In re Robby S. Fakhouri
Attorney-Respondent

Commission No. 2021PR00056

Synopsis of Hearing Board Report and Recommendation
(July 2023)

The Administrator charged Respondent in a thirteen-count Amended Complaint with dishonestly converting over $280,000 in client funds in thirteen separate matters. The Hearing Board found that the Administrator proved the charges of misconduct. The Hearing Board further found that Respondent was experiencing severe substance use disorder at the time of his misconduct and that his substance use disorder impacted his practice and contributed to his misconduct. Based on Respondent's serious misconduct and taking into account the mitigating and aggravating factors, the Hearing Board recommended that Respondent be suspended for three years and until further order of the Court, stayed after one year by a two-year period of conditional probation.

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

In the Matter of:

ROBBY S. FAKHOURI,

Attorney-Respondent,

No. 6315332.

Commission No. 2021PR00056

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

The Administrator charged Respondent in a thirteen-count Amended Complaint with dishonestly converting over $280,000 in client funds in thirteen separate matters. The Hearing Board found that the charges of misconduct were proved and recommended that Respondent be suspended for three years and until further order of the Court, stayed after one year by a two-year period of conditional probation.

INTRODUCTION

The hearing in this matter was held remotely by videoconference over the course of four days, on June 7, June 8, August 15, and October 4, 2022, before a panel of the Hearing Board consisting of Jose A. Lopez, Jr., Chair, Mara S. Georges, and Jim Hofner. Jonathan Wier represented the Administrator. Respondent was present and represented by James A. Doppke.

PLEADINGS AND MISCONDUCT ALLEGED

On July 15, 2021, the Administrator filed a thirteen-count Complaint against Respondent, alleging that, in thirteen separate client matters, Respondent failed to hold his client's funds that

were in his possession separate from his own funds and did so dishonestly, in violation of Rules 1.15(a) and 8.4(c) of the Illinois Rules of Professional Conduct.[1]

In his Answer, Respondent admitted most of the factual allegations, but denied that his conduct was dishonest and denied the charges of misconduct.

EVIDENCE

The Administrator's Exhibits 2 through 18 and 22 through 28 were admitted into evidence. (Tr. 23-24, 170, 279.) At hearing, the Administrator presented testimony from two former clients, an expert in forensic psychiatry, and Respondent as an adverse witness. Respondent's Exhibits 1 through 4 were admitted into evidence. (Tr. 23, 37, 60, 62.) Respondent testified on his own behalf and presented the testimony of his treating therapist and five character witnesses.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In attorney disciplinary proceedings, the Administrator has the burden of proving the charges of misconduct by clear and convincing evidence. In re Winthrop, 219 Ill. 2d 526, 542, 848 N.E.2d 961 (2006). Clear and convincing evidence requires a high level of certainty, which is greater than a preponderance of the evidence but less stringent than proof beyond a reasonable doubt. In re Santilli, 2012PR00029, M.R. 26572 (May 16, 2014) (Hearing Bd. at 3) (citing People v. Williams, 143 Ill. 2d 477, 484-85, 577 N.E.2d 762 (1991)). In determining whether the Administrator has met that burden, the Hearing Board assesses witness credibility, resolves conflicting testimony, and makes factual findings. In re Edmonds, 2014 IL 117696, ¶ 35; Winthrop, 219 Ill. 2d at 542-43.

Facts Common to All Counts

Respondent's Background

Respondent was licensed to practice law in Illinois on May 1, 2014, when he was 23 years old. After graduating from law school, he worked for a law firm, and then became a solo

practitioner in February 2016. (Tr. 69.) During the time period relevant to this matter, Respondent owned a small law firm, The Fakhouri Firm, LLC, and practiced primarily in the area of plaintiff's personal injury claims. He maintained and was the sole signatory on an IOLTA client trust account ending with the numbers 3580 and held at Bank of America. (Ans. at pars. 1-2.)

Respondent's Testimony About His Mental Health and Substance Abuse

In 2015, a financial crisis befell Respondent's family, and they "lost everything." (Tr. 208-209.) Around that time, Respondent began using Adderall. (Tr. 104.) Respondent's $50,000 law firm salary was not enough to keep his family afloat, so he left the firm. His partner allowed him to keep his cases. He tried to find a job with another law firm, but was unable to do so quickly enough to maintain his and his parents' expenses. Consequently, in February 2016, he opened up his own personal injury practice, so that he would have income. He was 25 years old when he opened his firm. He had over 45 cases and began to struggle when he realized that cases did not settle "fast enough." He also began to increase his use of medications. (Tr. 209, 212, 215.)

After about a year and a half, the law firm that Respondent had hired to represent his parents withdrew because he was unable to pay them. When it became clear that his family could not save their property, he "fell into a massive, massive mess of depression" and his substance use "just skyrocketed." (Tr. 218-19.) He began overusing drugs because of stress and not wanting to deal with the reality of his parents having lost everything, having to be responsible for his family in a way he had never experienced before, and having to try to understand how to run a solo practice with only two years of experience. That began a downward spiral where he continued to overuse medications. (Tr. 292.)

He continued to abuse prescription drugs through 2018. He testified that, during that time, he was taking significant amounts of Adderall, in addition to Xanax and seven other prescription

medications. He does not recall the entirety of what occurred during that time period. His focus during that time was solely on his drug use. (Tr. 76-77, 88, 105-106.)

On July 11, 2018, Respondent attempted suicide by consuming an excessive amount of Xanax pills, because he was overwhelmed by everything he had done, including becoming addicted to medications and the damage he had done to himself, his law firm, his clients, and the legal profession. When he did not show up at his office, his assistant did a wellness check at his apartment and found him unconscious. She called an ambulance, and he was taken to the emergency room at Northwestern Memorial Hospital. At the hospital, however, he denied making a suicide attempt and denied abusing drugs. He left Northwestern before he was discharged and continued to use drugs. (Tr. 107-109.)

About a week later, on July 17, 2018, Respondent's father brought Respondent to Rosecrance, a substance abuse treatment facility in Rockford, Illinois. Respondent was admitted, evaluated, and diagnosed with severe sedative, hypnotic, or anxiolytic use disorder and severe stimulant use disorder, among other things. He also reported struggling with anxiety and depression, and having suicidal ideation on a daily basis. (Tr. 109-110; Adm. Ex. 23.) Rosecrance recommended that Respondent enter its residential treatment program due to his "inability to avoid relapse, continued use despite various consequences, and need for structured environment." (Adm. Ex. 23.)

Respondent, however, did not remain at Rosecrance, instead choosing to leave the next day against medical advice. (Adm. Ex. 24.) Respondent testified that he was "extremely uncomfortable" at Rosecrance and thought he would be better served under the care of his parents. He immediately moved into his parents' house. (Tr. 111.)

After leaving Rosecrance, Respondent did not receive any formal treatment with therapists or physicians. Instead, he turned to fitness to maintain his sobriety, which worked for him. He also

began discussing his suicide attempt and substance abuse problem in a podcast, called "Life, Lies and Second Chances." (Tr. 114-15, 127.) After meeting with the Administrator's psychiatric expert in March 2022, he began seeing a licensed therapist in May 2022. (Tr. 114.) In September 2022, he began seeing a different therapist and, as of the last day of hearing, was scheduled to have weekly therapy sessions with her. He intends to continue with this course of therapy for the foreseeable future. (Tr. 502-503, 506.)

Respondent has remained off prescription drugs since July 2018. (Tr. 250.)

Respondent's Use of Client Funds

Respondent testified that, as alleged in each of the counts in the Amended Complaint, he used all or some of the client's money before paying the settlement proceeds to that client. (Tr. 73-74.) If he had insufficient funds to cover a payment to a client, he borrowed money from family or friends to put money into the account, to ensure that a check would not bounce, or he would defer making payments to clients when he did not have money available to pay them. (Tr. 78-79.) When he used funds in his IOLTA account prior to disbursing the funds to clients or lienholders, in most instances, it was to pay other clients because of what he had done during the time of his heavy use of medication. He testified that it was never his intention to steal clients' money. He "just wanted to keep the firm afloat." (Tr. 234-35, 247-48.)

Respondent's law firm also had an operating account. He testified that he made transfers from his IOLTA account to his operating account in round numbers, like $10,000 and $5,000, because was trying to keep the firm going. At that time, there was nothing left in his operating account, and he had rent due, employee payroll, and costs associated with case files. With respect to his taking of funds from his IOLTA account to keep his firm afloat, Respondent stated, "It was wrong and I know it's wrong." (Tr. 237.) When he made cash withdrawals from the operating

account, it was typically to pay for drugs. Respondent testified that he was paying up to $1,500 per month for drugs. (Tr. 80-81, 120-21.)

Respondent further testified that there were times when he transferred more into the operating account than he was entitled to. During that time, he was not keeping track of what funds were in the account or whose funds they were, nor complying with accounting requirements or maintaining the ledgers he was supposed to be maintaining. In fact, he did not keep records at all. (Tr. 75, 238.) He testified that he did not have trust accounting methods; he "just deposited the checks into the account and kept the office moving." (Tr. 231.) He had an assistant at the time who would assist in depositing and issuing checks, but not recordkeeping or tracking. No one was doing that, although Respondent acknowledged that he should have been doing it. As for why he was not, he testified that he "was just trying to keep going. [He] wasn't paying attention to what [he] was doing. [He] just wanted to keep the lights on and keep one more day open." (Tr. 234.)

Respondent testified that he knew throughout the time of his misconduct that it was inappropriate, and that his "lack of judgment with respect to the amount of medication did not allow [him] to consider the consequences of those actions and [he] just continued to act." (Tr. 289.)

Testimony of Dr. Lisa Rone

The Administrator presented the expert testimony of forensic psychiatrist Dr. Lisa Rone. Dr. Rone met with Respondent on March 4, 2022, for about one hour and 45 minutes. (Tr. 131.) Dr. Rone testified that, when Respondent went to Rosecrance on July 17, 2018, he was diagnosed with severe stimulant use disorder, severe anti-anxiety medicine use disorder, severe tobacco use disorder, and mild cannabis disorder. Rosecrance recommended that he be detoxed and then go to residential treatment services. He did not do so. (Tr. 142-43; see also Adm. Exs. 23 and 24.)

Dr. Rone opined that Respondent's addiction issues played a role in his misconduct in that they influenced his behavior and his ability to practice during the time of his misconduct – for example, he experienced memory problems and was not keeping up with things as he normally would have – but she did not find that his substance use explained diverting client funds and handling the monies the way he did. (Tr. 144.)

Dr. Rone also opined that Respondent has a "very limited understanding of his behavior" and did not exhibit much insight into what drove him to use substances to the level at which he used them and mishandle client funds in the way that he mishandled them. She testified about her belief that Respondent has certain "traits," which she described as "lifelong personality feature[s]" that "often come from lifelong patterns of behavior." She identified dishonesty and recklessness as lifelong patterns of behavior that, in her opinion, Respondent has demonstrated. She noted that he did not exhibit any insight into his behavior and those particular traits, and recommended that he "see someone who is a professional psychotherapist … to dig into what motivates his behavior." She testified that it would require weekly psychotherapy for at least a couple of years for Respondent to gain insight into his behavior. (Tr. 147-50.)

Dr. Rone further opined that, because Respondent had not completed a formal treatment program and was not involved with any kind of support group other than the fitness community, "he is at a high risk of relapse of one substance or another." She testified that Respondent's belief that he would never return to abusing substances and that his fitness program was sufficient to enable him to maintain sobriety is contrary to her medical and psychiatric opinion regarding his risk of relapse, and contrary to the concerns that Rosecrance staff raised following their evaluation of him. She found Respondent's statement that his addiction issues were a thing of the past concerning, "given the larger issue of him not having developed a lot of insight into his motivation for the addiction starting in the first place," as well as his "ongoing difficulty with looking at other

factors that play a role in his life …, [such as] his difficulties with truth telling and judgment and recklessness." (Tr. 150-52.)

Finally, Dr. Rone testified that she has some concerns about Respondent returning to law practice. She opined that Respondent could function better in a larger practice, where he would have supervision and mentorship and help with the management of his practice. Because she saw no evidence that he had insight into the behavior that contributed to his conversion of funds, she had no assurance that, if he were a solo practitioner, similar or other misconduct would not occur again. (Tr. 154-55.)

Testimony of Katie Love

Respondent presented the testimony of Katie Love, a licensed clinical professional counselor and certified alcohol and drug counselor in private practice. (Tr. 325.) Love testified that she first talked with Respondent on May 11, 2022, and had her first session with him on May 18, 2022. She met with him about eight times between May 18 and the date of her testimony, on August 15, 2022. They met weekly until July, but did not meet in July and early August because Respondent was out of the country. (Tr. 327-28, 343.)

Love testified that, based upon her sessions with Respondent, she understands that he stopped using substances in 2018 when he overdosed. He decided to look internally and start to work out every day, and his "fitness has become his biggest recovery." She views his therapy sessions with her as an aspect of his recovery. (Tr. 335.)

Love assesses Respondent as "pretty stable" and "well grounded." She noted that he is "very into" his fitness, which keeps him grounded and keeps his mind more focused than it was in the past. She testified that he has adhered to the therapy plan she established for him and is cooperative, and she has no reason to believe that he would not continue to adhere to the plan or be cooperative. (Tr. 337, 339.) Love does not consider Respondent to be at high risk of relapse

because he does not want to "touch a substance" ever again if he does not have to and he has a "very strong plan" to not go back on prescription drugs, which makes the likelihood of relapse slimmer. (Tr. 351.)

Love believes Respondent has been candid with her throughout his treatment. Based upon her observations, she does not agree with Dr. Rone's assessment that he has ongoing problems with honesty and judgment. She testified that Respondent has expressed remorse for the circumstances that brought him before the Hearing Board. Based on her discussions with him, she believes he takes ownership and responsibility for his conduct. (Tr. 353-55.)

Count I: The Administrator charged Respondent with dishonestly misappropriating $24,333.33 in settlement proceeds from Bonita Barlow

A. Summary

Respondent misappropriated $24,333 in settlement proceeds from his client, Bonita Barlow. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In December 2017, Bonita Barlow and Tommie Mathis were involved in a vehicle collision in Maywood, Illinois. After the collision, Respondent and Barlow agreed that Respondent would represent her in pursuing a claim against Mathis' insurer, Government Employees Insurance Company ("GEICO"). Respondent and Barlow agreed that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Barlow's behalf. (Ans. at pars. 3-4.)

On June 18, 2018, GEICO issued a check payable to the Fakhouri Firm and Barlow in the amount of $25,000 as full and final settlement for the injuries Barlow sustained in the collision. Respondent deposited that check into his IOLTA account on July 3, 2018. (Id. at 5.)

On August 15, 2018, GEICO issued a second check payable to the Fakhouri Firm and Barlow, as the parent and guardian of DeShaun Barlow-Murphy, in the amount of $11,500 as full and final settlement for the injuries sustained by her child in the collision. Respondent deposited that check into the IOLTA account on August 20, 2018. (Id. at 6.)

Pursuant to the fee agreement with Barlow, Respondent was entitled to no more than $12,166.67 in fees, leaving the balance of $24,333.33 for payment to Barlow or her lienholders. On September 24, 2018, prior to any disbursement to or on behalf of Barlow, the balance of Respondent's IOLTA account was negative, and Respondent had used at least $24,333.33 of the settlement proceeds belonging to Barlow or lienholders for his own business or personal purposes. At no time did Barlow authorize Respondent to use any portion of her settlement proceeds for his own purposes. (Id. at 7-10.)

Respondent testified that, while negotiating Barlow's liens, he was paying off other cases with funds derived from her settlement, but he did not intend to deprive her of her funds. (Tr. 239.)

C. Analysis and Conclusions

Our analysis in this count applies in large part to our analysis in the remaining counts, as all involve similar factual circumstances and charges against Respondent.

Rule 1.15(a)

A lawyer shall 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. Ill. R. Prof'l Cond. 1.15(a). Rule 1.15(a) obligates attorneys holding client or third-party funds to safeguard those funds. In re Woods, 2014PR00181, M.R. 28568 (Mar. 20, 2017) (Hearing Bd. at 19). An attorney violates Rule 1.15(a) where the attorney uses client or third-party funds without authority, thereby

causing the balance in the account into which those funds were deposited to fall below the amount the attorney should be holding. Id.

In his Answer, Respondent admitted the facts that form the basis of Count I's charge that Respondent violated Rule 1.15(a) in his handling of Barlow's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, we find that the Administrator proved by clear and convincing evidence that Respondent used at least $24,333.33 of the settlement proceeds belonging to Barlow or lienholders for his own business or personal purposes without authority to do so, and therefore violated Rule 1.15(a).

Rule 8.4(c)

It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Ill. R. Prof'l Cond. 8.4(c). Dishonesty is broadly construed to include anything calculated to deceive. Edmonds, 2014 IL 117696, ¶ 53.

In conversion cases, dishonesty is not established simply because the balance in an attorney's trust account falls below the amount the attorney should be holding for a client or third person. In re Bleiman, 2016PR00132, M.R. 29458 (Sept. 20, 2018) (Hearing Bd. at 12). In general, the Hearing Board seeks to ascertain whether the attorney knowingly used funds that did not belong to him or whether the failure to maintain the proper balance resulted from unintentional errors such as sloppy bookkeeping. In re Knowles, 2015PR00073, M.R. 28744 (Sept. 22, 2017) (Hearing Bd. at 16). Attorneys who take funds that they know do not belong to them engage in dishonest conduct. In re Miller, 2014PR00134, M.R. 28618 (May 18, 2017) (Hearing Bd. at 10). This is true even where sloppy bookkeeping may have contributed to the misconduct. See In re Tyler, 98 CH 74, M.R. 16873 (Sept. 22, 2000) (Review Bd. at 9) (holding that, although sloppy bookkeeping practices and unfamiliarity with the Rules may have contributed to attorney's

misconduct, his knowing use of money withheld to pay medical providers constituted dishonest conduct).

Having found that Respondent failed to safeguard his client's funds, we further find that he purposefully and knowingly used those funds without his client's authority. The undisputed evidence, and particularly Respondent's own testimony, demonstrated that Respondent knowingly and intentionally used funds that he should have been safeguarding for Barlow to pay other clients' settlements, as well as to pay for drugs and office expenses, at a time when he was experiencing personal and professional financial difficulties. He testified that he knew that his use of client funds was wrong. While he also testified that his mind was clouded because of his drug use and that he was not considering the consequences of his actions, those facts do not negate the intentional nature of Respondent's use of Barlow's funds.

By knowingly using funds that did not belong to him, without authority to do so, Respondent engaged in dishonest conduct. Accordingly, we find that the Administrator proved by clear and convincing evidence that Respondent violated Rule 8.4(c).

Count II: The Administrator charged Respondent with dishonestly misappropriating $66,546.94 in settlement proceeds from Sergio Perez

A. Summary

Respondent misappropriated $66,546.94 in settlement proceeds from his client, Sergio Perez. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In September 2015, Sergio Perez was involved in a vehicle collision in Chicago. Respondent and Perez agreed that Respondent would represent him in a personal injury action

relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Perez's behalf. (Id. at 14-15.)

On June 28, 2017, State Farm Mutual Automobile Insurance Company issued a check payable to the Fakhouri Firm and Perez in the amount of $100,000 to settle Perez's uninsured motorist claim. Respondent deposited that check into his IOLTA account after June 28, 2017. Pursuant to the fee agreement with Perez, Respondent was entitled to no more than $33,333.33 in fees and $119.73 to cover expenses he incurred relating to the matter. This left the balance of $66,546.94 for payment to Perez or his lienholders. (Id. at 16-17.)

On July 1, 2018, prior to any disbursement to or on behalf of Perez, the balance of Respondent's IOLTA account was negative. As of July 1, 2018, Respondent had used at least $66,546.94 of the settlement proceeds belonging to Perez or lienholders for his own business or personal purposes. At no time did Perez authorize Respondent to use any portion of his settlement proceeds for his own purposes. (Id. at 18-20.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count II's charge that Respondent violated Rule 1.15(a) in his handling of Perez's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used Perez's funds for his own personal or business purposes in violation of Rule 8.4(c).

Count III: The Administrator charged Respondent with dishonestly misappropriating $14,000 in settlement proceeds from Natalie Tientcheu

A. Summary

Respondent misappropriated $14,000 in settlement proceeds from his client, Natalie Tientcheu. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In November 2016, Natalie Tientcheu was involved in a vehicle collision in Markham, Illinois. Respondent and Tientcheu agreed that Respondent would represent her in a personal injury action relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Tientcheu's behalf. (Ans. at pars. 24-25.)

On March 22, 2017, Great West Casualty Company issued a check payable to the Fakhouri Firm and Tientcheu in the amount of $21,000 to settle Tientcheu's claim. Respondent deposited that check into his IOLTA account after March 22, 2017. Pursuant to the fee agreement with Tientcheu, Respondent was entitled to no more than $7,000 in fees. This left the balance of $14,000 for payment to Tientcheu or her lienholders. (Id. at 26-27.)

On July 1, 2018, prior to any disbursement to or on behalf of Tientcheu, the balance of Respondent's IOLTA account was negative. As of July 1, 2018, Respondent had used at least $14,000 of the settlement proceeds belonging to Tientcheu or lienholders for his own business or personal purposes. At no time did Tientcheu authorize Respondent to use any portion of her settlement proceeds for his own purposes. (Id. at 28-30.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count III's charge that Respondent violated Rule 1.15(a) in his handling of Tientcheu's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used Tientcheu's funds for his own personal or business purposes in violation of Rule 8.4(c).

Count IV: The Administrator charged Respondent with dishonestly misappropriating $6,476.96 in settlement proceeds from Joseph DeMarco

A. Summary

Respondent misappropriated $6,476.96 in settlement proceeds from his client, Joseph De Marco. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In September 2017, Joseph DeMarco and Kevin Freund were involved in a vehicle collision in Rockford, Illinois. Respondent and DeMarco agreed that Respondent would represent him in a personal injury action relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on DeMarco's behalf. (Ans. at pars. 34-35.)

On August 3, 2018, Country Mutual Insurance Company issued a check payable to the Fakhouri Firm and DeMarco in the amount of $10,000 to settle DeMarco's claim. Respondent deposited that check into his IOLTA account on or about August 8, 2018. Pursuant to the fee

agreement with DeMarco, Respondent was entitled to no more than $3,333.33 in fees and $189.71 to cover expenses he incurred relating to the matter. This left the balance of $6,476.96 for payment to DeMarco or his lienholders. (Id. at 36-37.)

On September 24, 2018, prior to any disbursement to or on behalf of DeMarco, the balance of Respondent's IOLTA account was negative. As of September 24, 2018, Respondent had used at least $6,476.96 of the settlement proceeds belonging to DeMarco or lienholders for his own business or personal purposes. At no time did DeMarco authorize Respondent to use any portion of his settlement proceeds for his own purposes. (Id. at 38-40.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count IV's charge that Respondent violated Rule 1.15(a) in his handling of DeMarco's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used DeMarco's funds for his own personal or business purposes in violation of Rule 8.4(c).

Count V: The Administrator charged Respondent with dishonestly misappropriating $3,805.30 in settlement proceeds from Juan Carreno

A. Summary

Respondent misappropriated $3,805.30 in settlement proceeds from his client, Juan Carreno. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In June 2017, Juan Carreno was involved in a vehicle collision in Chicago. Respondent and Carreno agreed that Respondent would represent him in a personal injury action relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Carreno's behalf. (Ans. at pars. 44-45.)

On August 21, 2018, State Farm Mutual Automobile Insurance Company issued a check payable to the Fakhouri Firm and Carreno in the amount of $11,161.07 to settle Carreno's claim. Respondent deposited that check into the IOLTA account on August 27, 2018. Pursuant to the fee agreement with Carreno, Respondent was entitled to no more than $3,720.35 in fees and $115.20 to cover expenses he incurred relating to the matter. This left the balance of $7,325.52 for payment to Carreno or his lienholders. (Id. at 46-47.)

On September 14, 2018, prior to any disbursement to or on behalf of Carreno, the balance of Respondent's IOLTA account was $3,520.21. As of September 14, 2018, Respondent had used at least $3,805.30 of the settlement proceeds belonging to Carreno or lienholders for his own business or personal purposes.[2] At no time did Carreno authorize Respondent to use any portion of his settlement proceeds for his own purposes. (Id. at 48-50.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count V's charge that Respondent violated Rule 1.15(a) in his handling of Carreno's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used Carreno's funds for his own personal or business purposes in violation of Rule 8.4(c).

Count VI: The Administrator charged Respondent with dishonestly misappropriating $13,761.29 in settlement proceeds from Zeyad Alshwayyat

A. Summary

Respondent misappropriated $13,761.29 in settlement proceeds from his client, Zeyad Alshwayyat. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In February 2017, Zeyad Alshwayyat was involved in a vehicle collision in South Bend, Indiana. Respondent and Alshwayyat agreed that Respondent would represent him in a personal injury action relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Alshwayyat's behalf. (Ans. at pars. 54-55.)

On August 6, 2018, USAA Casualty Insurance Company issued a check payable to the Fakhouri Firm and Alshwayyat in the amount of $21,000 to settle Alshwayyat's claim. Respondent deposited that check into the IOLTA account on or about August 14, 2018. Pursuant to the fee agreement with Alshwayyat, Respondent was entitled to no more than $7,000 in fees and $238.71 to cover expenses he incurred relating to the matter. This left the balance of $13,761.29 for payment to Alshwayyat or his lienholders. (Id. at 56-57.)

On September 24, 2018, prior to any disbursement to or on behalf of Alshwayyat, the balance of Respondent's IOLTA account was negative. As of September 24, 2018, Respondent had used at least $13,761.29 of the settlement proceeds belonging to Alshwayyat or lienholders

for his own business or personal purposes. At no time did Alshwayyat authorize Respondent to use any portion of his settlement proceeds for his own purposes. (Id. at 58-60.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count VI's charge that Respondent violated Rule 1.15(a) in his handling of Alshwayyat's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used Alshwayyat's funds for his own personal or business purposes in violation of Rule 8.4(c).

Count VII: The Administrator charged Respondent with dishonestly misappropriating $4,508.33 in settlement proceeds from Dwayne Barnes

A. Summary

Respondent misappropriated $4,508.33 in settlement proceeds from his client, Dwayne Barnes. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In April 2017, Dwayne Barnes was involved in a vehicle collision on State Route 200 in Waldo, Florida. Respondent and Barnes agreed that Respondent would represent him in a personal injury action relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Barnes's behalf. (Ans. at pars. 64-65.)

On October 31, 2017, Canal Insurance Company issued a check payable to the Fakhouri Firm and Barnes in the amount of $6,800 to settle Barnes's claim. Respondent deposited that check

into the IOLTA account on or about October 31, 2017. Pursuant to the fee agreement with Barnes, Respondent was entitled to no more than $2,266.67 in fees and $25 to cover expenses he incurred relating to the matter. This left the balance of $4,508.33 for payment to Barnes or his lienholders. (Id. at 66-67.)

On July 1, 2018, prior to any disbursement to or on behalf of Barnes, the balance of Respondent's IOLTA account was negative. As of July 1, 2018, Respondent had used at least $4,508.33 of the settlement proceeds belonging to Barnes or lienholders for his own business or personal purposes. At no time did Barnes authorize Respondent to use any portion of his settlement proceeds for his own purposes. (Id. at 68-70.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count VII's charge that Respondent violated Rule 1.15(a) in his handling of Barnes' settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used Barnes' funds for his own personal or business purposes in violation of Rule 8.4(c).

Count VIII: The Administrator charged Respondent with dishonestly misappropriating $3,851.24 in settlement proceeds from Motasem Alshaahin

A. Summary

Respondent misappropriated $3,851.24 in settlement proceeds from his client, Motasem Alshaahin. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In February 2017, Motasem Alshaahin was involved in a vehicle collision in South Bend, Indiana. Respondent and Alshaahin agreed that Respondent would represent him in a personal injury action relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Alshaahin's behalf. (Ans. at pars. 74-75.)

On September 6, 2018, USAA Casualty Insurance Company issued a check payable to the Fakhouri Firm and Alshaahin in the amount of $5,800 to settle Alshaahin's claim. Respondent deposited that check into the IOLTA account on or about September 12, 2018. Pursuant to the fee agreement with Alshaahin, Respondent was entitled to no more than $1,933.33 in fees and $15.43 to cover expenses he incurred relating to the matter. This left the balance of $3,851.24 for payment to Alshaahin or his lienholders. (Id. at 76-77.)

On September 24, 2018, prior to any disbursement to or on behalf of Alshaahin, the balance of Respondent's IOLTA account was negative. As of September 24, 2018, Respondent had used at least $3,851.24 of the settlement proceeds belonging to Alshaahin or lienholders for his own business or personal purposes. At no time did Alshaahin authorize Respondent to use any portion of his settlement proceeds for his own purposes. (Id. at 78-80.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count VIII's charge that Respondent violated Rule 1.15(a) in his handling of Alshaahin's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used Alshaahin's funds for his own personal or business purposes in violation of Rule 8.4(c).

Count IX: The Administrator charged Respondent with dishonestly misappropriating $9,064.37 in settlement proceeds from Christine Madrid

A. Summary

Respondent misappropriated $9,064.37 in settlement proceeds from his client, Christine Madrid. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In April 2018, Christine Madrid was involved in a vehicle collision in Plainfield, Illinois. Respondent and Madrid agreed that Respondent would represent her in a personal injury action relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Madrid's behalf. (Ans. at pars. 84-85.)

On September 24, 2018, State Farm Mutual Automobile Insurance Company issued a check payable to the Fakhouri Firm and Madrid in the amount of $13,898.11 to settle Madrid's claim. Respondent deposited that check into his IOLTA account on or about September 26, 2018. Pursuant to the fee agreement with Madrid, Respondent was entitled to no more than $4,632.70 in fees and $201.04 to cover expenses he incurred relating to the matter. This left the balance of $9,064.37 for payment to Madrid or her lienholders. (Id. at 86-87.)

On December 1, 2018, prior to any disbursement to or on behalf of Madrid, the balance of Respondent's IOLTA account was negative. As of December 1, 2018, Respondent had used at least $9,064.37 of the settlement proceeds belonging to Madrid or lienholders for his own business

or personal purposes. At no time did Madrid authorize Respondent to use any portion of his settlement proceeds for his own purposes. (Id. at 88-90.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count IX's charge that Respondent violated Rule 1.15(a) in his handling of Madrid's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used Madrid's funds for his own personal or business purposes in violation of Rule 8.4(c).

Count X: The Administrator charged Respondent with dishonestly misappropriating $11,264.66 in settlement proceeds from McGrath Auto Group

A. Summary

Respondent misappropriated $11,264.66 in settlement proceeds from his client, McGrath Auto Group. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In March 2017, Hogan Transportation, Inc. ("Hogan") allegedly caused damage to an automobile owned by McGrath Auto Group ("McGrath"). Respondent agreed to represent McGrath in a claim for property damage against Hogan. At the time of the agreement, Respondent and McGrath did not have a written agreement regarding the fee that Respondent would receive for the representation. (Ans. at pars. 94-95.)

On September 1, 2017, Great West Casualty Company issued a check payable to the Fakhouri Firm and McGrath in the amount of $12,500 to settle McGrath's claim against Hogan. Respondent deposited that check into his IOLTA account. On or about September 1, 2017, Respondent prepared a settlement statement. That statement provided that Respondent would receive a fee of $1,235.34 for representing McGrath in its claim against Hogan, and that $11,264.66 was due to McGrath. (Id. at 96-97.)

Pursuant to the McGrath settlement statement, Respondent was entitled to no more than $1,235.34 in fees. On July 1, 2018, prior to any disbursement to McGrath, the balance of Respondent's IOLTA account was negative. As of July 1, 2018, Respondent had used at least $11,264.66 of the settlement proceeds belonging to McGrath for his own business or personal purposes. At no time did McGrath authorize Respondent to use any portion of its settlement proceeds for his own purposes. (Id. at 98-101.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count X's charge that Respondent violated Rule 1.15(a) in his handling of McGrath's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used McGrath's funds for his own personal or business purposes in violation of Rule 8.4(c).

Count XI: The Administrator charged Respondent with dishonestly misappropriating $3,949.62 in settlement proceeds from Anthony Nesheiwat

A. Summary

Respondent misappropriated $3,949.62 in settlement proceeds from his client, Anthony Nesheiwat. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In August 2016, Anthony Nesheiwat was involved in a vehicle collision in Huntley, Illinois. Respondent and Nesheiwat agreed that Respondent would represent him in a personal injury action relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Nesheiwat's behalf. (Ans. at pars. 105-106.)

On February 27, 2017, State Farm Mutual Automobile Insurance Company issued a check payable to the Fakhouri Firm and Nesheiwat in the amount of $6,000 to settle Nesheiwat's claim. Respondent deposited that check into his IOLTA account. Pursuant to the fee agreement with Nesheiwat, Respondent was entitled to no more than $2,000 in fees and $50.38 to cover expenses he incurred relating to the matter. This left the balance of $3,949.62 for payment to Nesheiwat or his lienholders. (Id. at 107-108.)

On July 1, 2018, prior to any disbursement to or on behalf of Nesheiwat, the balance of Respondent's IOLTA account was negative. As of July 1, 2018, Respondent had used at least $3,949.62 of the settlement proceeds belonging to Nesheiwat or lienholders for his own business or personal purposes. At no time did Nesheiwat authorize Respondent to use any portion of his settlement proceeds for his own purposes. (Id. at 109-11.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count XI's charge that Respondent violated Rule 1.15(a) in his handling of Nesheiwat's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used Nesheiwat's funds for his own personal or business purposes in violation of Rule 8.4(c).

Count XII: The Administrator charged Respondent with dishonestly misappropriating $53,873.05 in settlement proceeds from George Khoshaba

A. Summary

Respondent misappropriated $53,873.05 in settlement proceeds from his client, George Khoshaba. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In February 2016, George Khoshaba was involved in a vehicle collision in Crystal Lake, Illinois. Respondent and Khoshaba agreed that Respondent would represent him in a personal injury action relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Khoshaba's behalf. (Ans. at pars. 115-16.)

On April 9, 2018, USAA General Indemnity Company issued a check payable to the Fakhouri Firm and Khoshaba in the amount of $81,550 to settle Khoshaba's claim. Respondent deposited that check into his IOLTA account after April 9, 2018. Pursuant to the fee agreement with Khoshaba, Respondent was entitled to no more than $27,183.33 in fees and $493.62 to cover

expenses he incurred relating to the matter. This left the balance of $53,873.05 for payment to Khoshaba or his lienholders. (Id. at 117-18.)

On July 1, 2018, prior to any disbursement to or on behalf of Khoshaba, the balance of Respondent's IOLTA account was negative. As of July 1, 2018, Respondent had used at least $53,873.05 of the settlement proceeds belonging to Khoshaba or lienholders for his own business or personal purposes. At no time did Khoshaba authorize Respondent to use any portion of his settlement proceeds for his own purposes. (Id. at 119-21.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count XII's charge that Respondent violated Rule 1.15(a) in his handling of Khoshaba's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used Khoshaba's funds for his own personal or business purposes in violation of Rule 8.4(c).

Count XIII: The Administrator charged Respondent with dishonestly misappropriating $65,717.63 in settlement proceeds from Analisiya Villalobos

A. Summary

Respondent misappropriated $65,717.63 in settlement proceeds from his client, Analisiya Villalobos. His taking of the funds was dishonest because he knew the funds in the account did not belong to him.

B. Admitted Facts and Evidence Considered

In April 2018, Analisiya Villalobos, a minor passenger, and Perry Howell were involved in a vehicle collision in Plainfield, Illinois. Christina Madrid, on behalf of her daughter Analisiya, and Respondent agreed that Respondent would represent Analisiya in a personal injury action relating to this incident, and that Respondent would receive a contingent fee equal to one-third of the total amount recovered on Analisiya's behalf. (Ans. at pars. 125-26.)

On October 19, 2018, Respondent filed a petition to approve a settlement in the case entitled *Christina Madrid, as mother and next of friend of Analisiya Villalobos, et al. v. Grace Passarelli, et al.,* case number 2018L011052, pending in the Circuit Court of Cook County. The petition requested the court's approval of a proposed $100,000 settlement and distribution of the funds. (Id. at 127.)

On December 11, 2018, the court entered an order approving the petition to approve the minor's settlement. The order provided for attorney's fees in the amount of $33,333.33 and litigation expenses of $949.04. The order further provided for the remaining $65,717.63 to be transferred to the Probate Division for approval and distribution upon Analisiya reaching the age of majority, or July 7, 2028. (Id. at 128.)

On or about December 21, 2018, State Farm Insurance Company issued a check payable to Christina Madrid and the Fakhouri Firm in the amount of $100,000 as full and final settlement of Analisiya's claim. Respondent deposited that check into his IOLTA account on December 26, 2018. (Id. at 129.)

Pursuant to the fee agreement with Madrid and the December 11, 2018, court order, Response was entitled to no more than $33,333.33 in fees and $949.04 in litigation expenses. The remaining $65,717.63 should have remained in Respondent's IOLTA account until transfer to the Probate Division for the eventual distribution of funds to Analisiya. On July 25, 2019, prior to any

disbursement to or on behalf of Analisiya or transfer of any funds to the Probate Division, the balance of Respondent's IOLTA account was negative. (Id. at 130-31.)

As of July 25, 2019, Respondent had used the entire $65,717.63 of the settlement proceeds that should have been transferred to the Probate Division for the benefit of Analisiya, for his own business or personal purposes. At no time did Madrid, the Circuit Court, or the Probate Division authorize Respondent to use any portion of her settlement proceeds for his own purposes. (Id. at 132-33.)

Respondent acknowledged that his use of these funds was more than an accounting error. He testified that he used the funds to cover other clients' settlements. He further testified that, as of July 25, 2019, he had no money in his IOLTA account to compensate Analisiya for her serious injuries because he used it "to compensate other client files." (Tr. 101-103.)

C. Analysis and Conclusions

Rule 1.15(a)

In his Answer, Respondent admitted the facts that form the basis of Count XIII's charge that Respondent violated Rule 1.15(a) in his handling of Analisiya's settlement funds. In light of Respondent's admissions in his Answer and the evidence presented at hearing, and for the reasons stated in Count I, we find Respondent violated Rule 1.15(a).

Rule 8.4(c)

For the reasons stated in Count I, we find that Respondent dishonestly used Analisiya's funds for his own personal or business purposes in violation of Rule 8.4(c).

EVIDENCE IN AGGRAVATION AND MITIGATION

Aggravation

Because Respondent used clients' funds to pay other clients, some clients experienced delays in receiving the money they were entitled to. (Tr. 248.) Christina Madrid testified that,

between the time Respondent received her settlement check and the time he paid her what she was owed from the settlement, she was struggling financially and had to take out loans to help her until she received her settlement. Madrid also testified that she did not learn that Respondent had received the settlement check from the insurer until five months after he had received the check. (Tr. 28.)

Bonita Barlow testified that, between the time Respondent received her settlement check and the time he paid her what she was owed from the settlement, she was "totally broke" and off work for seven months with no pay, and it was a very difficult time for her. At that time, she had been homeless – living house-to-house or sleeping in a car – for three years, and the settlement money would have changed her life. Barlow further testified that Respondent settled her case but did not tell her about the settlement for months, and, when she repeatedly tried to contact him about her case, he never answered his phone, never returned her phone calls, was never available, called her in the middle of the night, and was unprofessional. (Tr. 54, 55, 58.)

Mitigation

All of Respondent's clients received their settlement funds prior to the filing of the complaint against Respondent. (Tr. 288.)

Respondent testified that his actions brought shame to the legal profession, to him, and to all of his clients. He stated that, if he could turn back the clock and change what happened, he would "in a heartbeat." (Tr. 103.) He further testified that he hurt his clients by causing a delay in their receipt of their funds, which is something he will have to live with, and he would never want them to experience that or have that happen again. (Tr. 249.)

Respondent acknowledged that his substance use was "self-inflicted," and was not the fault of the doctor who prescribed the medications nor his colleagues who recommended the doctor.

(Tr. 221.) He testified that he takes full responsibility for his drug use and for the consequences of his actions, which he regrets every day. (Tr. 291.)

Regarding his use of client funds, Respondent stated:

> I know it's wrong. I regret it more than you can imagine. I brought shame to myself, to my practice, to my clients, to my industry, to my profession and it is never going to go away. It is with me for the rest of my life. No matter how much I succeed and move forward, trying to be a better person, sober, representing my clients zealously, I will bear this shame. My clients will have to bear this shame.

(Tr. 235.)

In 2020, Respondent hired a bookkeeper for his law firm. The bookkeeper handles bookkeeping, reconciles Respondent's trust account, and ensures that the correct balances are in the account. (Tr. 231-32.) Respondent now understands his obligations with respect to handling client funds. (Tr. 268.)

Respondent started his podcast about his addiction and suicide attempt as therapy, to talk about what happened and to hold himself accountable by speaking about his experience publicly. He shared it on YouTube and social media to help others similarly struggling. He wanted to give others "a little bit of light at the end of the tunnel" that he wishes he would have had. He shared his experience with the hope that anybody who felt they were in such a dark place would see that there is a way out. He testified: "If there was anybody that was experiencing what I experienced, I wanted them to know that you are not alone." (Tr. 251, 260-61.)

Respondent served as chair of the community outreach committee of the Arab American Bar Association and, in that role, held events addressing mental health. (Tr. 259, 262-63.) In addition, Respondent and his partner in their business, Resilient Recovery, spoke to Navy men and women at the U.S. Naval Base in San Diego about focusing on their mental health and physical fitness. Respondent and his partner, who were not paid and covered their own expenses for the

event, shared their stories about addiction and led the Navy men and women in high intensity interval training. (Tr. 499-500.)

Character Testimony

Anastasia Palivos testified that she has known Respondent since they were 18 years old, and they remain close friends. She sees him every few weeks and they talk a few times per week. She believes Respondent has been honest with her about the mistakes he has made, and that he has taken full responsibility and not blamed anyone else for his actions. She testified that, mentally and physically, he is in the best place he has ever been in his life. (Tr. 362-71.)

Megan O'Connor met Respondent in late 2019 when she worked at Hale and Monico and they worked as co-counsel on some cases together. She thinks he is a "fantastic lawyer" who is "meticulous about the management of his cases" and "very professional" in his dealings with clients and other lawyers. O'Connor testified that she thinks Respondent has integrity, and she has never doubted his ability for truthfulness. In fact, she thinks he errs on the side of being candid to make sure all the cards are on the table. O'Connor testified that Respondent talked to her about his mishandling of client funds and took responsibility for his actions. He also expressed remorse, and she believes he regrets his actions immensely. She testified that Respondent's reputation in the legal community is that he works hard, is a good lawyer, cares about his clients, and cares about justice and social causes. She would have no hesitation working with him as co-counsel or taking a case from him. (Tr. 376-86.)

Brian Monico is a principal at Hale and Monico. He met Respondent in November 2019; Respondent referred a case to Hale and Monico, and Respondent and Monico worked as co-counsel on the case. Since then, Respondent has brought between five and ten cases to Hale and Monico, some of which Respondent and Monico worked on together. Monico testified that, when he learned of the ARDC complaint against Respondent, he set up a meeting with Respondent to

talk about it, and Respondent seemed to be forthcoming about it. Monico started monitoring Respondent's cases more closely than he otherwise would have, to make sure things were getting done, and found that Respondent was diligent and a hard worker, and did everything that he said he was going to do. Monico testified that, in every interaction he has had with Respondent, he found Respondent to be honest and forthcoming. He testified that, if he did not trust Respondent, he would not have the working relationship that he has with Respondent. (Tr. 391-93, 399, 404.)

Martin Gold is an Illinois attorney who was licensed in 2014. He went to law school with Respondent; they were in the same section and had many classes together. They speak fairly frequently, mostly on a professional basis. Respondent refers cases to Gold, and Gold has referred a few cases to Respondent in the past year and a half. Gold testified that he has no concerns about Respondent being candid, and believes he is honest. He testified that the ARDC charges against Respondent came as a "big surprise" to him and other law school colleagues; that the "Robby" he knows is a smart, honest, and ambitious person; and that Respondent is a different person now than he was at the time of his misconduct, which was Respondent at his "lowest point." (Tr. 422-23, 426-27, 430-31, 434.)

Lance Northcutt is an Illinois attorney who was licensed in 2002. In addition to practicing law with Salvi, Schostok & Pritchard, he is an adjunct professor at Chicago-Kent College of Law, where he also heads the law school's International Comparative Advocacy Program in Dublin, Ireland and coaches mock trial teams. He met Respondent when Respondent was a law student and participated in the mock trial program at Chicago-Kent. Northcutt testified that, out of hundreds if not thousands of students he has taught, mentored, or trained over the last 20 years, Respondent was one of the best if not the best trial advocate he has taught. He noted that Respondent had an "amazing combination" of natural skill and work ethic. Northcutt testified that

he believes Respondent is honest and forthright, and that his misconduct is an aberration. (Tr. 463-66, 481.)

Prior Discipline

Respondent has no prior discipline.

RECOMMENDATION

A. Summary

Based upon the serious nature of Respondent's misconduct, and taking into account the mitigating and aggravating factors, the Hearing Board recommends that Respondent be suspended for three years and until further order, stayed after one year by a two-year period of probation, with conditions designed to address Respondent's mental-health and substance-use issues and monitor his trust accounting practices.

B. Analysis and Conclusions

In determining the appropriate discipline, we are mindful that the purpose of these proceedings is not to punish, but to safeguard the public, maintain the integrity of the profession, and protect the administration of justice from reproach. Edmonds, 2014 IL 117696, ¶ 90. While we strive for consistency and predictability, we recognize that each case is unique and must be decided on its own facts. In re Mulroe, 2011 IL 111378, ¶ 25.

In arriving at our recommendation, we consider those circumstances that may mitigate or aggravate the misconduct. In re Gorecki, 208 Ill. 2d 350, 802 N.E.2d 1194 (2003). In mitigation, Respondent has no prior discipline. He cooperated fully in his disciplinary proceedings. All of his clients received the funds owed to them before the complaint in this matter was filed. Throughout his four-day hearing, Respondent repeatedly expressed deep remorse for his conduct, and we find his expressions to be sincere and heartfelt. We also find that he genuinely accepts responsibility

for his drug use and for the misconduct at the heart of this matter, and understands that what he did was wrong.

As for his drug use, Respondent testified at length and in great detail about the course of events that led to his using and then abusing prescription medications, and how his substance use impacted his life and his practice. We found his testimony to be credible, and we find his mental-health and substance-use issues to be mitigating, in that they clearly played a role in his misconduct. However, we also have taken into account Dr. Rone's testimony that Respondent's substance use was not the sole cause of his mishandling of client funds.

We find it further mitigating that Respondent's misconduct occurred when he was just a few years out of law school. While his youth and inexperience in no way excuse his misconduct, we find that they contributed to it, in that they rendered him ill-equipped to operate a busy solo personal injury practice, particularly during a time when he was consumed by heavy use of and addiction to prescription medications.

We also have considered the volunteer work focused on mental health that Respondent has performed, as well as his podcast, which he created in part to help others experiencing addiction, depression, and suicidal thoughts.

Finally, we have taken into account the testimony of the five character witnesses, all of whom we found credible and persuasive. They collectively testified that Respondent has been candid with them about his conduct and has expressed remorse and accepted responsibility for it, and that he is honest and forthright. We further note Martin Gold's testimony that Respondent is a different person now than he was at the time of his misconduct, as well as Lance Northcutt's testimony that he believes Respondent's misconduct to be aberration.

In aggravation, we consider any harm or risk of harm that was caused by Respondent's conduct. See In re Saladino, 71 Ill. 2d 263, 375 N.E.2d 102 (1978) (discipline should be "closely

linked to the harm caused or the unreasonable risk created by the [attorney's] lack of care"). In this case, Respondent's conduct caused a delay in some of his clients receiving their settlement funds. In the Madrid and Barlow matters, the delay caused actual harm to his clients, in that his actions deprived his clients of funds they needed during a period of financial vulnerability. In addition, he was unresponsive to Barlow's repeated attempts to contact him about her settlement, and behaved unprofessionally with her.

Another factor that aggravates Respondent's conduct is his pattern of behavior. The misconduct in this case was not an isolated instance; rather, it involved numerous instances of Respondent's intentional use of client funds over an extended period of time. See In re Lewis, 138 Ill 2d 310, 562 N.E.2d 198 (1990). The pattern of conduct also involved Respondent's practice of using the funds of one client to satisfy his obligations to another client, thereby continually placing additional clients in jeopardy of not receiving payment.

Based on the nature of Respondent's misconduct and taking into account the aggravating and mitigating factors involved in this matter, the Administrator asks us to recommend disbarment or, at a minimum, a lengthy suspension until further order, with no part of the suspension stayed by probation, while Respondent asks us to recommend a suspension fully stayed by probation. We find that neither request fully takes into account the unique circumstances of this matter.

The evidence established that Respondent was experiencing severe substance use disorder at the time of his misconduct and that his substance use disorder impacted his practice and contributed to his misconduct. We believe that disbarring Respondent for conduct that arose, in part, from his severe substance use disorder would unfairly punish him. We also believe, however, that recommending a suspension fully stayed by probation would not be commensurate with his serious misconduct and would disregard the fact that, while his substance abuse contributed to his misconduct, it was not the singular cause of it.

In short, we find that neither disbarment nor a fully stayed suspension would serve the goals of attorney discipline. Rather, we conclude that a lengthy suspension until further order, stayed in part by a substantial period of conditional probation, will safeguard the public, maintain the integrity of the profession, and protect the administration of justice from reproach.

We also find this sanction to be supported by precedent. See, e.g., In re Parikh, 2019PR00005, M.R. 30572 (Jan. 21, 2021) (on consent, attorney suspended for one year, stayed after five months by a two-year period of probation with conditions that addressed his trust-account procedures, for his dishonest conversion of over $70,000 in fifteen client matters); In re Walsh, 08 CH 77, M.R. 23953 (Sept. 20, 2010) (on consent, attorney suspended for two years and until further order, stayed after five months by a three-year period of probation with conditions that addressed his trust-account procedures and alcohol and substance use, for his dishonest conversion of over $87,000 in client funds; suspension was made until further order in the event that attorney, who was suffering from anxiety, depression, and alcohol abuse at the time of his misconduct, failed to comply with the conditions of probation); In re Ladewig, 00 CH 33, M.R. 19512 (Sept. 24, 2004) (attorney suspended for three years, stayed after five months by a 31-month period of probation with conditions requiring his continued treatment for anxiety disorder and addressing office-management skills, where attorney dishonestly converted over $94,000 from two estates, neglected two client matters, and made false statements to clients; Hearing and Review Boards found attorney's anxiety disorder was a significant mitigating factor warranting probation, even though it did not negate the dishonest nature of his misconduct).

On balance, the foregoing cases are similar to this matter in that they involve the dishonest conversion of large amounts of client funds during a time when the attorneys were experiencing mental health or substance abuse issues or had deficient practice management skills, or a combination thereof. But, while we find that these cases provide guidance as to an appropriate

sanction in this matter, we also recognize that Respondent misappropriated a significantly greater amount of client funds than did the attorneys in Parikh, Walsh, and Ladewig. Consequently, we recommend a longer total and actual suspension than those that were imposed in the foregoing cases. We also recommend that the suspension continue until further order of the Court, which will protect the public by requiring Respondent to prove rehabilitation in a reinstatement proceeding if he is unable or unwilling to comply with the probationary conditions.

Accordingly, we recommend that Respondent be suspended for three years and until further order of the Court, stayed after one year by a two-year period of probation with the conditions set forth below, to begin immediately upon entry of this Court's final order in this matter:

a. Respondent shall comply with the provisions of Article VII of the Illinois Supreme Court Rules on Admission and Discipline of Attorneys and the Illinois Rules of Professional Conduct and shall timely cooperate with the Administrator in providing information regarding any investigation relating to his conduct;

b. Respondent shall reimburse the Commission for the costs of this proceeding as defined in Supreme Court Rule 773 and, at least thirty (30) days prior to the termination of the period of probation, shall reimburse the Commission for any further costs incurred during the period of probation;

c. At least thirty (30) days prior to the termination of the period of probation, Respondent shall reimburse the Disciplinary Fund for any Client Protection payments arising from his conduct;

d. Respondent shall notify the Administrator within seven (7) days of any arrest or charge alleging his violation of any criminal or quasi-criminal statute or ordinance;

e. Respondent shall attend meetings as scheduled by the Commission probation officer. Respondent shall submit quarterly written reports to the Commission probation officer concerning the status of his practice of law and the nature and extent of his compliance with the conditions of probation;

f. Respondent shall notify the Administrator within fourteen (14) days of any change of address;

g. At least thirty (30) days prior to the start of the probationary term, Respondent shall arrange a mentoring relationship with a licensed attorney or attorneys acceptable to the Administrator. During the period of probation, Respondent's practice of law shall be supervised by the attorney(s). Respondent shall provide notice to the

Administrator of any change in supervising attorney within fourteen (14) days of the change, and any substitute supervising attorney must be a licensed attorney acceptable to the Administrator. Respondent shall authorize the supervising attorney(s) to provide a report in writing to the Administrator no less than every three (3) months regarding the nature of Respondent's work, the number of cases being handled by Respondent, and the supervisor's general appraisal of Respondent's continued fitness to practice law;

h. Respondent shall successfully complete the ARDC Professionalism Seminar within the first six (6) months of probation;

i. Respondent shall abstain from using any controlled substances unless prescribed by a physician. Respondent shall use prescribed controlled substances only as directed by the physician;

j. Respondent shall report to the Administrator any lapse in his sobriety or usage of unprescribed controlled substances within seventy-two (72) hours of that usage;

k. Respondent shall continue in his course of treatment with Zubia Siddiqui or another qualified mental health professional acceptable to the Administrator, and shall report to the mental health professional on a regular basis of not less than once per week, with the Administrator advised of any change in attendance deemed warranted by such professional;

l. Respondent shall comply with any and all treatment recommendations of the mental health professional;

m. Respondent shall provide to each qualified mental health professional from whom he receives treatment an appropriate release authorizing the treating professional to: (1) disclose to the Administrator, on at least a quarterly basis, information pertaining to the nature of and Respondent's compliance with any treatment plan established with respect to Respondent's condition; (2) promptly report to the Administrator Respondent's failure to comply with any part of an established treatment plan; and (3) respond to any inquiries by the Administrator regarding Respondent's treatment and compliance with any established treatment plan;

n. Respondent shall notify the Administrator within fourteen (14) days of any change in the mental health professional;

o. Respondent shall, as required by the Administrator, submit to random substance testing by a qualified mental health professional or facility approved by the Administrator, within eight (8) hours of receiving notice by the Administrator that he shall submit to the testing. The results of the tests shall be reported to the Administrator. Respondent shall pay any and all costs of such testing;

p. Respondent shall submit to an independent audit of his client trust account, conducted by an auditor approved by the Administrator, at Respondent's expense, six (6) months after the commencement of probation. Respondent and the Administrator shall each

receive copies of the audit. The audit shall establish Respondent's maintenance of complete records of client trust accounts, required by Rule 1.15 of the Rules of Professional Conduct, including the following:

i. the preparation and maintenance of receipt and disbursement journals, for all client trust accounts, containing a record of deposits and withdrawals from client trust accounts specifically identifying the date, source, and description of each item deposited, and date, payee and purpose of each disbursement;

ii. the preparation and maintenance of contemporaneous ledger records for all client trust accounts showing, for each separate trust client or beneficiary, the source of all funds deposited, the date of each deposit, the names of all persons for whom the funds are or were held, the amount of such funds, the dates, descriptions and amounts of charges or withdrawals, and the names of all persons to whom such funds were disbursed;

iii. the maintenance of copies of all accountings to clients or third persons showing the disbursement of funds to them or on their behalf, along with copies of those portions of clients' files that are reasonably necessary for a complete understanding of the financial transactions pertaining to them;

iv. the maintenance of all client trust account checkbook registers, check stubs, bank statements, records of deposit, and checks or other records of debits;

v. the maintenance of copies of all retainer and compensation agreements with clients;

vi. the maintenance of copies of all bills rendered to clients for legal fees and expenses; and

vii. the preparation and maintenance of reconciliation reports of all client trust accounts, on at least a quarterly basis, including reconciliations of ledger balances with client trust account balances;

q. Probation shall be revoked if Respondent is found to have violated any of the terms of probation. The remaining two-year period of suspension shall commence from the date of the determination that any term of probation has been violated and shall continue until further order of the Court; and

r. If Respondent successfully completes the terms of his probation, the probation shall terminate without further order of the Court.

Respectfully submitted,

Jose A. Lopez, Jr.
Mara S. Georges
Jim Hofner

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 July 12, 2023.

/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] The Complaint was amended on July 16, 2021 to correct the amounts alleged to have been converted in Counts II and V. With the caveat explained in note 2, below, the correct amounts alleged to have been converted are reflected in this report.

[2] Based on all of the amounts set forth in Count V of the Amended Complaint, it appears that the actual amount alleged to have been converted would be $3,805.31 and not $3,805.30. This one-cent discrepancy has no bearing on our findings or recommendation.