

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

In the Matter of:

LEONARD SAMUEL DeFRANCO,

Attorney-Respondent,

No. 3122606.

Comm. No. 2021PR00040

ANSWER

NOW COMES Respondent, Leonard S. DeFranco, by and through his attorney, James A. Doppke, Jr., Robinson, Stewart, Montgomery & Doppke, LLC, and for his answer to the Administrator's Complaint in this matter, states as follows:

COUNT I

(Alleged conversion of at least \$161,608.75 of funds belonging to clients – Ferrones)

1. At all times alleged in this complaint, Respondent was the sole owner of The DeFranco Law Firm in Oakbrook Terrace, and he was the sole attorney operating and providing service as part of that office. Respondent concentrated his practice in business law.

ANSWER: Respondent admits the allegations contained in paragraph 1.

2. On August 8, 2016, the court appointed Felicia Ferrone ("Felicia") as temporary guardian over the estate of her uncle, Fran Ferrone ("Fran"), in a matter docketed as Estate of Fran Ferrone, 2016 P 4041 (Cook County Circuit Court). The court identified the actual harm that

necessitated a temporary guardianship as “financial exploitation and [Fran] suffers with onset dementia.”

ANSWER: Respondent admits the allegations contained in paragraph 2.

3. On February 24, 2017, the court granted Felicia leave to sell the businesses Chicago Sightseeing and O’Hare Wisconsin Limousine, Inc., owned by her father, Donald Ferrone (“Donald”) and Fran.

ANSWER: Respondent admits the allegations contained in paragraph 3.

4. In 2017, Respondent, Donald, and Felicia agreed that Respondent would represent Donald and Fran in the sale of the two businesses. The parties did not have a written retainer agreement. However, they agreed that Respondent would charge an hourly rate of \$325 per hour and bill Felicia and Donald after the conclusion of the business wind up.

ANSWER: Respondent denies the allegations contained in the first sentence of paragraph 4. Respondent admits that he was engaged to perform tax consulting services. Respondent admits the allegations of the second sentence of paragraph 4. Respondent denies all remaining allegations of paragraph 4.

5. On June 19, 2017, Respondent opened an IOLTA account, which ended in 0452 (“trust account 0452”), at ABC Bank, which subsequently became Old Second National Bank.

ANSWER: Respondent admits the allegations contained in paragraph 5.

6. Respondent opened trust account 0452 for the purpose of depositing the sale proceeds of the charter bus businesses. Respondent was the sole authorized signatory on account 0452.

ANSWER: Respondent denies the allegations contained in the first sentence of paragraph 6. Respondent admits the allegations contained in the second sentence of paragraph 6.

7. On June 20, 2017, Aries Charter Transportation wired \$250,000 into trust account 0452, and those funds represented a portion of the sale proceeds of Donald and Fran's businesses.

ANSWER: Respondent admits the allegations contained in paragraph 7.

8. On July 26, 2017, the court entered an order stating that Respondent "shall utilize" the escrow funds to pay "outstanding legal expenses due and owing to Leonard DeFranco in the amount of \$25,593.75."

ANSWER: Respondent admits the allegations contained in paragraph 8.

9. On August 11, 2017, O'Hare Wisconsin Limousine wired \$634,227.88 into trust account 0452, and those funds represented a portion of the sale proceeds of Donald and Fran's businesses.

ANSWER: Respondent admits the allegations contained in paragraph 9.

10. Between July 26, 2017 and November 29, 2017, Respondent withdrew at least \$64,236.50 from trust account 0452 for his own business and personal expenses.

ANSWER: Respondent does not now have a specific recollection of each transaction, but he admits that the records of activity in account number 0452 reflect the withdrawals referred to in paragraph 10. Respondent denies any remaining allegations contained in paragraph 10.

11. The withdrawals described in paragraph 10, above, constituted \$38,642.75 in excess of the court's July 26, 2017 order.

ANSWER: Respondent admits that the difference between \$64,236.50 and \$25,593.75 is \$38,642.75. Respondent denies any remaining allegations contained in paragraph 11.

12. At no time did Donald or Felicia authorize Respondent to use an additional \$38,642.75 in funds belonging to Donald and Fran for his own business or personal purposes.

ANSWER: Respondent denies the allegations contained in paragraph 12.

13. Respondent's use of the funds set forth in paragraph 10, above, without authority, and for his own business and personal purposes, constituted conversion of funds received in connection with the representation of a client. As a result, by November 29, 2017, Respondent converted \$38,642.75 in funds he should have been holding on Donald and Fran's behalf.

ANSWER: The allegations of paragraph 13 constitute legal conclusions. Therefore, no answer is required.

14. On November 30, 2017, the court entered an order stating that "all fees paid to Leonard DeFranco shall be first approved by the court and thereafter paid by Donald Ferrone and Francis Ferrone equally."

ANSWER: Respondent admits the allegations contained in paragraph 14.

15. Between November 30, 2017 and April 30, 2018, Respondent did not petition the court for additional fees, nor did the court enter any orders granting Respondent additional fees.

ANSWER: Respondent admits the allegations contained in paragraph 15.

16. Between December 5, 2017 and April 30, 2018, Respondent used at least an additional \$122,966 in funds from trust account 0452 belonging to Donald and Fran for his own business and personal purposes as described below:

TRANSACTION DATE	TRANSACTION TYPE	PAYEE	TRANSACTION AMOUNT
12/5/2017	Check #131	DeFranco Law Firm	\$2,875
12/7/2017	Check #133	DeFranco Law Firm	\$1,275
12/11/2017	Check #136	DeFranco Law Firm	\$9,100
12/15/2017	Wire Transfer	DeFranco Law Firm	\$2,250
12/19/2017	Wire Transfer	DeFranco Law Firm	\$3,275
12/21/2017	Check #151	DeFranco Law Firm	\$3,400
12/22/2017	Check #152	DeFranco Law Firm	\$1,250
12/26/2017	Check #153	DeFranco Law Firm	\$4,600
1/9/2018	Check #138	DeFranco Law Firm	\$6,560
1/12/2018	Check #155	DeFranco Law Firm	\$2,750
1/16/2018	Check #140	DeFranco Law Firm	\$1,500
1/19/2018	Check #156	DeFranco Law Firm	\$4,950
1/23/2018	Check #158	DeFranco Law Firm	\$1,705
1/30/2018	Check #159	DeFranco Law Firm	\$4,675
2/6/2018	Check #160	DeFranco Law Firm	\$5,275
2/13/2018	Check #161	DeFranco Law Firm	\$3,476
2/16/2018	Check #163	DeFranco Law Firm	\$1,175
2/21/2018	Check #164	DeFranco Law Firm	\$2,150
2/22/2018	Check #165	DeFranco Law Firm	\$1,625
2/28/2018	Check #166	DeFranco Law Firm	\$2,650
3/2/2018	Check #167	DeFranco Law Firm	\$3,175
3/5/2018	Check #170	DeFranco Law Firm	\$4,850

3/9/2018	Check #171	DeFranco Law Firm	\$4,760
3/14/2018	Check #172	DeFranco Law Firm	\$2,875
3/19/2018	Check #174	DeFranco Law Firm	\$2,765
3/26/2018	Check #178	DeFranco Law Firm	\$7,150
3/28/2018	Check #141	DeFranco Law Firm	\$2,650
4/2/2018	Check #179	DeFranco Law Firm	\$4,875
4/4/2018	Check #180	DeFranco Law Firm	\$4,750

4/16/2018	Check #182	DeFranco Law Firm	\$3,750
4/17/2018	Check #183	DeFranco Law Firm	\$4,275
4/19/2018	Check #184	DeFranco Law Firm	\$1,975
4/23/2018	Check #185	DeFranco Law Firm	\$2,100
4/24/2018	Check #186	DeFranco Law Firm	\$1,800
4/30/2018	Check #142	DeFranco Law Firm	\$4,700
TOTAL			\$122,966

ANSWER: Respondent does not now have a specific recollection of each transaction, but he admits that the records of activity in account number 0452 reflect the withdrawals referred to in paragraph 16. Respondent denies any remaining allegations contained in paragraph 16.

17. When Respondent negotiated check 142, above, on April 30, 2018, he drew down the balance of trust account 0452 to \$320,569.12.

ANSWER: Respondent does not now have a specific recollection of the negotiation of check number 142 on April 30, 2018. However, he admits that the records of activity in account

number 0452 reflect the negotiation of the check on that date, and the resulting balance in the account. Respondent denies any remaining allegations contained in paragraph 17.

18. On April 30, 2018, Respondent should have been maintaining at least \$482,177.87 in trust account 0452.

ANSWER: Respondent admits that the total amount that would ultimately have been due to Fran and Donald was \$482,177.87. Respondent denies any remaining allegations contained in paragraph 18.

19. By drawing down the balance of trust account 0452 to \$320,569.12, Respondent engaged in conversion of at least \$161,608.75, referenced in paragraph 11 and paragraph 16, above, which he used for personal and business expenses, as of April 30, 2018.

ANSWER: The allegations contained in paragraph 19 constitute legal conclusions. Therefore, no answer is required.

20. At no time did Felicia, as limited guardian for Fran, or Donald Ferrone authorize Respondent to use the funds in trust account 0452 for personal or business expenses, nor did the court award the funds as fees.

ANSWER: Respondent denies the allegations contained in paragraph 20 through and including the word "expenses." Respondent admits the remaining allegations contained in paragraph 20.

21. At the time Respondent engaged in conversion of funds described in paragraph 13 and paragraph 16, above, he knew that he was using the funds belonging to Fran and Donald for his own personal and business expenses, and, in doing so, he acted dishonestly.

ANSWER: Respondent denies the allegations contained in paragraph 21.

22. On April 30, 2018, the court entered an order granting Felicia, as limited guardian for Fran, leave to liquidate trust account 0452 and to “procure two checks from Attorney DeFranco,” with \$181,333.43 payable to Felicia, as limited guardian for Fran, and \$298,779.21 payable to Donald.

ANSWER: Respondent admits the allegations contained in paragraph 22.

23. When the court entered the order described in paragraph 22, above, Respondent was not holding sufficient funds to tender checks to both Felicia, as limited guardian for Fran, and Donald.

ANSWER: Respondent does not now have a specific recollection of the balance in account number 0452 on April 30, 2018. However, he admits that the records of activity in account number 0452 reflect the balance in the account. Respondent denies any remaining allegations contained in paragraph 23.

24. On May 1, 2018, Respondent drew on trust account 0452 to issue check number 143 in the amount of \$181,333.43 to Felicia.

ANSWER: Respondent does not now have a specific recollection of drawing check number 143 on May 1, 2018. However, he admits that the records of activity in account number 0452 reflect the negotiation of the check on that date, and the resulting balance in the account. Respondent denies any remaining allegations contained in paragraph 24.

25. On May 3, 2018, a third party, Margaret Burke, wired \$180,000 into Respondent’s account ending in 0452.

ANSWER: Respondent admits the allegations contained in paragraph 25.

26. On May 4, 2018, Respondent drew on account 0452 to issue check 144 to Donald in the amount of \$298,779.21.

ANSWER: Respondent does not now have a specific recollection of drawing check number 144 on May 1, 2018. However, he admits that the records of activity in account number 0452 reflect the negotiation of the check on that date, and the resulting balance in the account. Respondent denies any remaining allegations contained in paragraph 26.

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

- a. failure to hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property, by conduct including causing the balance in trust account 0452 to fall below the amount belonging to Donald and Fran, thereby converting at least \$161,608.75 of funds that belonged to Donald and Fran for his own personal or business purposes, in violation of Rule 1.15(a) of the Illinois Rules of Professional Conduct (2010); and
- b. conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including knowingly using a total of \$161,608.75 of Donald and Fran's funds for his own personal or business purposes, without authority, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

ANSWER: The allegations contained in paragraph 27 constitute legal conclusions. Therefore, no answer is required.

COUNT II

(Alleged engaging in a business transaction with a client while representing the client – Margaret Burke)

28. The Administrator realleges and reincorporates paragraph one, above.

ANSWER: Respondent repeats and reincorporates his answer to paragraph 1, above.

29. In 2014, Respondent and Margaret Burke (“Margaret”) agreed that Respondent would represent her in a restaurant venture, Sovereign Tap, LLC (“Sovereign”), in Plainfield, by revising an operating agreement and addressing issues with a building landlord.

ANSWER: Respondent denies the allegations contained in paragraph 29.

30. Respondent and Margaret had an oral retainer agreement for his representation, and they agreed Respondent would bill Margaret at an hourly rate of \$325 per hour.

ANSWER: Respondent denies the allegations contained in paragraph 30. Further answering, Respondent admits that he agreed to provide business consulting assistance to Margaret.

31. In 2017, Margaret and her co-investors in Sovereign had a dispute with other members of the Sovereign limited liability company regarding compliance with Sovereign’s operating agreement.

ANSWER: Respondent admits the allegations contained in paragraph 31.

32. On August 15, 2017, Respondent and another attorney, James Murphy, filed a lawsuit in Will County Circuit Court on behalf of Margaret and her co-investors against other members of the Sovereign entity alleging that the other members did not comply with Sovereign’s operating agreement. The matter was docketed as Margaret Burke, Travis Bonifas, and Mike Bakos, individually and on behalf of Sovereign Tap, LLC, vs. Rafael Gomez, Jessica Watson

Gomez, Dale Lewis, Sovereign Tap LLC, and Crusader Burger Bar, LLC, 2017 CH 1517 (Will County Circuit Court).

ANSWER: Respondent admits the allegations contained in paragraph 32, except the allegation that he filed case number 2017 CH 1517, which allegation Respondent denies.

33. Between August 22, 2017 and October 18, 2018, Respondent appeared in court six times on behalf of Margaret in 2017 CH 1517.

ANSWER: Respondent admits that he attended court hearings six times between August 22, 2017 and October 18, 2018, at Margaret's request. Further answering, Respondent denies that he addressed the court during any court appearance. Respondent denies all remaining allegations contained in paragraph 33.

34. On or around April 25, 2018, while Respondent represented Margaret in 2017 CH 1517, Respondent and Margaret entered into an oral agreement wherein Margaret loaned Respondent \$180,000.

ANSWER: Respondent denies the allegations contained in paragraph 34.

35. Respondent and Margaret verbally agreed that Respondent would repay the \$180,000 within three months.

ANSWER: Respondent denies the allegations contained in paragraph 35.

36. At no time did Respondent inform Margaret that she could seek the advice of independent legal counsel nor did Margaret give informed consent in writing to Respondent.

ANSWER: Respondent admits the allegations contained in paragraph 36, and, further answering, states that he was not required to take the actions described in paragraph 36.

37. On May 3, 2018, Margaret sent \$180,000 through a wire transfer from her line of credit with UBS Financial Services, Inc. to trust account 0452.

ANSWER: Respondent admits the allegations contained in paragraph 37.

38. At no time within the three months did Respondent repay any portion of the \$180,000 to Margaret.

ANSWER: Respondent admits the allegations contained in paragraph 37.

39. After the three-month loan period ended, Margaret made repeated requests to Respondent that he repay the \$180,000 loan.

ANSWER: Respondent admits that after May 3, 2018, he had several communications with Margaret, and that in some of those communications, Margaret requested that Respondent pay her \$180,000. Respondent denies all remaining allegations contained in paragraph 39.

40. As of August 15, 2019, Respondent had not repaid any portion of the \$180,000 to Margaret.

ANSWER: Respondent admits the allegations contained in paragraph 40.

41. On August 15, 2019, Margaret filed a lawsuit against Respondent alleging Respondent breached an oral agreement, breached a fiduciary duty, and engaged in fraudulent inducement. The matter was docketed as Margaret Burke vs. Leonard DeFranco, 2019 L 929 (DuPage County Circuit Court).

ANSWER: Respondent admits the allegations contained in paragraph 41.

42. On June 24, 2021, the court, after a bench trial, entered an order finding that Respondent engaged in a breach of oral agreement and a breach of fiduciary duty. The court

awarded Margaret \$180,000 and punitive damages in connection with the breach of fiduciary duty “in the form or [sic] Plaintiff’s reasonable attorney’s fees.”

ANSWER: Respondent admits the allegations contained in paragraph 42.

43. On September 3, 2021, the court ordered Respondent to pay \$43,602 in attorney’s fees to Margaret.

ANSWER: Respondent admits the allegations contained in paragraph 43.

44. As of the dating of the filing of this complaint, Respondent has not paid any portion of the judgment entered against him in 2019 L 929.

ANSWER: Respondent admits the allegations contained in paragraph 44.

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

- a. entering into a business transaction with a client, by conduct including entering into a verbal loan agreement for \$180,000 with Margaret while representing her in 2017 CH 1517, without: (1) fully disclosing the terms of the transaction in writing, (2) informing Margaret she may seek the advice of independent legal counsel on the transaction, and (3) obtaining the informed consent of Margaret, in a writing signed by Margaret, to the essential terms of the transaction and Respondent’s role in the transaction, in violation of Rule 1.8(a) of the Illinois Rules of Professional Conduct (2010).

ANSWER: The allegations contained in paragraph 45 constitute legal conclusions.

Therefore, no answer is required.

RESPONDENT'S DISCLOSURE PURSUANT TO COMMISSION RULE 231

1. Respondent was admitted to practice law in the State of Illinois on November 3, 1978.
2. Respondent holds no other professional licenses other than his license to practice law.

Respectfully submitted,

/s/ James A. Doppke, Jr.

BY: James A. Doppke, Jr.

Counsel for Respondent

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Comm. No. 2021PR00040

NOTICE OF FILING

TO: Rachel C. Miller
rmiller@iardc.org

ARDC eService
ARDCeService@iardc.org

PLEASE TAKE NOTICE that on June 21, 2022, I filed the attached Answer with the Clerk of the Attorney Registration and Disciplinary Commission in Chicago, Illinois, a copy of which is hereby served upon you.

/s/ James A. Doppke, Jr.

BY: James A. Doppke, Jr.

Counsel for Respondent

PROOF OF SERVICE

The undersigned attorney hereby certifies that he served the above Notice of Filing and attached Answer to the addresses listed above by emailing them to the email addresses listed above on June 21, 2022, before 5:00 p.m.

/s/ James A. Doppke, Jr.

BY: James A. Doppke, Jr.

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ARDC Clerk