In re Patrick Daley Thompson
Attorney-Respondent

Commission No. 2022PR00059

Synopsis of Hearing Board Report and Recommendation
(July 2023)

Following Respondent's conviction on five counts of tax fraud and two counts of knowingly making false statements to a financial institution, the Administrator charged Respondent with committing criminal acts that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. The Hearing Panel found the Administrator proved the charged misconduct by clear and convincing evidence and recommended that Respondent be suspended for three years, with the effective date of the suspension retroactive to the commencement of his interim suspension.

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

FILED
July 26, 2023
ARDC CLERK

In the Matter of:

PATRICK DALEY THOMPSON,

Attorney-Respondent,

No. 6270729.

Commission No. 2022PR00059

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

Based on Respondent's criminal conviction for five counts of tax fraud and two counts of knowingly making false statements to financial institutions, the Administrator proved that Respondent engaged in dishonest conduct and committed criminal acts that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer. The Hearing Panel recommends that Respondent be suspended for three years, retroactive to the commencement of his interim suspension.

INTRODUCTION

The hearing in this matter was held remotely by video conference on March 8 and March 15, 2023, before a Panel of the Hearing Board consisting of William E. Hornsby, Jr., Chair, Bianca B. Brown, and John McCarron. Scott Renfroe represented the Administrator. Respondent was present and was represented by Stephanie Stewart.

PLEADINGS AND ALLEGED MISCONDUCT

The Administrator filed a one-count Complaint against Respondent pursuant to Illinois Supreme Court Rule 761, charging him with committing criminal acts that reflect adversely on his

honesty, trustworthiness, or fitness as a lawyer and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rules 8.4(b) and 8.4(c) of the 2010 Rules of Professional Conduct. In his Answer, Respondent admitted some of the factual allegations, denied knowingly making false statements to financial institutions or knowingly filing false tax returns, and neither admitted nor denied the allegations of misconduct.

EVIDENCE

The Administrator's Exhibits 1- 24 and 26 were admitted into evidence. (Tr. 47, 301-302). The Administrator presented no witnesses. Respondent testified on his own behalf and presented eight character witnesses. Respondent's Exhibits 1-6, 8-14, 16-22, and 26 were admitted into evidence. (Tr. 277, 296).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Administrator bears the burden of proving the charges of misconduct by clear and convincing evidence. In re Thomas, 2012 IL 113035, ¶ 56. Clear and convincing evidence constitutes a high level of certainty, which is greater than a preponderance of the evidence but less stringent than proof beyond a reasonable doubt. People v. Williams, 143 Ill. 2d 477, 577 N.E.2d 762 (1991). The Hearing Board assesses witness credibility, resolves conflicting testimony, makes factual findings, and determines whether the Administrator met the burden of proof. In re Winthrop, 219 Ill. 2d 526, 542-43, 848 N.E.2d 961 (2006).

Following Respondent's conviction for making false statements to financial institutions and tax fraud, the Administrator charged him with engaging in dishonest conduct and committing criminal acts that reflect adversely on his honesty, trustworthiness or fitness as a lawyer.

A. Summary

The Hearing Panel found that the Administrator proved by clear and convincing evidence that Respondent violated Rules 8.4(b) and 8.4(c).

B. Admitted Facts and Evidence Considered

Respondent was licensed to practice law in Illinois in 1999. (Tr. 159). While in private practice, he focused on real estate, zoning, and land use. (Tr. 160). In 2011, Respondent joined the law firm of Burke, Warren, MacKay & Serritella as a partner. Also in 2011, he was elected to the office of commissioner for the Metropolitan Water Reclamation District of Greater Chicago. In 2015, he was elected to the office of alderman for the 11th Ward of the City of Chicago. He was re-elected in 2019. After being elected alderman, he resigned his partnership, became of counsel to his firm, and continued his law practice at a reduced level with reduced compensation. (Tr. 145, 161; Resp. Ex. 13).

The conduct at issue is related to loans Respondent received from Washington Federal Bank (Washington Federal). Respondent testified that he met the owner of Washington Federal, John Gembara, at a golf outing in 2011. Respondent mentioned to Gembara that he wanted to refinance a mortgage loan, and Gembara indicated that the bank could assist with the refinance. Respondent later contacted Gembara to obtain a loan for a capital contribution to his law firm. Washington Federal loaned Respondent $110,000 for that purpose. Respondent signed a promissory note for the loan, but it was not secured. Respondent characterized the loan as an advance on the intended refinancing of mortgage loans for his home and another property. (Tr. 188-90).

In 2013, Respondent obtained another loan from Washington Federal in the amount of $20,000. (Tr. 192). Respondent needed these funds to pay past-due taxes to the Internal Revenue Service (IRS). (Tr. 262). In 2014, Respondent obtained a third loan of $89,000. He used these funds to pay a delinquent second mortgage on a rental property, which was the subject of a foreclosure suit. (Tr. 270). There was no documentation of the second and third loans. (Tr. 193,

195). Respondent testified that he contacted Gembara numerous times to complete the refinance, but it was never completed. (Tr. 197).

Respondent made only one payment to Washington Federal on the original loan at issue, in the amount of $389.58 on February 19, 2012. (Tr. 261). He made no payments on the subsequent two loans. He acknowledged receiving a letter from Washington Federal in May 2014 showing that he owed $232,273.82. (Tr. 271-72; Adm. Ex. 22). He also admitted filling out loan applications in 2016 stating that he had an unpaid balance on his Washington Federal loans of $249,050.00. (Adm. Exs. 4, 23; Tr. 273-75).

Even though Respondent did not have a mortgage with Washington Federal, Washington Federal sent him IRS forms 1098 for calendar years 2013 through 2016, which falsely stated that Washington Federal received mortgage interest payments from Respondent. (Tr. 201; Resp. Ex. 12). Respondent provided the 1098 forms to his accountant, who prepared tax returns stating that Respondent had paid mortgage interest to Washington Federal that he had not in fact paid. (Tr. 197-98). Respondent knew he never had a mortgage loan from Washington Federal. (Tr. 259-60).

Respondent denies having any involvement with Washington Federal sending him the 1098 forms. (Tr. 202). He does not recall whether he opened the 1098 forms every year, or merely turned these documents, with others, over to his accountants. In some years there were opened envelopes containing the 1098 forms in his file of tax documents. (Tr. 284). Respondent further testified that he did not review his entire tax return once his accountants began filing returns electronically. Respondent did not recall when that was. He testified that he did not know that the mortgage interest deductions were improper at the time the tax returns were prepared. (Tr. 204-205).

For 2017, Washington Federal did not send Respondent a 1098 form, but Respondent took a mortgage interest deduction nonetheless. Respondent acknowledged receiving an email from his accountant in 2018 that asked about the lack of a 1098 form from Washington Federal for 2017. The accountant informed Respondent he was going to estimate a mortgage interest deduction of $10,000 based on Respondent's previous year's deduction of $10,755. (Tr. 286). Respondent does not know why the accountant declared a mortgage interest deduction when there was no 1098 form to support it. Respondent testified that he believed his tax returns were accurate when he signed them. (Tr. 294-95).

In 2017, Washington Federal was declared insolvent and taken over by the Federal Deposit Insurance Corporation (FDIC). Planet Home Lending, as an agent of the FDIC, contacted Respondent about repayment of his Washington Federal loan. On February 16, 2018, Respondent received a statement from Planet Home Lending stating that the principal balance of his loan was $269,120.58. (Tr. 207; Adm. Ex. 26). Respondent testified that, at the time, he thought that figure was wrong because he was thinking of the initial loan amount and did not realize that the balance also included interest. (Tr. 208).

On February 23, 2018, Respondent called Planet Home Lending to discuss the amount of his loan. (Resp. Ex. 1). In that call, Respondent made statements including the following:

> I have no idea, the numbers that you've sent me shows that I have a loan for $269,000 dollars. I – I borrowed $100,000 dollars, and it actually never was able to close the loan. ***
>
> "I signed a Promissory Note. I have no—for $100,000 dollars in—in—in 2011, umm and—I've been trying to – Mr. Gembara, who is deceased now, who was assuring me we would be closing all the paperwork and documentation and—and—and handle the closing for the last seven years. And I have all kinds of e-mails, and I – I have no idea where the 269 number comes from.
>
> ***

> But I know, I mean, I borrowed the money, I owe the money – but I borrowed $100 thou -- $110 – I think it was $110,000 dollars.

(Resp. Exs. 1, 2). Respondent denied intentionally making false statements in that call. (Tr. 211).

On March 1, 2018, Respondent had a telephone conversation with two FDIC representatives. In that conversation, Respondent stated his loan amount was $110,000, and the loan was for home improvement. (Resp. Ex. 3 at 06; Resp. Ex. 4 at 19, 20, 35, 41). Respondent denied intentionally making false statements in this conversation. (Tr. 218). He testified that he "completely forgot" about the two loans he received after the capital contribution loan. Once he was reminded of those additional loans, he worked with a lender to pay off the entire loan amount and refinance his home. (Tr. 219).

Respondent reached an agreement with the FDIC to settle his debt for $219,000, which Respondent paid in December 2018. (Tr. 225). Around that time, Respondent learned it was improper for him to have taken a mortgage interest deduction on his personal loan. (Tr. 226). Respondent directed his accountant to file amended tax returns. Because of the improper mortgage interest deductions, Respondent owed an additional $15,589 in taxes. (Tr. 229).

On April 29, 2021, a special grand jury in the Northern District of Illinois returned a seven-count indictment against Respondent. Counts One and Two charged him with making false statements to a financial institution in the telephone conversations on February 23, 2018 and March 1, 2018, in violation of 18 U.S.C. § 1014. Counts Three through Seven charged him with making false representations on his tax returns for calendar years 2013 through 2017 by stating that he paid mortgage interest to Washington Federal and taking deductions for that interest, in violation of 26 U.S.C. § 7206(1). (Adm. Ex. 1).

Following a jury trial, Respondent was convicted on all counts. (Adm. Exs. 9-11). He filed a motion for judgment of acquittal, which the Court denied. (Adm. Ex. 7). He was sentenced

to four months in prison followed by twelve months of supervised release, subject to conditions including payment of restitution of $50,120.58 to the FDIC and $8,395 to the IRS. (Adm. Ex. 11).

Respondent filed an appeal challenging his conviction for making false statements to a financial institution. (Tr. 278). That appeal remains pending*. He has paid restitution to the IRS but has not paid the amount ordered to the FDIC because he is appealing the counts that gave rise to that part of the restitution order. (Tr. 237-38). Respondent served his term of incarceration and remains under supervised release until December 20, 2023. (Tr. 304).

On March 18, 2022, the Illinois Supreme Court placed Respondent on interim suspension until further order of the Court. In re Thompson, 2022PR00014, M.R. 031195 (March 18, 2022).

C. Analysis and Conclusions

The Complaint in this matter was filed pursuant to Illinois Supreme Court Rule 761. Supreme Court Rule 761 provides that when an attorney has been convicted of a crime involving fraud or moral turpitude, a hearing shall be conducted before the Hearing Board to determine whether the crime warrants discipline and, if so, the extent thereof. Ill. S.Ct. R. 761(d). In any hearing conducted pursuant to Supreme Court Rule 761, proof of conviction is conclusive of the attorney's guilt of the crime. Ill. S.Ct. R. 761(f).

Rule of Professional Conduct 8.4(b) provides that it is misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects. The Administrator submitted proof of Respondent's conviction for tax fraud and making false statements to financial institutions. Thus, under Supreme Court Rule 761(f), the Administrator has conclusively established Respondent's guilt of those crimes.

It is well-established that filing a false tax return reflects negatively on a respondent's honesty, trustworthiness, and fitness as a lawyer and warrants discipline. In re Scott, 98 Ill. 2d 9,

16-18, 455 N.E.2d 81 (1983); In re Wanninger 2011PR00036, M.R. 25621 (Jan. 18, 2013) (Hearing Bd. at 18). The same is true for making false statements to a financial institution. In re Bell, 147 Ill. 2d 15, 29-30, 588 N.E.2d 1093 (1992); In re Peters, 2011PR00064, M.R. 27617 (Nov. 17, 2015) (Hearing Bd. at 6). Accordingly, we find the Administrator proved by clear and convincing evidence that Respondent violated Rule 8.4(b).

There is also no question that Respondent's criminal conduct involved dishonesty, fraud, deceit, or misrepresentation . For five years, Respondent took deductions for mortgage interest purportedly paid to Washington Federal, despite knowing that he did not have a mortgage with Washington Federal. Not only did Respondent know he had not paid any mortgage interest to Washington Federal, he knew he had made no payments at all on his loans but for one payment of $389.58. Respondent's statements to Planet Home Lending and FDIC representatives that the amount of his loan was $110,000 were misrepresentations that also constituted dishonest conduct. For these reasons, we find the Administrator proved by clear and convincing evidence that Respondent violated Rule 8.4(c).

We do not consider Respondent's testimony denying that he made false statements to financial institutions or asserting that he did not intentionally file false tax returns. The federal jury found Respondent guilty of the crimes with which he was charged. While Respondent is permitted to present evidence regarding the nature of his underlying conduct for purposes of determining an appropriate sanction, he may not go behind the conviction or attempt to impeach the factual basis or the conviction or the underlying charges. See Wanninger, 2011PR00036 (Hearing Bd. at 17-18) and cases cited therein.

EVIDENCE IN AGGRAVATION AND MITIGATION

Aggravation

The Administrator contends that Respondent has not shown contrition for his wrongdoing and asserts that he has not taken responsibility for his misconduct.

Mitigation

Respondent acknowledges that he should have been more careful with the preparation of his tax returns. He hired a new accountant and now has a conversation with him about his return before it is filed. Respondent accepts responsibility for the fact that his returns were incorrect. (Tr. 206).

Respondent testified that he paid approximately $822,000 in income tax during the years at issue. (Tr. 235). The amount he underpaid due to the improper mortgage interest deductions, $15,589, constituted 1.861 percent of his tax obligation. (Tr. 236).

Respondent testified that public service has always been important to him and his family. (Tr. 162). He has been active in his parish church and school as well as the Illinois Council Against Handgun Violence, the Aquinas Literacy Center, the Valentine Boys and Girls Club, the Guardian Corps of America, Special Olympics, and the Chicago CRED program. (Tr. 165-71). While incarcerated, Respondent helped another inmate pass his GED exam. (Tr. 175). When he was in private practice, Respondent provided pro bono representation that included helping victims of Hurricane Katrina. (Tr. 177-78).

Respondent expressed his remorse to the Panel and stated that he takes responsibility for his actions. (Tr. 240). He further testified that losing his elected office and his law license had a devastating impact on his family and his finances. Respondent knows it will be a challenge to

return to the legal profession if he is permitted to do so. (Tr. 187-88). He hopes to learn from his mistakes and rebuild his life and his reputation. (Tr. 240-42).

Retired Circuit Court Judge Mark Ballard and attorneys John Dunn, Jeff Kent, and Jeffrey Warren testified regarding Respondent's character and reputation in the legal community. Ballard, Dunn, and Kent are longtime friends of Respondent's. Warren is Respondent's former partner at Burke, Warren, MacKay & Serritella. These witnesses described Respondent as a person of honesty, integrity, and strong legal ability. They further testified to his commitment to public service. (Tr. 52-57, 77-84, 126-30, 143-49). Judge Ballard testified that Respondent has an excellent reputation for truthfulness and veracity in the legal community. (Tr. 58). Warren described Respondent as a "big league attorney" and a "very sophisticated, strategic thinker." (Tr. 137-38). Dunn testified that he would offer Respondent a job if he returns to practice and would refer clients to him if they had a zoning or land use issue. (Tr. 85-86). All four witnesses testified that Respondent expressed remorse and regret for being careless with his tax returns. (Tr. 57, 127, 145-46).

Attorney Judith Frydland also provided character testimony. She was opposing counsel to Respondent in a housing court matter in 2010. She has a high opinion of Respondent's character, and found him to be straightforward and a strong advocate for his client. (Tr. 99-102).

Marc Davis, National Basketball Association (NBA) referee and president of the union representing NBA and WNBA referees, is a long-time friend of Respondent and Respondent's brother. He considers Respondent's family as his family. (Tr. 65- 66). He described Respondent as caring, kind, and giving. Respondent, who is the grandson of Richard J. Daley, does not use his family name for special treatment. (Tr. 69, 154). Respondent expressed profound remorse to Davis. (Tr. 68).

Reverend Daniel Brandt, Chaplain of the Chicago Police Department, has known Respondent since 2005, when he was a pastor in Respondent's parish. Father Brandt describe Respondent as a very active parishioner, who volunteered at the parish school and served on the parish Finance Council and Knights of Columbus Council. Father Brandt also served with Respondent on the Board of Directors for the Valentine Boys and Girls Club. (Tr. 107-110). He has dinner with Respondent a few times a year and speaks to him occasionally by phone. (Tr. 111). He feels that Respondent is trustworthy and has terrific character. (Tr. 112).

Arne Duncan, former CEO of Chicago Public Schools and U.S. Secretary of Education, has been a friend of Respondent's for two decades. He trusts Respondent implicitly. (Tr. 120). Respondent has recently become involved with Duncan's non-profit organization, Chicago CRED, which is focused on reducing gun violence. (Tr. 117). Respondent has spoken to participants in Chicago CRED on a few occasions. Duncan has spoken with Respondent about taking a leadership role in helping the men in the program find employment. (Tr. 118-19). Duncan testified that Respondent became involved with CRED within the last year, prior to his incarceration. He did not know how many hours Respondent had spent working with CRED. (Tr. 122-23).

Prior Discipline

Respondent does not have prior discipline.

RECOMMENDATION

A. Summary

We recommend that Respondent be suspended for three years, with the suspension's effective date retroactive to the commencement of his interim suspension.

B. Analysis

The purpose of the disciplinary process is not to punish attorneys, but to protect the public, maintain the integrity of the legal profession, and safeguard the administration of justice from

reproach. In re Edmonds, 2014 IL 117696, ¶ 90. In arriving at our recommendation, we consider these purposes as well as the nature of the misconduct and any factors in mitigation and aggravation. In re Gorecki, 208 Ill. 2d 350, 360-61, 802 N.E.2d 1194 (2003). We seek consistency in recommending similar sanctions for similar types of misconduct but must decide each case on its own unique facts. Edmonds, 2014 IL 117696, ¶ 90.

Respondent's misconduct involving fraud and dishonesty is extremely serious. It was not an isolated incident, but repeated acts over a six-year period. The misconduct is particularly egregious because it constituted a violation of the public trust when serving as a public official. See In re Armentrout, 99 Ill. 2d 242, 457 N.E.2d 1262 (1983).

We also consider the substantial mitigation presented. Respondent has no prior discipline and fully cooperated in this proceeding. He has devoted significant time and effort to community and charitable organizations. While we found some character witness testimony more compelling than others, the character evidence overall showed that Respondent has devoted considerable time and effort to serving his community and has an excellent reputation in the legal community for honesty and integrity. Respondent had a distinguished career prior to his indictment, and his misconduct appears to be an aberration.

We further find that Respondent is remorseful and takes responsibility for his misconduct. Respondent acknowledged his obligation to file accurate tax returns and his failures in that regard. With respect to Respondent's testimony that he did not act knowingly in submitting the false tax returns and making false statements to financial institutions, it is well-established that a convicted person who sincerely believes he is innocent should not be required to confess guilt in order to be allowed to practice law. See In re Wigoda, 77 Ill. 2d 154, 159-161, 395 N.E.2d 571 (1979). Based on our observations of Respondent, we find that he respects the justice system and the jury's

verdict even though he does not agree with the findings of his guilt. We do not interpret his disagreement as an effort to avoid responsibility for his conduct.

The Administrator asks us to recommend a suspension of three years and until further order of the Court (UFO), citing In re Berger, 85 CH 91, M.R. 4307 (June 2, 1987) (two-year suspension for claiming false charitable contributions on tax returns for three years); In re Minuskin, 99 CH 73, M.R. 17512 (June 28, 2001) (two and one-half year suspension, retroactive to date of interim suspension, for making false statements to FBI agents); In re Scott, 98 Ill. 2d 9, 455 N.E.2d 81 (1983) (two-year suspension, retroactive to date of interim suspension, for conviction on one count of tax fraud); In re Pietrzak, 09 CH 1, M.R. 23402 (Nov. 17, 2009) (suspension of three years and until restitution of $374,690 paid for tax evasion); In re Keller, 2011PR00053, M.R. 25287 (May 18, 2012) (suspension for three years and until all delinquent income tax paid following conviction for failing to file tax returns for two years); and In re O'Brien, 2018PR00111, M.R. 031386 (Sept. 21, 2022 (disbarment for mail fraud and bank fraud).

Respondent asserts that a suspension of more than one year is not warranted and requests that any discipline be retroactive to the date of the interim suspension. He cites in support In re Riley, 96 CH 238, M.R. 12407 (May 28, 1996) (twelve-month suspension retroactive to date of interim suspension for failing to file tax returns and pay income tax for three years); In re Beil, 61 Ill. 2d 378, 335 N.E.2d 485 (1975) (suspension for one year, retroactive to date of interim suspension, for failing to file tax returns for three years); In re Walker, 67 Ill. 2d 48, 364 N.E.2d 76 (1977) (censure for underreporting income due to shoddy bookkeeping without fraudulent intent); In re Rigazio, 2015PR00024, M.R. 028843 (Sept. 22, 2017) (sixty-day suspension stayed by one year of probation for failing to withhold and pay employees' Social Security and Medicare taxes and filing false employer tax returns that misrepresented employees' wages and law office

wage and non-wage expenses over a seven-year period); In re Bass, 49 Ill. 2d 269, 274 N.E.2d 6 (1971) (one-year suspension following conviction for tax evasion and neglect of two matters); In re Madden, 04 CH 126, M.R. 20390 (Nov. 22, 2005) (one-year suspension following conviction on three counts of willful failure to file income tax returns); and In re Belcastro, 93 CH 566, M.R. 11022 (May 26, 1995) (eighteen-month suspension following conviction on two counts of tax evasion).

We agree with the Administrator that the proven misconduct warrants a significant term of suspension. Respondent's misconduct is more extensive than the misconduct in Respondent's cited cases, with the exception of Rigazio. Rigazio is distinguishable, however, because the person who had knowledge of and was responsible for the tax improprieties was Rigazio's bookkeeper. While Rigazio failed to appropriately oversee his bookkeeper and ensure that his tax obligations were met, he did not have knowledge of his bookkeeper's conduct, nor did he face criminal charges. This situation is different from the one before us, where Respondent made false statements to financial institutions despite knowing the amounts of his loans, falsely claimed deductions for interest he knew he had not paid, and was found guilty beyond a reasonable doubt.

We decline, however, to recommend that Respondent be suspended until further order of the Court (UFO). Other than disbarment, a suspension UFO is the harshest sanction that may be imposed. It is well-established that "[i]n cases in which disbarment is not warranted, a fixed term of suspension should be imposed, unless there are specific, articulable reasons for imposing an indeterminate term, or UFO." In re Baril, 00 SH 14, M.R. 18162 (Sept. 19, 2002) (Review Bd. at 10). Such reasons include failing to participate in the disciplinary proceedings, the presence of mental health or substance abuse issues that require ongoing treatment in order for a lawyer to be fit to practice, multiple prior disciplinary actions, the need to make restitution, or, on rare occasion,

when disbarment is warranted but significant mitigating factors are present. Baril, 00 SH 14, Review Bd. at 11-12.

Respondent has cooperated in this proceeding and has no prior discipline. There is no evidence of a mental health or substance abuse issue that would impact his ability to practice. Although Respondent has not completed restitution, we find it reasonable that he is awaiting the outcome of his appeal of the charges that gave rise to the unpaid portion of the restitution order. We expect that Respondent will comply with the federal court's restitution order in its entirety should the appellate court affirm his conviction. For the reasons set forth above in our discussion of Respondent's expression of remorse, we reject the Administrator's contention that Respondent has not demonstrated contrition or acceptance of responsibility for his misconduct. Consequently, we find no articulable reason to recommend a suspension UFO.

We further determine that it is appropriate to give Respondent credit for the interim suspension he has been serving since March 18, 2022. When an attorney has been suspended on an interim basis because of a criminal conviction, the Court has in some instances ordered that the effective date of the final disciplinary sanction be retroactive to the commencement of the interim suspension. This is particularly true when a respondent has presented significant mitigating evidence. In re Palivos, 05 CH 109, M.R. 26127 (Sept. 25, 2013). In Palivos, the attorney was convicted of conspiracy to obstruct justice after he participated in a scheme to create false documents in response to a federal subpoena. Several attorneys and judges testified to Palivos's honesty and integrity. In recommending that Palivos's suspension be retroactive to the date of his interim suspension, the Hearing Board considered the impressive character evidence presented, the limited nature of Palivos's criminal conduct, and the fact that he had been suspended for more than seven years on an interim basis.

We are also guided by the Court's decision in Scott. Scott was convicted of filing a false federal income tax return. He had been elected Attorney General of the State of Illinois four times and also served one term as State Treasurer. Numerous witnesses testified to his excellent reputation for honesty and integrity. In determining the appropriate sanction, the Court noted that discipline in tax fraud cases ranged from censure to a three-year suspension. At the time of the Court's decision, Scott had been on interim suspension for almost two years, In light of Scott's significant mitigating evidence and the sanctions imposed in similar cases, the Court concluded that the suspension he had already served fulfilled the purpose of the disciplinary process. Therefore, the Court suspended Scott for two years, retroactive to the date of his interim suspension. Scott, 98 Ill. 2d at 18-19.

Like Scott, Respondent served as an elected official and presented evidence of an excellent reputation for honesty and integrity, in addition to other mitigating evidence. We believe a three-year suspension is appropriate in this case because Respondent's misconduct was more extensive than Scott's. Similar to Palivos and Scott, we find that the purposes of the disciplinary process are fulfilled by giving Respondent credit for the suspension he has already served. A three-year suspension, including the time Respondent has been on interim suspension, is a substantial sanction that reflects the severity of the misconduct and will impress upon Respondent the importance of complying with the ethical rules. Our recommendation would be the same regardless of the outcome of Respondent's appeal.

Accordingly, we recommend that Respondent be suspended for three years, effective March 18, 2022, the date he was placed on interim suspension.

Respectfully submitted,

William E. Hornsby, Jr.
Bianca B. Brown
John McCarron

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 26, 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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[*] Respondent chose to go forward with this disciplinary proceeding rather than request a stay until his appeal is resolved (See Supreme Court Rule 761(d)(2)).