

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

In the Matter of:

DAVID LOUIS BARTELSMEYER,

Attorney-Respondent,

No. 6209596.

Commission No. 2022PR00021

REPORT AND RECOMMENDATION OF THE HEARING BOARD

DEFAULT PROCEEDING

The hearing in this matter was held by videoconference on June 28, 2022, before a Hearing Board Panel consisting of Janaki H. Nair, Chair, Ghian Foreman, and Christina M. Sugden. David B. Collins appeared on behalf of the Administrator. Respondent appeared *pro se*. The Administrator asked that Respondent be disbarred or suspended for two to three years and until further order of the Court. We recommend that Respondent be suspended for three years and until further order of the Court, and that he be required to make full restitution to Attorneys' Title Guaranty Fund, Inc. before being reinstated to practice.

We have considered the Administrator's three-count Complaint, a copy of which is attached as Exhibit 1, as well as the Order entered on May 31, 2022, deeming the allegations and charges of the Complaint admitted, a copy of which is attached as Exhibit 2.¹ We also have considered Respondent's testimony during his hearing to the extent it was relevant to our sanction recommendation.

The allegations deemed admitted establish as follows. In Count I, between December 2017 and April 2019, while Respondent was employed as an attorney agent by Attorneys' Title Guaranty

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October 05, 2022

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Fund, Inc. (ATG), he received \$36,899.90 in premium payments and deposited that amount into his IOLTA account. He paid ATG \$25,776.65 and, in late July and early August 2019, used \$11,413.56 from his IOLTA account to pay his personal obligations. At that time, he knew that the funds belonged to ATG and that he had no right to use those funds. By this conduct, Respondent violated Rules 1.15(a) and 8.4(c) of the Illinois Rules of Professional Conduct.

In Count II, in January 2020, Respondent gave ATG bank statements from his IOLTA account that he, or someone at his direction, had altered by adding non-existent deposits, eliminating withdrawals, and increasing ending balances, in order to conceal from ATG his failure to remit all of the money he owed it. By this conduct, Respondent violated Rules 8.4(c) and 8.4(b).

In Count III, after the Administrator initiated an investigation into Respondent's conduct, Respondent agreed to produce various documents to the Administrator, but he failed to do so. He then failed to respond to a June 2021 subpoena requiring him to produce the documents as well as a January 2022 subpoena requiring him to appear for a remote supplemental sworn statement. At no time has he provided the requested documents to the Administrator. By this conduct, Respondent violated Rule 8.1(b).

There are multiple factors aggravating Respondent's misconduct. First, Respondent, who was admitted to practice in Illinois in 1992, was an experienced practitioner at the time of his misconduct. Second, his misconduct involved a pattern of conduct that spanned two and a half years, in that, beginning in late July 2019, he made unauthorized transfers of funds that did not belong to him; then, five and a half months later, provided false documents to ATG to conceal his conduct; and then, in mid-2021 and early 2022, failed to respond to requests for information from the ARDC. Third, he did not adequately or meaningfully participate in the disciplinary proceedings, in that he failed to answer the complaint against him and failed to respond to the

motion to deem the allegations and charges of the complaint admitted. Fourth, there is no evidence in the record that Respondent has repaid the funds he converted from ATG. While he testified at hearing that he sent a check to ATG to cover those funds, he produced no evidence to support his claim. Fifth, Respondent has failed to recognize or acknowledge the wrongfulness of his conduct or show any remorse for it. During his testimony, Respondent gave no explanation for his conduct and made no apology for any of it, including his failure to respond to the Administrator.

In mitigation, Respondent has no prior misconduct.

Based on Respondent's serious misconduct, combined with the extensive aggravation and minimal mitigation involved in the matter, we recommend that Respondent be suspended for three years and until further order of the Court. In particular, we are concerned that Respondent does not seem to understand the wrongfulness of his actions and has expressed no remorse for them. In addition, he provided no context for why he committed the charged misconduct. We therefore have no confidence that he would not engage in misconduct again. We also note that restitution typically is a condition of reinstatement pursuant to Supreme Court Rule 767(f), and recommend that Respondent be required to prove that he has made full restitution to ATG before being reinstated to practice.

Accordingly,

1. Respondent agreed to accept service by electronic mail and was served with the Complaint by electronic mail on March 8, 2022. A copy of the Affidavit of Agreed Service Pursuant to Commission Rule 214(c) is attached as Exhibit 3.
2. The allegations and charges of the Complaint were deemed admitted in an Order filed on May 31, 2022. A copy of that Order is attached as Exhibit 2.

3. In consideration of the Order deeming the allegations and charges of the Complaint admitted, this Panel finds Respondent committed the misconduct charged in the Complaint.
4. Given Respondent's misconduct, the serious aggravating factors present, and the case law cited by the Administrator, we recommend that Respondent be suspended for three years and until further order of the Court, and that he be required to prove that he has made full restitution to ATG before being reinstated to practice.
5. The Panel has concluded that this report format will adequately and appropriately communicate its recommendation to the Court.

Respectfully submitted,

Janaki H. Nair
Christina M. Sugden
Ghian Foreman

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 5, 2022.

/s/ Michelle M. Thome

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

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¹ Respondent did not file an Answer to the Complaint, nor did he file a response to the Administrator's Motion to Deem Admitted All Factual Allegations and Disciplinary Charges of the Complaint.

Exhibit 1

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

In the Matter of:

DAVID LOUIS BARTELSMEYER,

Attorney-Respondent,

No. 6209596

Commission No. 2022PR00021

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, David B. Collins, pursuant to Supreme Court Rule 753(b), complains of Respondent, David Louis Bartelsmeyer, who was licensed to practice law in Illinois on November 5, 1992, and alleges that Respondent has engaged in the following conduct, which subjects him to discipline pursuant to Supreme Court Rule 770:

COUNT I

(Conversion of \$11,123.25)

1. Attorneys' Title Guaranty Fund, Inc. ("ATG") is an Illinois entity engaged in the business of issuing title insurance policies through attorneys who act as the company's agents in Illinois and elsewhere, while also providing underwriting services, settlement statements, and closing officers for real estate transactions.

2. Prior to February 2020, ATG employed Respondent as one of its attorney agents. As an attorney agent of ATG, Respondent prepared and issued title insurance policies on ATG's behalf. Upon receipt of the premium payment for the policy, Respondent was then obligated to send the payment to ATG.

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3/7/2022 8:55 AM
ARDC Clerk

3. At all times alleged in this complaint, Respondent maintained an IOLTA account at the Bank of Herrin, ending in numbers 6466, entitled “Craig & Bartlesmeyer PC Client Trust Policies” (“Herrin account 6466”). Upon receipt of premium payments received for ATG title policies, Respondent would deposit those funds into Herrin account 6466.

4. Herrin account 6466’s balance on December 15, 2017 was \$349.44.

5. Between December 15, 2017 and April 26, 2019, Respondent received premium payments that were due to be forwarded to ATG for title policies totaling \$36,899.90.

6. Between December 15, 2017 and April 26, 2019, Respondent made 144 deposits into Herrin account 6466, totaling \$36,899.90.

7. Between December 15, 2017 and June 21, 2019, Respondent made seven payments to ATG, totaling \$25,776.65, for premium payments which were due to ATG.

8. Herrin account 6466’s balance on June 21, 2019 was \$12,542.89, of which \$11,123.25 were funds belonging to ATG which Respondent was holding for ATG.

9. Between July 24, 2019 and August 5, 2019, Respondent arranged for two transfers, totaling \$11,413.56, to be made from Herrin account 6466 to his creditors to satisfy Respondent’s personal obligations as follows:

Date	Withdrawal Amount and Use
July 24, 2019	\$6,413.56-Health Care Services
August 5, 2019	\$5,000.00—Citi Card On-line payment

10. Respondent did not have authority from ATG to use its funds for his own business or personal purposes.

11. At the time that Respondent made the two unauthorized transactions listed in paragraph 9, above, and then used the funds for his own personal purposes, he knew that the funds

he was transferring belonged to others and he had no right to use those funds. By using the funds, without authority, for his own personal uses, Respondent converted those funds.

12. Respondent has not repaid the \$11,123.25 to ATG.

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

- a. failure to hold the property of third parties that is in his possession in connection with a representation separate from his own property, by converting \$11,123.25 in policy premiums acquired as an attorney agent of ATG and belonging to ATG, using those funds for personal 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 using \$11,123.25 of policy premiums acquired as an attorney agent of ATG and belonging to ATG, and using those funds for his own use, without authority, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(Creating and using false documents)

14. The Administrator repeats and realleges Paragraphs 1-3 as if fully set forth herein.

15. On January 30, 2020, ATG employees, Ryan Murphy and Vimal Patel (“ATG representatives”), met with Respondent at his office to conduct an onsite consultation regarding Respondent’s relationship with ATG.

16. At the January 30, 2020 meeting, Respondent was asked to produce bank statements for Herrin account 6466 from July 2019 through December 31, 2019 (“bank statements”).

17. On January 31, 2020, ATG representatives met again with Respondent at his office. Respondent provided the ATG representatives with the requested bank statements.

18. On or before January 31, 2020, Respondent, or someone at Respondent's direction, altered the bank statements by adding non-existent deposits, eliminating withdrawals and increasing ending balances, the purpose of which was to mislead ATG.

19. After the January 31, 2020 meeting, ATG requested bank statements for Herrin account 6466 directly from the Bank of Herrin.

20. On February 14, 2020, ATG received the requested bank statements directly from the Bank of Herrin.

21. ATG compared the bank statements provided by Respondent with the bank statement provided by the Bank of Herrin. Among ATG's findings were:

- a. the word "Client" was misspelled as "Clinet" on the bank statements provided to ATG by Respondent;
- b. some of the bank statements provided by Respondent had deposits that were not present on the statements provided by the bank;
- c. some of the bank statements provided by the bank had withdrawals that were not present on the bank statements provided by Respondent; and
- d. the ending balances on the bank statements provided by Respondent did not match the ending balances on the bank statements obtained from the bank.

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

- a. conduct involving dishonesty, fraud, deceit or misrepresentation by conduct including altering, or directing the alteration of, bank records and providing those altered bank records to ATG, in an effort to conceal his failure to

furnish ATG with its money, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010); and

- b. committing a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects, by conduct including the commission of the criminal offense of forgery, (720 ILCS 5/17-3) in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010).

COUNT III

(Failure to respond to lawful demands for information from the ARDC)

23. On February 20, 2020, the Administrator received a letter from ATG employees Christine M. Sparks, Deborah F. Feinen, August R. Butera, and Henry L. Shulruff, reporting their knowledge of conduct by Respondent that may involve dishonesty, fraud, deceit or misrepresentation (“letter”).

24. On February 21, 2020, the Administrator initiated a confidential investigation based upon the letter.

25. On May 25, 2021, Respondent gave a sworn statement as part of the confidential investigation.

26. During the sworn statement, Respondent agreed to provide copies of various documents to the Administrator by June 11, 2021, for use in the Administrator’s confidential investigation.

27. Respondent did not provide the documents by June 11, 2021.

28. On June 18, 2021, the Administrator sent a letter to Respondent containing a subpoena that required him to appear at the Commission’s office on July 9, 2021, with the requested documents.

29. Respondent received the letter and subpoena on June 21, 2021.

30. Respondent did not appear at the Commission's office on July 9, 2021, as required by the subpoena.

31. At no time has Respondent provided the requested documents to the Administrator.

32. On January 3, 2022, the Administrator sent a letter to Respondent containing a subpoena that required him to appear for a remote supplemental sworn statement on February 1, 2022 at 9:00 a.m. as part of the confidential investigation.

33. Respondent received the letter and subpoena on or about January 8, 2022.

34. Respondent did not appear for the February 1, 2022 supplemental sworn statement, as required by the subpoena.

35. By reason of the conduct described above, Respondent 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 provide the documents Respondent agreed to produce during his May 25, 2021 sworn statement by June 11, 2021; failing to appear and produce those documents on July 9, 2021, as required by subpoena; and failing to appear for a remote supplemental sworn statement on February 1, 2022, as required by subpoena, 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 recommendation for such discipline as is warranted.

Respectfully submitted,
Jerome Larkin, Administrator
Attorney Registration Disciplinary Commission

By: /s/ David B. Collins
David B. Collins

David B. Collins
Counsel for the Administrator
Attorney Registration and Disciplinary Commission
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Springfield, IL 62704
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Exhibit 2

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

In the Matter of:

DAVID LOUIS BARTELSMEYER,

Attorney-Respondent,

No. 6209596.

Commission No. 2022PR00021

ORDER

A telephonic pre-hearing conference was held in this matter on May 31, 2022, commencing at 9:00 a.m. Participating were Janaki H. Nair, Chair; David B. Collins, Counsel for the Administrator; and Respondent, *pro se*. The parties advised the Chair as to the status of the matter. Accordingly,

IT IS ORDERED:

1. Respondent having failed to file an answer to the Complaint or a response to the Administrator's Motion to Deem Admitted All Factual Allegations and Disciplinary Charges of the Complaint (Motion), the Administrator's Motion 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 the exhibits they propose to offer at hearing on or before June 21, 2022;
3. The default hearing in this matter is scheduled for June 28, 2022, commencing at 10:00 a.m., and will be conducted remotely by Webex video conference. The Clerk of the

Commission shall provide the parties with Webex access information.

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, certify 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 May 31, 2022.

/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, Andrea L. Watson, hereby certify that I served a copy of this Order on the Attorney-Respondent listed at the address shown below by regular mail by depositing it with proper postage prepaid, by causing the same to be deposited in the U.S. Mailbox at One Prudential Plaza, 130 East Randolph Drive, Chicago, Illinois 60601 on May 31, 2022, 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.

David Louis Bartelsmeyer
Attorney-Respondent
Craig and Bartelsmeyer, P.C.
203 North Park Avenue
Herrin, IL 62948-3149

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/ Andrea L. Watson
Andrea L. Watson

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Exhibit 3

BEFORE THE HEARING BOARD
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AND
DISCIPLINARY COMMISSION

In the Matter of:

David Louis Bartelsmeyer,

Attorney-Respondent,

No. 6209596.

Commission No. 2022PR00021

**AFFIDAVIT OF AGREED SERVICE
PURSUANT TO COMMISSION RULE 214(c)**

I, SCOTT KINCAID (“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 an 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 March 7, 2022 at 12:41 P.M., Affiant telephoned (618) 988-1553 Attorney David Louis Bartelsmeyer to confirm he would accept service via email. Attorney Bartelsmeyer acknowledge he would accept service by email and provided the email dbartelsmeyer@craigandbartelsmeyer.com.
4. On March 8, 2022 at 7:14 A.M., Affiant emailed Attorney Bartelsmeyer at dbartelsmeyer@craigandbartelsmeyer.com. Attached to the email was the Entry of Appearance and Acceptance of Service, Complaint, Notice of Complaint, Order Assigning Hearing Board

FILED
3/8/2022 11:39 AM
ARDC Clerk

Chairperson, Pre-Hearing Procedures Memorandum and the Rules of the Attorney Registration and Disciplinary Commission.

5. On March 8, 2022 at 11:01 A.M., Affiant received an email from dbartelsmeyer@craigandbartelsmeyer.com confirming service.

6. Further Affiant sayeth not.

/s/ Scott Kincaid
Scott Kincaid, Senior Investigator

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/ Scott Kincaid
Scott Kincaid, Senior Investigator

Dated: March 8, 2022

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