

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

In the Matter of:)
)
THOMAS EARL HILDEBRAND, JR.,)
)
Attorney-Respondent,)
)
No. 1213369.)

Commission No. 2024PR00068

NOTICE OF FILING

TO: Tammy L. Evans
Counsel for the Administrator
Email: ARDCeService@iadc.org; tevens@iadc.org

PLEASE TAKE NOTICE that on December 16, 2024, I will submit the attached ANSWER TO COMPLAINT and this notice to the Clerk of the Attorney Registration and Disciplinary Commission, One Prudential Plaza, 130 East Randolph, Suite 800, Chicago, Illinois 60601, for filing by electronic means through the Odyssey eFileIL system.

/s/William F. Moran, III
Counsel for Respondent

COUNSEL FOR RESPONDENT:

William F. Moran, III (#06191183)
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FILED
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ARDC Clerk

PROOF OF SERVICE

I, William F. Moran, III, state that I served copies of this Notice of Filing and the attached Answer to Complaint on Counsel for the Administrator by emailing true and correct copies thereof to her at the email addresses shown on the face of this Notice of Filing on this 16th day of December 2024. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct.

William F. Moran, III
Counsel for Respondent

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In the Matter of:)
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THOMAS EARL HILDEBRAND, JR.,)
) Commission No. 2024PR00068
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ANSWER TO COMPLAINT

Respondent, THOMAS EARL HILDEBRAND, JR., by his attorney, William F. Moran, III, pursuant to Commission Rule 231, for his answer to the Complaint filed against him in this cause by the Administrator of the Attorney Registration and Disciplinary Commission, LEA S. GUTIERREZ, states as follows:

Respondent's Professional Background

1. Respondent was admitted to the practice of law in the State of Illinois on October 7, 1976. He is not licensed to practice law in any other state or federal jurisdiction.
2. Respondent does not have any other professional license or certificate.

COUNT I

(Dishonesty, Making False Statements to C.C.'s Mother and to Judge Zachary Schmidt, and Engaging in Conduct that is Prejudicial to the Administration of Justice)

1. On or about April 6, 2022, the Greene County State's Attorney filed an amended information against C.C. charging him with aggravated battery, a Class 3 felony, and mob action, a Class 4 felony. The matter was docketed as *People of the State of Illinois v. [C.C.]*, case number 2022CF39. The court appointed a public defender for C.C.

ANSWER: Respondent admits the allegations as set forth in Paragraph 1 of Count I of the Administrator's Complaint.

2. On or about July 6, 2022, Respondent and C.C. agreed that Respondent would represent C.C. and substitute in as counsel for him in case number 2022CF39. Respondent and C.C. agreed that Respondent would charge C.C. a \$3,000 flat fee, and that A.P., C.C.'s aunt, would pay Respondent the \$3,000 flat fee. On July 6, 2022, the court entered an order allowing Respondent to substitute in as counsel for C.C. in case number 2022CF39.

ANSWER: Respondent admits the allegations as set forth in Paragraph 2 of Count I of the Administrator's Complaint.

3. On or about September 22, 2022, the Greene County State's Attorney filed a second information against C.C. charging him with three counts of aggravated driving under the influence involving a motor vehicle crash that resulted in the death of another person, a Class 2 felony. The matter was docketed as People of the State of Illinois v. [C.C.], case number 2022CF90.

ANSWER: Respondent admits the allegations as set forth in Paragraph 3 of Count I of the Administrator's Complaint.

4. On or about September 28, 2022, Respondent and C.C. agreed that Respondent would represent him in case number 2022CF90. Respondent did not charge C.C. an additional fee to represent him in case number 2022CF90. Instead, he agreed that the \$3,000 flat fee that he received from A.P. would include his representation of C.C. in case number 2022CF90.

ANSWER: Respondent admits the allegations as set forth in Paragraph 4 of Count I of the Administrator's Complaint.

5. On December 19, 2022, Respondent filed his appearance and entered a plea of guilty on behalf of C.C. in case number 2022CF90. On the same date, the court, by agreement of the parties, dismissed case number 2022CF39. The court scheduled a sentencing hearing for case number 2022CF90 on February 4, 2023. Respondent received a copy of the court's order.

ANSWER: Respondent admits the allegations as set forth in Paragraph 5 of Count I of the Administrator's Complaint.

6. On February 4, 2023, the court, by agreement of the parties, rescheduled the sentencing hearing for case number 2022CF90 to April 4, 2023, at 1:30 p.m. Respondent received a copy of the court's order.

ANSWER: Respondent admits the allegations as set forth in Paragraph 6 of Count I of the Administrator's Complaint, with the exception of the date when the case was rescheduled for sentencing on April 4, 2023, which appears to have occurred on February 28, 2023, pursuant to the order entered by the Court on that date.

7. On April 4, 2023, Respondent had a flat tire outside of Jerseyville on his way to the sentencing hearing in Carrollton. Respondent called the State's Attorney's Office and reported that he would not be able to attend the sentencing hearing. The State's Attorney relayed to the court that Respondent would not be able to attend because he had a flat tire.

ANSWER: Respondent admits the allegations as set forth in Paragraph 7 of Count I of the Administrator's Complaint.

8. On April 4, 2023, Judge Zachary Schmidt entered an order directing Respondent to provide proof of his flat tire before the next court date, and scheduling a sentencing hearing

for case number 2022CF90 on April 28, 2023, at 1:30 p.m. Respondent received a copy of the court's order.

ANSWER: Respondent admits the allegations as set forth in Paragraph 8 of Count I of the Administrator's Complaint. Answering further, Respondent states that while he received the order, he mistakenly did not record the date of the rescheduled sentencing hearing on April 28, 2023, on his personal calendar that he maintains himself.

9. On April 21, 2023, Respondent filed a receipt for his tire repair with the Greene County Circuit Clerk's Office.

ANSWER: Respondent admits the allegation as set forth in Paragraph 9 of Count I of the Administrator's Complaint.

10. On April 26, 2023, C.C.'s mother contacted Respondent about the sentencing hearing that the court had scheduled for April 28, 2023. Respondent told C.C.'s mother that he did not know that the court had scheduled a sentencing hearing on April 28, 2023 for case number 2022CF90.

ANSWER: Respondent admits the allegations as set forth in Paragraph 10 of Count I of the Administrator's Complaint.

11. Respondent's statement to C.C.'s mother described in paragraph 10, above, was false because Respondent knew the court had scheduled a sentencing hearing for April 28, 2023, as he had previously received a copy of Judge Schmidt's April 4, 2023 order.

ANSWER: As set forth above, Respondent admits the allegation as set forth in Paragraph 11 of Count I of the Administrator's Complaint that he received a copy of Judge Schmidt's order

entered on April 4, 2023. Respondent also admits that his statement to C.C.'s mother, as set detailed in Paragraph 10 above, was objectively false, as the Court had reset the sentencing hearing on April 28, 2023, as detailed in its order issued on April 4, 2023. On a subjective basis, Respondent denies that he was intentionally trying to mislead C.C.'s mother, as he had not noted the new sentencing date on his calendar, and that is what he was looking at the time he spoke to C.C.'s mother. Respondent admits that he should have checked his file and the Court's order, but did not have the time to do so at the moment he spoke to C.C.'s mother.

12. At the time Respondent made the statement to C.C.'s mother described in paragraph 10, above, he knew the statement was false.

ANSWER: Respondent denies the allegation as set forth in Paragraph 12 of Count I of the Administrator's Complaint.

13. On April 27, 2023, Respondent contacted Caleb Briscoe, the Greene County State's Attorney, and asked him if he would agree to continue the sentencing hearing for case number 2022CF90 that the court had scheduled for the following day. Mr. Briscoe told Respondent that he would not agree to the continuance and directed Respondent to file a written motion to continue the matter.

ANSWER: Respondent admits the allegations as set forth in Paragraph 13 of Count I of the Administrator's Complaint. Answering further, Respondent would state that after receiving the call from C.C.'s mother, he did in fact check his file and found that the sentencing for C.C. had been rescheduled on April 28, 2023. As he had not noted this Greene County matter on his calendar, he had scheduled three unrelated matters for hearing in Randolph County at the same

time. In the end, Respondent chose to appear in Randolph County, as his failure to appear in that county would have affected three cases, as opposed to the single case he had scheduled on behalf of C.C. in Greene County.

14. At no time did Respondent file a written motion to continue the sentencing hearing for case number 2022CF90 that the court had scheduled for April 28, 2023, at 1:30 p.m.

ANSWER: Respondent admits the allegations as set forth in Paragraph 14 of Count I of the Administrator's Complaint. Answering further, Respondent would state that he simply did not have enough time to get a written motion to continue on file.

15. On April 28, 2023, at 1:07 p.m., Respondent left a message on Judge Schmidt's voicemail, which Judge Schmidt had transcribed and provided to the Administrator. In his message, Respondent stated in part, the following:

"...I did not get an email from the clerk's office on the 4th or the 5th or the 6th. I checked all my emails[,] Ms. [C] called me on Wednesday and said she thought her son had court on Friday and I did not see it anywhere, I looked back again and there is something indicating that there is something set today at 1:00..."

"...I did not get notice[,] I checked my email, I checked spam, I checked my junk mail, for the last month and I did not get anything otherwise I would have contacted the State's Attorney's Office and see what we were going to do because I already had all this other stuff scheduled in Randolph County..."

ANSWER: Respondent admits the allegations as set forth in Paragraph 15 of Count I of the Administrator's Complaint. Answering further, Respondent would state that after he received the telephone call from C.C.'s mother on April 26, 2023, he could not find the Clerk's email on his computer, but then looked in his file and found a copy of the Court's order setting the sentencing hearing on April 28, 2023.

16. Judge Schmidt did not receive the message described in paragraph 15, above,

until approximately 2:30 p.m. on April 28, 2023, because he was in court.

ANSWER: Respondent does not have any personal knowledge concerning when Judge Schmidt would have received his message, so he neither admits nor denies the allegation, as set forth in Paragraph 16 of Count I of the Administrator's Complaint, but demands strict proof thereof.

17. On April 28, 2023, the State's Attorney, C.C., and the victims were present in court for the sentencing hearing. The State's Attorney informed the court that Respondent had contacted him on April 27, 2023, and told him that he was unable to attend the hearing. The State's Attorney further stated that, when he spoke to Respondent, he directed Respondent to file a written motion to continue the sentencing hearing. Respondent did not file a written motion to continue the sentencing hearing.

ANSWER: Respondent does not have any personal knowledge concerning what was stated at the hearing on April 28, 2023, as he was not in attendance and has not seen a transcript of the proceedings, so he neither admits nor denies the allegations concerning what was specifically stated, as set forth in Paragraph 17 of Count I of the Administrator's Complaint, but demands strict proof thereof. As set forth above, Respondent admits that the State's Attorney had previously suggested that he file a written motion to continue the hearing and that he did not have time to do so.

18. On April 28, 2023, Judge Schmidt entered an order finding Respondent in contempt of court for failure to appear and failure to file a motion to continue, and ordered Respondent to appear in court on May 30, 2023, to answer to the court's contempt finding.

ANSWER: Respondent admits the allegations as set forth in Paragraph 18 of Count I of the Administrator's Complaint.

19. On May 30, 2023, Respondent appeared in court and made the following statements to Judge Schmidt:

“...the first I knew that that the sentencing for April 28th was set was when I got a phone call from [C.C.’s] mom on Wednesday inquiring about that...”

“...I check my emails every day. And I checked my emails because the Clerk’s Office said, “We emailed you this.” I looked for that and I didn’t find it in trash, didn’t find it in spam, didn’t find it anywhere so I don’t know what the heck happened ‘cause I would have been here...”

ANSWER: Respondent admits the allegations as set forth in Paragraph 19 of Count I of the Administrator’s Complaint, and would note that there is a transcript of the hearing which occurred on May 30, 2023, which contains a lot more context to what was stated on that date.

20. Respondent’s statement to Judge Schmidt that he did not know the court had scheduled a sentencing hearing in case number 2022CF90 until that Wednesday, April 26, 2023, when C.C.’s mother contacted him, was false because Respondent received a copy of the court’s order on April 4, 2023, or shortly thereafter.

ANSWER: Respondent denies the allegations as set forth in Paragraph 20 of Count I of the Administrator’s Complaint. As set forth above, Respondent did not note in his calendar the hearing on April 28, 2023, so he did not know there was any issue until after he received the telephone call from C.C.’s mother on April 26, 2023. Respondent does admit that he would have received an email from the Clerk’s office, as he complied with the directions included therein that he file a copy of his tire repair bill with the Court. As stated above, Respondent did not note on his calendar the hearing setting on April 28, 2023, which was obviously his fault and careless.

21. At the time Respondent made the statement to Judge Schmidt described in paragraph 20, above, he knew the statement was false.

ANSWER: Respondent denies the allegation as set forth in Paragraph 21 of Count I of the Administrator's Complaint.

22. Respondent's statement to Judge Schmidt that he had not received a copy of Judge Schmidt's April 4, 2023 order was false because he received a copy of the court's order on April 4, 2023, or shortly thereafter.

ANSWER: Respondent admits the allegations as set forth in Paragraph 22 of Count I of the Administrator's Complaint.

23. At the time Respondent made the statement to Judge Schmidt described in paragraph 22, above, he knew the statement was false.

ANSWER: Respondent denies the allegation as set forth in Paragraph 23 of Count I of the Administrator's Complaint.

24. At the conclusion of the hearing, Judge Schmidt found Respondent in contempt of court and fined him \$500.

ANSWER: Respondent admits the allegations as set forth in Paragraph 24 of Count I of the Administrator's Complaint.

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

a. knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer, by conduct including knowingly making the false statement to Judge Schmidt that he had not received a copy of the court's April 4, 2023 order, and knowingly making the false statement to Judge Schmidt that he did not know the court had scheduled a sentencing hearing on April 28, 2023 for case number 2022CF90 until C.C.'s mother told him about the sentencing hearing on April 26, 2023, in violation of Rule 3.3(a)(1) of the Illinois Rules of Professional Conduct (2010);

b. engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by

conduct including knowingly making the false statement to C.C.'s mother that he did not know the court had scheduled a sentencing hearing on April 28, 2023 for case number 2022CF90, knowingly making the false statement to Judge Schmidt that he did not receive a copy of the court's April 4, 2023 order, and knowingly making the false statement to Judge Schmidt that he did not know the court had scheduled a sentencing hearing in case number 2022CF90 until C.C.'s mother told him about the hearing on April 26, 2023, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010); and

c. engaging in conduct that is prejudicial to the administration of justice by conduct including failing to appear at the sentencing hearing on April 28, 2023, and failing to timely notify the court or file a motion to continue the sentencing hearing the court had scheduled for case number 2022CF90, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

ANSWER: Respondent denies the allegations as set forth in Subsections (a) and (b) of Paragraph 25 of Count I of the Administrator's Complaint, while admitting the allegations in Subsection (c), including the fact that he certainly could have done a better job of reviewing the Court's entire order entered on April 4, 2023, and noting in his calendar the sentencing hearing scheduled on April 28, 2023.

COUNT II

(Lack of Diligence and Communication – B.D.)

26. On September 17, 2018, B.D. went to the Argosy Alton Belle Casino with her husband to gamble. On her way up to the second floor of the casino, she slipped on the carpeting and fell, injuring her right wrist and her knees.

ANSWER: Respondent admits the allegations as set forth in Paragraph 26 of Count II of the Administrator's Complaint.

27. On or about November 2, 2018, Respondent and B.D. agreed that Respondent would represent her and file a lawsuit on her behalf against the casino.

ANSWER: Respondent admits the allegations as set forth in Paragraph 27 of Count II of the Administrator's Complaint.

28. On September 15, 2020, Respondent filed an appearance and complaint in Madison County on behalf of B.D. against the casino. The matter was docketed as [B.D.] v. *Alton Casino, LLC d/b/a/ Argosy Casino Alton*, case number 2020SC1671.

ANSWER: Respondent admits the allegations as set forth in Paragraph 28 of Count II of the Administrator's Complaint.

29. Illinois Supreme Court Rule 102(a) provides: "Promptly upon issuance, summons (together with copies of the complaint as required by Rule 104) shall be placed with service with the sheriff or other officer or person authorized to serve process."

ANSWER: Respondent admits the allegations as set forth in Paragraph 29 of Count II of the Administrator's Complaint.

30. Respondent made no efforts to effectuate service on the Alton casino after he filed the complaint in case number 2020SC1671.

ANSWER: Respondent admits the allegation as set forth in Paragraph 30 of Count II of the Administrator's Complaint.

31. On July 27, 2023, the court, on its own motion, dismissed the complaint for no activity.

ANSWER: Respondent admits the allegation as set forth in Paragraph 31 of Count II of the Administrator's Complaint.

32. At no time after July 27, 2023, did Respondent file a motion to vacate the court's July 27, 2023 order.

ANSWER: Respondent admits the allegation as set forth in Paragraph 32 of Count II of the Administrator's Complaint.

33. As a result of Respondent's failure to file a motion to vacate the court's July 27,

2023 order, B.D.'s cause of action against the casino was barred.

ANSWER: Respondent admits the allegation as set forth in Paragraph 33 of Count II of the Administrator's Complaint.

34. At no time after July 27, 2023, did Respondent inform B.D. that the court had entered an order dismissing case number 2020SC1671 for no activity.

ANSWER: Respondent denies the allegation as set forth in Paragraph 34 of Count II of the Administrator's Complaint. Answering further, Respondent would state that following the Inquiry Board's decision to vote a complaint in this instance, he has reached out to B.D. in an attempt to settle any claim that she might have against him related to his failure to act.

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

- a. failing to act with reasonable diligence and promptness in representing a client, by conduct including failing to issue summons to the defendant in case number 2020SC1671, and failing to file a timely motion to vacate the court's July 27, 2023 order dismissing case number 2020SC1671 for no activity, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);
- b. failing to promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these rules, by conduct including failing to inform B.D. that Respondent had failed to issue summons in case number 2020SC1671, and failing to inform B.D. that the court had entered an order dismissing case number 2020SC1671 for no activity, in violation of Rule 1.4(a)(1) of the Illinois Rules of Professional Conduct (2010); and
- c. failing to keep the client reasonably informed about the status of the matter, by conduct including failing to inform B.D. that Respondent had failed to issue summons in case number 2020SC1671, and failing to inform B.D. that the court had entered an order dismissing case number 2020SC1671 for no activity, in violation of Rule 1.4(a)(3) of the Illinois Rules of Professional Conduct (2010).

ANSWER: Respondent admits the allegations as set forth in Subsections (a) through (c) of Paragraph 35 of Count II of the Administrator's Complaint.

