

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

In the Matter of:

ANTHONY V. BOYLE,

Attorney-Respondent,

No. 6308628.

Commission No. 2022PR00013

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Michael Rusch, pursuant to Supreme Court Rule 753, complains of Respondent, Anthony V. Boyle ("Respondent"), who was licensed to practice law in Illinois on November 1, 2012, 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, and failure to return unearned fee— client Jeffrey Miller)

1. Jeffrey Miller and Laurel Miller have four adult children: Augusta Miller, Clint Miller, Isabella Miller, and Connor Miller.
2. On November 12, 2020, Laurel and Augusta Miller sought co-guardianship of Isabella Miller and filed a petition for appointment of guardian of a person with a disability in Cook County, under case number, 2020P006490 entitled, *In re Estate of Isabella Miller*. In the petition, Laurel and Augusta alleged that Isabella was a person with a disability due to autism and developmental delay and because of that disability she lacks sufficient understanding or capacity

FILED
2/22/2022 3:35 PM
ARDC Clerk

to make or communicate responsible decisions concerning her care and is unable to manage her estate or financial affairs.

3. On or about December 18, 2020, Respondent consulted with Jeffrey Miller (“Mr. Miller”), who was seeking an attorney to represent his interests in Cook County case number 2020P006490. As part of the Cook County case, Mr. Miller requested that Respondent review the guardianship paperwork that was filed by Laurel and Augusta Miller and file a motion for visitation with Isabella Miller on his behalf.

4. Following the consultation described in paragraph three, above, Respondent and Mr. Miller agreed that Respondent would represent Mr. Miller in the Cook County case. Respondent and Mr. Miller further agreed that Mr. Miller would pay Respondent a fee of \$1,000 to represent him regarding the review of the guardianship paperwork and the filing of a petition for visitation with Isabella Miller.

5. On or about December 18, 2020, Mr. Miller paid Respondent the entire \$1,000 fee described in paragraph four, above. Additionally, Mr. Miller provided Respondent copies of various documents, including his copy of the guardianship petition and the existing guardianship paperwork regarding his son Connor Miller.

6. On January 25, 2021, the Honorable Susan Kennedy Sullivan appointed both Laurel and Augusta Miller as plenary co-guardians of Isabella Miller.

7. On January 25, 2021, Respondent filed a document entitled “Visitation Agreement” which purported to be a visitation schedule with Isabella Miller agreed to by Mr. Miller, Laurel Miller, and Augusta Miller. The purported agreement provided that Mr. Miller would have visitation with Conner and Isabella on Saturday’s or Sundays for eight hours a day to be decided by the parties. There were also provisions which covered preparation of the visitation schedule,

cancelation of visits, and remedies for violating the visitation agreement. Respondent did not request that the matter be set for hearing before the court.

8. Respondent's statements in the "Visitation Agreement" described in paragraph 7, above, were false because Laurel and Augusta Miller did not agree to any terms of visitation with Mr. Miller.

9. At the time Respondent made the statements described in paragraph 7, above, he knew the statements were false because Respondent never contacted Laurel Miller, Augusta Miller, or their attorney, Lynn Hickey, to discuss a visitation schedule for Mr. Miller with Isabella Miller.

10. Between January 25, 2021 and May 6, 2021, Mr. Miller sent Respondent text messages inquiring about what he believed was the petition for visitation Respondent was pursuing on his behalf and requesting information regarding the next court date in the Cook County Case. On January 25, 2021, Respondent informed Mr. Miller that he would file a motion to bring the visitation issue up before the court and then stopped responding to Mr. Miller's messages. As of July 6, 2021, Respondent had not filed such a petition.

11. On July 6, 2021, Respondent sent a text message to Mr. Miller and told Mr. Miller that he was going to provide him a refund of the \$1,000 and asked where he could send the funds.

12. On July 6, 2021, Mr. Miller, via text, provided his address and requested that Respondent also return the documents that he provided Respondent at the time of their initial consultation.

13. On July 12, 2021, Mr. Miller sent a text message to Respondent asking when he could expect the copy of his documents and the return of his \$1,000.

14. As of February 15, 2022, the date the Administrator's investigation of Respondent's representation of Mr. Miller was referred to Panel C of the Commission's Inquiry Board, Respondent never filed his appearance, never filed a petition for visitation on Mr. Miller's behalf, he never returned any of the documentation, nor did he return any portion of Mr. Miller's fee payment. The services Respondent provided do not justify the retention of the entire \$1,000 fee payment.

15. By reason of the conduct described 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 file his appearance or any motions on behalf of Mr. Miller in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);
- b. failure to keep a client reasonably informed about the status of a matter, by conduct including not responding to Mr. Miller's text messages, in violation of Rule 1.4(a)(3) of the Illinois Rules of Professional Conduct (2010); and
- c. failure to promptly comply with reasonable requests for information by conduct including failing to return Mr. Miller's telephone messages, in violation of Rule 1.4(a)(4) of the Illinois Rules of Professional Conduct (2010);
- d. failure to take steps to the extent reasonably practicable to protect a client's interests upon termination of representation, by conduct including failing to return any unused funds and documents to Mr. Miller, in violation of Rule 1.16(d) of the Illinois Rules of Professional Conduct (2010);

COUNT II

(Lack of diligence, failure to return unearned fee, and dishonesty— client Antwine)

16. On or about October 21, 2020, the Cook County State's Attorney's Office filed a complaint for forfeiture of a 2004 Mercedes Benz E32 in case number 2020COFO-001976. The

complaint alleged that the vehicle had been seized by the Lansing Police Department during a narcotics related investigation. The complaint also stated that Ronald Antwine may have a possessory interest in the automobile. The initial court date was scheduled for December 9, 2020.

17. Prior to December 9, 2020, Respondent and Ronald Antwine (“Mr. Antwine”) agreed that Respondent would represent Mr. Antwine in efforts to obtain the return of the 2004 Mercedes Benz automobile seized in case number 2020COFO-001976.

18. Mr. Antwine and Respondent agreed that for a fee of \$2,500 Respondent would represent Mr. Miller’s interests in case number 2020COFO-001976 through the conclusion of the case. On December 11, 2020, Mr. Antwine paid, and Respondent accepted, a partial payment of \$1,000 towards the requested fee of \$2,500. Respondent agreed to appear, prepare and file an answer to the complaint on Mr. Antwine’s behalf upon receipt of the \$1,000 payment.

19. On December 9, 2020, Respondent participated remotely by videoconference on behalf of Mr. Antwine before the Honorable Nicole C. Patton (“Judge Patton”) in the asset forfeiture case and requested a continuance. On December 9, 2020, the court entered an order continuing this matter for a case management conference on February 10, 2021.

20. As of February 10, 2021, Respondent had not filed his appearance as counsel for Mr. Antwine or filed an answer on Mr. Antwine’s behalf in case number 2020COFO-001976. On that date, Respondent did not participate in the videoconference when the case was called. As a result, Judge Patton issued a judgment forfeiting the 2004 Mercedes Benz E32 to the custody of the Director of the Illinois State Police for disposition and terminating any and all rights, title, or interest Mr. Antwine may have had in the property.

21. On February 10, 2021, Respondent told Mr. Antwine that the forfeiture matter had been continued until March 24, 2021.

22. Respondent's statement to Mr. Antwine described in paragraph 21, above, was false because Respondent failed to appear on February 10, 2021, and could not have known if the matter was continued to March 24, 2021.

23. At the time Respondent made the statement described in paragraph 21, above, he knew the statement was false because he did not appear in court could not have known if the matter was continued to March 24, 2021.

24. As of February 15, 2022, the date the Administrator's investigation of Respondent's representation of Mr. Antwine was referred to Panel C of the Commission's Inquiry Board, Respondent never prepared and filed an appearance or an answer on Mr. Antwine's behalf, nor did he return any unused portion of Mr. Antwine's fee payment.

25. By reason of the conduct described 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 prepare and file an appearance or answer in the asset forfeiture case in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);
- b. failure to take steps to the extent reasonably practicable to protect a client's interests upon termination of representation, by conduct including failing to return any unused funds to Mr. Antwine, in violation of Rule 1.16(d) of the Illinois Rules of Professional Conduct (2010); and
- c. conduct including dishonesty, fraud, deceit or misrepresentation by conduct including making false statements to Mr. Antwine as described in paragraph 21, above, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

COUNT III

(Lack of diligence, failure to deposit client funds into a client trust account, and failure to communicate – client James Olalusi)

26. On or about November 25, 2019, the Cook County State’s Attorney’s Office filed a complaint for forfeiture of \$11,376 in United States currency in case number 2019COFO-003722. The complaint alleged that that the currency had been seized by the Sauk Village Police Department during a traffic related investigation for failure to display a front registration plate. The complaint also alleges that the assets seized were the result of violations of Illinois Compiled Statutes related to narcotics and money laundering. The complaint also stated that James Olalusi may have had a possessory interest in the currency. The initial court date was scheduled for January 15, 2020.

27. On or about January 8, 2020, Respondent and James Olalusi (“Mr. Olalusi”) agreed that Respondent would represent Mr. Olalusi in efforts to obtain the return of \$11,376 seized in case number 19COFO-003722. At that time, Respondent and Mr. Olalusi entered into a written fee agreement by which Respondent and Mr. Olalusi agreed that Mr. Olalusi would pay Respondent an initial fee of \$3,500 “for time, preparation, and responsibility in this matter.” The agreement provided that the initial fee of \$3,500 “paid in this matter becomes the property upon [sic] Diesel Law, Ltd immediately upon receipt and this money will not be held in a client trust account.”

28. Respondent’s fee agreement with Mr. Olalusi did not comply with the requirements of Rules 1.15(c)(1) and (5) of the Illinois Rules of Professional Conduct for an advance payment retainer because it did not use the term “advance payment retainer” and it did not set forth:

- a. the special purpose for the advance payment retainer and an explanation of why such an agreement was advantageous to Mr. Olalusi; and

- b. that Mr. Olalusi had the option to employ a security retainer, and that if Respondent was unwilling to represent Mr. Olalusi without receiving an advance payment retainer, Respondent's reasons for that condition.

29. On January 8, 2020, Mr. Olalusi paid respondent the entire \$3,500 initial fee.

30. On January 15, 2020, Respondent participated in court proceedings on behalf of Mr. Olalusi before the Honorable Nicole C. Patton ("Judge Patton") in the asset forfeiture case and requested a continuance to file his appearance and an answer to the complaint. Judge Patton ordered that a verified answer and appearance was to be filed within 14 days.

31. As of October 28, 2020, case number 19COFO-003722 was still pending and unresolved, and on that date, Respondent participated remotely via videoconference on behalf of Mr. Olalusi before the Honorable Nicole C. Patton ("Judge Patton") in the asset forfeiture case and obtained a continuance to the date of February 10, 2021. Respondent had not filed an appearance, or an answer as ordered by Judge Patton in paragraph 30, above.

32. On November 4, 2020, Respondent prepared an invoice detailing the work that he claimed to have performed in the asset forfeiture case between January 14, 2020 and October 28, 2020. The total amount invoiced was \$3,325.00

33. On November 5, 2020, Respondent sent a text message to Mr. Olalusi stating that the initial fee he paid was nearly exhausted and that for an additional \$1,400, Respondent would work on the matter to its conclusion.

34. On February 10, 2021, Respondent did not appear in court on behalf of Mr. Olalusi, but after speaking with the prosecutors, Respondent requested a continuance and Judge Patton continued the matter to March 24, 2021.

35. On March 24, 2021, Respondent did not appear in court on behalf of Mr. Olalusi and Judge Patton ordered that if Mr. Olalusi or Respondent failed to appear at the next court date, the court may issue a default order. Judge Patton continued the matter to May 5, 2021.

36. In April 2021, Mr. Olalusi told Respondent that he did not have additional funds to pay Respondent. After this conversation, Respondent ceased communicating with Mr. Olalusi. Respondent did not tell Mr. Olalusi about the status of the asset forfeiture case or take any action to avoid Mr. Olalusi's rights from being prejudiced.

37. On May 5, 2021, Respondent did not appear in court on behalf of Mr. Olalusi. As a result, Judge Patton issued a judgment forfeiting the \$11,376 to the custody of the Director of the Illinois State Police for disposition and terminating any and all rights, title, or interest Mr. Olalusi may have had in the currency.

38. Shortly after the May 5, 2021, court date, Mr. Olalusi received a copy of the order described in paragraph 37, above, and called Respondent numerous times to discuss the court order he received in the mail. Respondent would either not answer or tell Mr. Olalusi that he was busy and that he would return Mr. Olalusi's call at a more convenient time; however, Respondent never returned the calls.

39. Based on Respondent's inaction, Mr. Olalusi believed that Respondent ceased being his attorney. Mr. Olalusi then contacted a different attorney who informed him that he only had thirty days to file a motion to vacate the May 5, 2021, order.

40. On June 2, 2021, Mr. Olalusi filed a *pro se* appearance and a motion to vacate the order of May 5, 2021, described in paragraph 37, above. On June 9, 2021, Mr. Olalusi's motion to vacate was granted and the case was set for status on July 21, 2021. On July 19, 2021, Mr. Olalusi

filed his *pro se* answer to the complaint. The July 21, 2021 court date was continued to August 26, 2021 and then finally to October 21, 2021.

41. On October 21, 2021, on the Cook County State's Attorney's motion the asset forfeiture proceeding was dismissed and the Honorable Paul A. Karkula ordered that the \$11,376 be released to the custody of Mr. Olalusi.

42. At no point prior to October 21, 2021, the date the case was dismissed did Respondent prepare and file his appearance or an answer on behalf of Mr. Olalusi.

43. By reason of the conduct described 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 prepare and file an appearance and answer in case number 19COFO-003722, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010); and
- b. failure to keep a client reasonably informed about the status of a matter, by conduct including not responding to Mr. Olalusi's telephone calls, in violation of Rule 1.4(a)(3) of the Illinois Rules of Professional Conduct (2010);
- c. failure to promptly comply with reasonable requests for information by conduct including failing to return Mr. Olalusi's telephone messages, in violation of Rule 1.4(a)(4) of the Illinois Rules of Professional Conduct (2010); and
- d. failure to deposit in a client trust account funds received to secure payment of legal fees to be withdrawn by the lawyer only as fees are earned, by failing to deposit the \$3,500 paid by Mr. Olalusi into a client trust account, in violation of Rule 1.15(c) of the Illinois Rules of Professional Conduct (2010).

COUNT IV

(Lack of diligence, failure to return unearned fee, and failure to comply with reasonable requests – Client Traci Archbold)

44. On or about July 22, 2016, Respondent and Traci Archbold (“Ms. Archbold”) met to discuss the possibility of Ms. Archbold filing a lawsuit against her siblings for taking steps to eliminate Ms. Archbold from receiving any inheritance from their mother, Betty Harman (“Ms. Harman”), prior to her death. Ms. Archbold alleged that prior to Ms. Harman’s death, her sisters manipulated Ms. Harman and convinced her to transfer several financial accounts from Ms. Harman’s name to one of her siblings, thus preventing Ms. Archbold from receiving any interest in the accounts upon Ms. Harman’s death. Ms. Archbold also alleged that a condominium that was in Ms. Harman’s name had been transferred to one of Ms. Archbold’s sisters, thus preventing Ms. Archbold from receiving any interest in the property upon Ms. Harman’s’ death. At this meeting Ms. Archbold provided Respondent documentation, including copies of Ms. Harman’s power of attorney, as well as, Ms. Harman’s financial documents.

45. Ms. Archbold and Respondent agreed upon an initial fee of \$5,000 for his services. On or about July 22, 2016, Ms. Archbold withdrew \$5,000 from her individual retirement account and paid Respondent via check made out to Respondent’s law firm for his anticipated services.

46. On October 19, 2016, Respondent filed a complaint in the Circuit Court of Cook County, chancery division, for tortious interference with expectancy against Ms. Archbold’s sister, Barbara Johnson (“Ms. Johnson”) seeking damages under case number 2016L066060.

47. As of October 19, 2017, one year after the case was filed, Respondent had not obtained service of the complaint on Ms. Johnson, and on that date the case was dismissed for failure to exercise diligence in obtaining service on Ms. Johnson under Illinois Supreme Court Rule 103(b). Supreme Court Rule 103(b) states:

Dismissal for Lack of Diligence. If the plaintiff fails to exercise reasonable diligence to obtain service on a defendant prior to the expiration of the applicable statute of limitations, the action as to that defendant may be dismissed without prejudice. If the failure to exercise reasonable diligence to obtain service on a defendant occurs after the expiration of the applicable statute of limitations, the dismissal shall be with prejudice as to that defendant only and shall not bar any claim against any other party based on vicarious liability for that dismissed defendant's conduct. The dismissal may be made on the application of any party or on the court's own motion. In considering the exercise of reasonable diligence, the court shall review the totality of the circumstances, including both lack of reasonable diligence in any previous case voluntarily dismissed or dismissed for want of prosecution, and the exercise of reasonable diligence in obtaining service in any case refiled under section 13-217 of the Code of Civil Procedure.

48. Prior to the dismissal of the case, Respondent did not take reasonable steps to effectuate service on Ms. Johnson. Respondent did not file a motion seeking appointment of a special process server or, if appropriate under the circumstances, take any action to request service by publication.

49. On December 5, 2019, Respondent filed a complaint in the Circuit Court of Cook County, law division, for tortious interference with expectancy this time against both of Ms. Archbold's sisters, Barbara Johnson and Tammy Odell-Sheehan, seeking damages under case number 2019CH14062.

50. On July 27, 2020, the court ordered that the case be continued until October 27, 2020, for status on service of defendants. Since that July 27, 2020, court date, there have not been any subsequent court dates.

51. Since the filing of the case on December 5, 2019, Respondent has not taken any steps to effectuate service on Ms. Johnson or filed any motions to bring this matter back to the court's attention. Respondent has not filed a motion seeking appointment of a special process

server or, if appropriate under the circumstances, taken any action to request service by publication.

52. On or about June 28, 2021, July 2, 2021, July 5, 2021, and September 1, 2021, Ms. Archbold sent Respondent text messages requesting that Respondent return the documentation that she provided to Respondent in 2016.

53. On or about July 8, 2021, Ms. Archbold located two separate email address for Respondent and sent an email to both email addresses requesting the return of her documentation so that she may contact a new attorney.

54. As of February 15, 2022, the date the Administrator's investigation of Respondent's representation of Ms. Archbold was referred to Panel C of the Commission's Inquiry Board, Respondent never took any actions to effectuate service on the defendants or filed any motions to bring this matter back to the courts attention, he never returned any of the documentation, nor did he return any portion of Ms. Archbold's fee payment. The services Respondent provided do not justify retention of the entire payment.

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

- a. failure to take steps to the extent reasonably practicable to protect a client's interests upon termination of representation, by conduct including failing to return Ms. Archbold's documentation, in violation of Rule 1.16(d) of the Illinois Rules of Professional Conduct (2010);
- b. failure to act with reasonable diligence and promptness in representing a client by conduct including failing to take steps to effectuate service on defendants on behalf of Ms. Archbold in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);
- c. failure to keep a client reasonably informed about the status of a matter, by conduct including not responding to Ms., Archbold's

emails and text messages, in violation of Rule 1.4(a)(3) of the Illinois Rules of Professional Conduct (2010);

- d. failure to promptly comply with reasonable requests for information by conduct including failing to return Ms. Archbold's messages or return the documentation as requested, in violation of Rule 1.4(a)(4) of the Illinois Rules of Professional Conduct (2010); and

COUNT V

(Lack of diligence, failure to communicate, and failure to return unearned fee– client Theodore Parish)

56. On September 7, 2011, Theodore Parish (“Mr. Parish”) was found guilty of the criminal offenses of armed habitual criminal and armed robbery while armed with a firearm. On January 20, 2012, Mr. Parish was sentenced to life in prison by the Honorable James B. Linn under case number 10CR18886301.

57. In July 2019, Respondent and Mr. Parish agreed that Respondent would undertake the representation of Mr. Parish regarding the filing of a post-conviction petition seeking to overturn his convictions or seek alternative relief through the Office of the Illinois Governor.

58. Mr. Parish and Respondent agreed upon a fee of \$7,500. On July 2, 2019, Mr. Parish's father, James Bullock, paid the \$7,500 on his son's behalf.

59. As of July 2, 2019, the only service provided by Respondent was reviewing the online clerk's system to see that Mr. Parish had previously filed *pro se* post-conviction petitions. Respondent had not obtained or read the trial transcripts, filed any post-trial motions or pleadings in case number 10CR18886301, or taken any other action on Mr. Parish's behalf. Additionally, Respondent never submitted a petition for clemency with the Illinois Prisoner Review Board outlining the reasons why Mr. Parish should be granted a pardon by the Governor.

60. On or about August 27, 2020, Mr. Parish sent a letter to Respondent where he stated that he had not heard from Respondent in almost a year and requested an update on Respondent's progress.

61. Mr. Parish sent three subsequent letters to Respondent with the subject line "No longer need your service," where he stated that Respondent never contacted him and that he would like for Respondent to return his Father's money.

62. As of February 15, 2022, the date the Administrator's investigation of Respondent's representation of Mr. Parish was referred to Panel C of the Commission's Inquiry Board, Respondent never filed an appearance, never filed any motions on Mr. Parish's behalf in case number 10CR18886301, never filed a petition for clemency with the Illinois Prisoner Review Board, nor did he return any portion of Mr. Parish's fee payment. The services Respondent provided do not justify the retention of the entire payment.

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

- a. failure to take steps to the extent reasonably practicable to protect a client's interests upon termination of representation, by conduct including failing to return any unused funds to Mr. Parish, in violation of Rule 1.16(d) of the Illinois Rules of Professional Conduct (2010);
- b. failure to act with reasonable diligence and promptness in representing a client by conduct including failing to file his appearance, file any motions or pleadings in 10CR18886301, or file petition for clemency with the Illinois Prisoner Review Board on behalf of Mr. Parish in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);
- c. failure to keep a client reasonably informed about the status of a matter, by conduct including not responding to Mr. Parish's telephone messages, in violation of Rule 1.4(a)(3) of the Illinois Rules of Professional Conduct (2010); and

- d. failure to promptly comply with reasonable requests for information by conduct including failing to return Mr. Parish's telephone messages, in violation of Rule 1.4(a)(4) of the Illinois Rules of Professional Conduct (2010);

COUNT VI

(Lack of diligence, failure to communicate, and failure to return unearned fee— client Federico Castillo)

64. On or about July 28, 2018, Respondent and Federico Castillo ("Mr. Castillo") agreed that Respondent would undertake the representation of Mr. Castillo regarding the filing of a lawsuit against his brother seeking the return of \$70,000 that Mr. Castillo alleged his brother owed him from approximately seven years earlier.

65. On or about July 28, 2018, Mr. Castillo paid Respondent \$3,500 for his anticipated services. At that time, Respondent and Mr. Castillo entered into a written fee agreement by which Respondent and Mr. Castillo agreed that Mr. Castillo would pay Respondent an initial fee of \$3,500 "for time, preparation, and responsibility in this matter." The agreement provided that the initial fee of \$3,500 "paid in this matter becomes the property upon [sic] Diesel Law, Ltd immediately upon receipt and this money will not be held in a client trust account." Respondent and Mr. Castillo further agreed that the most Respondent could charge for his services on this matter were \$8,500.

66. Respondent's fee agreement with Mr. Castillo did not comply with the requirements of Rules 1.15(c)(1) and (5) of the Illinois Rules of Professional Conduct for an advance payment retainer because it did not use the term "advance payment retainer" and it did not set forth:

- a. the special purpose for the advance payment retainer and an explanation of why such an agreement was advantageous to Mr. Castillo; and

- b. that Mr. Castillo had the option to employ a security retainer, and that if Respondent was unwilling to represent Mr. Castillo without receiving an advance payment retainer, Respondent's reasons for that condition.

67. After July 28, 2018, Respondent took no action on Mr. Castillo's behalf. Respondent never conducted any research regarding the applicable statute of limitations, nor did he prepare or file a complaint for damages on Mr. Castillo's behalf.

68. On several occasions between July 28, 2018 and March 24, 2021, Mr. Castillo telephoned Respondent and left messages for Respondent asking that Respondent provide him with an update as to the status of the filing of the lawsuit. Respondent has not provided Mr. Castillo with an update regarding his progress since March 24, 2021.

69. As of February 15, 2022, the date the Administrator's investigation of Respondent's representation of Mr. Castillo was referred to Panel C of the Commission's Inquiry Board, Respondent never conducted any research regarding the applicable statute of limitations, never prepared or filed a complaint for damages on Mr. Castillo's behalf, nor did he return any portion of Mr. Castillo's fee payment. The services Respondent and Diesel Law, LTD., provided do not justify the retention of the entire payment.

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

- a. failure to take steps to the extent reasonably practicable to protect a client's interests upon termination of representation, by conduct including failing to return any unused funds to Mr. Castillo, in violation of Rule 1.16(d) of the Illinois Rules of Professional Conduct (2010);
- b. failure to act with reasonable diligence and promptness in representing a client by conduct including failing to file his appearance or any complaints for damages on behalf of Mr.

Castillo in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);

- c. failure to keep a client reasonably informed about the status of a matter, by conduct including not responding to Mr. Castillo's telephone messages, in violation of Rule 1.4(a)(3) of the Illinois Rules of Professional Conduct (2010); and
- d. failure to promptly comply with reasonable requests for information by conduct including failing to return Mr. Castillo's telephone messages or return the original documentation as requested, in violation of Rule 1.4(a)(4) of the Illinois Rules of Professional Conduct (2010);
- e. failure to deposit in a client trust account funds received to secure payment of legal fees to be withdrawn by the lawyer only as fees are earned, by failing to deposit the \$3,500 paid by Mr. Castillo into a client trust account, in violation of Rule 1.15(c) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator respectfully requests that this matter be assigned to the 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/ Michael Rusch
Michael Rusch

Michael Rusch
Counsel for the Administrator
130 East Randolph Drive, Suite 1500
Chicago, Illinois 60601
Telephone: (312) 565-2600
Email: Mrusch@iadc.org
Email: ARDCeService@iadc.org

MAINLIB #1454448_v1