Wednesday March 17, 2021 at approximately 10:23 AM Affiant mailed Respondent Letter from Senior Counsel Tammy Evans concerning the disciplinary complaint, Notice of Complaint, Order Appointing Chair of the Hearing Panel in this matter, Disciplinary Complaint (2021PR00016), Filing & Procedures Memorandum, Rules of the ARDC and Listing of ARDC Defense Attorneys by registered/certified mail, return receipt requested to Respondent at the following addresses: 450 Village Green, #312, Lincolnshire, IL 60069, 18-05 S Milwaukee Ave, #409, Libertyville, IL 60048, 788 Willis St, Glen Ellyn, IL 60137, prepaid from the U.S. Post Office at 1760 West Wabash Ave, Springfield, Illinois.

8. On Wednesday March 17, 2021 at approximately 1:30 PM Affiant called Respondent at phone number ac/630-217-7029. No one answered the phone, but Affiant left a voice mail message for Respondent to call Affiant at the Springfield Office of the ARDC.

9. On Friday March 19, 2021 at approximately 1:40 PM Affiant called Respondent at phone number ac/630-217-7029. No one answered the phone, but Affiant left a voice mail message for Respondent to call Affiant at the Springfield Office of the ARDC.

10. On Friday March 19, 2021 at approximately 2:00 PM Affiant received a phone call from Respondent (ac/630-217-7029). Affiant asked Respondent if he would accept the disciplinary complaint and associated paperwork by electronic service. Respondent stated he would accept the documents electronically.

11. On Friday March 19, 2021 at approximately 2:08 PM Affiant sent Respondent an email at his registered email address as located on the Master Roll of mh@hamillaw.com containing the following documents: Letter from Senior Counsel Tammy Evans concerning the disciplinary complaint, Notice of Complaint, Order Appointing Chair of the Hearing Panel in this matter, Disciplinary Complaint (2021PR00016), Filing & Procedures Memorandum, Rules of the ARDC and Listing of ARDC Defense Attorneys.

12. On Monday March 22, 2021 at approximately 1:05 PM Affiant called Respondent at phone number ac/630-217-7029. No one answered the phone, but Affiant left a voice mail message for Respondent to call Affiant at the Springfield Office of the ARDC in order to determine if Respondent had received the disciplinary complaint and associated paperwork from the Friday March 19, 2021 email.

13. On Monday March 22, 2021 at approximately 1:10 PM Respondent sent an email to Affiant stating that he has received the disciplinary complaint and associated paperwork.

14. Further Affiant sayeth not.

/s/ James F. Burton  
James F. Burton, Senior Investigator      Dated: March 22, 2021

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/ James F. Burton  
James F. Burton, Senior Investigator      Dated: March 22, 2021  
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