In re Paul David Katz
Attorney-Respondent

Commission No. 2024PR00055

Synopsis of Hearing Board Report and Recommendation
(September 2025)

The Administrator charged Respondent with dishonestly overbilling by submitting 275 fee petitions that falsely stated he had worked a total of 4,401.25 hours in a year as a court-appointed attorney, in violation of Rules 1.5(a) and 8.4(c). Based on Respondent's admissions and the evidence, the Hearing Board found that the Administrator proved by clear and convincing evidence that Respondent charged an unreasonable fee in violation of Rule 1.5(a) but did not do so dishonestly. Considering the proven misconduct, several factors in mitigation and aggravation, and relevant caselaw, the Hearing Board recommended that Respondent be suspended for six months, stayed after 90 days by six months' probation with conditions designed to improve his timekeeping and billing practices.

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

In the Matter of: **PAUL DAVID KATZ,** Attorney-Respondent, No. 1413848.	Commission No. 2024PR00055

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

The Administrator charged Respondent with dishonestly overbilling by submitting 275 fee petitions that falsely stated he had worked a total of 4,401.25 hours in a year as a court-appointed attorney, in violation of Rules 1.5(a) and 8.4(c). Based on Respondent's admissions and the evidence, the Hearing Board found that the Administrator proved by clear and convincing evidence that Respondent charged an unreasonable fee in violation of Rule 1.5(a) but did not do so dishonestly. Considering the proven misconduct, several factors in mitigation and aggravation, and relevant caselaw, the Hearing Board recommended that Respondent be suspended for six months, stayed after 90 days by six months' probation with conditions designed to improve his timekeeping and billing practices.

INTRODUCTION

The hearing in this matter was held on June 3, 2025, at the Chicago office of the Attorney Registration and Disciplinary Commission (ARDC) before a panel of the Hearing Board consisting of Patrick M. Blanchard, Chair, Arlette G. Porter, and Brian B. Duff. Matthew D. Lango represented the Administrator. Respondent was present and represented himself

PLEADINGS AND MISCONDUCT ALLEGED

On August 29, 2024, the Administrator filed a one-count Complaint charging Respondent with violating Rules 1.5(a), 3.3(a)(1), and 8.4(c) of the Illinois Rules of Professional Conduct (2010) by dishonestly submitting fee petitions that falsely overstated the amount of time he worked as a court-appointed attorney in the Circuit Court of Cook County and thereby charging an unreasonable fee. On September 19, 2024, Respondent filed an Answer in which he admitted some factual allegations, denied some factual allegations, and denied misconduct. During the hearing on June 3, 2025, the Chair granted the Administrator's oral motion to amend the Complaint by striking the Rule 3.3(a)(1) charge. (Tr. 13-14).

EVIDENCE

The parties entered into Joint Stipulations of Fact. The Administrator called three witnesses, including Respondent as an adverse witness, and Administrator's Exhibits 1-4 were admitted. (Tr. 7, 244-45). Respondent testified and called six other witnesses, and Respondent's Exhibits 1-12 were admitted. (Tr. 13).

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, 484-85, 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).

II. Respondent is charged with charging an unreasonable fee by overstating his billable hours as a court-appointed attorney, in violation of Rule 1.5(a).

A. Summary

We find that the Administrator proved by clear and convincing evidence that Respondent charged an unreasonable fee by submitting fee petitions totaling 4,401.25 billed hours in a one-year period. We find that Respondent's conduct violated Rule 1.5(a).

B. Admitted Facts and Evidence Considered

The Child Protection Division of the Circuit Court of Cook County ("Child Protection Division") appoints private attorneys to represent indigent parties when there is a conflict of interest with the public defender's office. (Tr. 65-66, 93). Respondent is a sole practitioner who worked as a court-appointed attorney in this Division from the late 1970s until October 2022. (Ans. at pars. 1-2; Tr. 31, 37-38, 203-204, 249). Prior to the COVID-19 pandemic, he handled about 70 child protection cases at any time, along with private criminal and traffic defense matters. (Tr. 27, 31, 204, 254). By October 2022, his practice consisted almost entirely of court-appointed cases, mostly from the Child Protection Division, and his caseload had more than doubled to approximately 200 matters. (Jt. Stip. at par. 2; Tr. 28-29, 37-38, 204-205, 253-54, 262-63). Respondent testified that he was working "all the time," including on nights and weekends, to handle all of these cases. (Tr. 29, 213-16, 308).

The parties agreed that the rate for court-appointed attorneys in the Child Protection Division as of April 1, 2021, was $50 per hour for out-of-court work and $75 per hour for in-court time. By March 31, 2022, the rate had increased to $75 and $112.50, respectively. The Administrator did not dispute that Respondent applied the appropriate hourly rate to the fee petitions at issue. (Tr. 33-34, 39, 237-38; Adm. Ex. 3; Resp. Exs. 5, 7).

Respondent testified that he used minimum billing increments of a quarter hour for out-of-court work and one hour for in-court work on his Child Protection Division cases since the late 1970s, and no one objected to that practice until 2022. (Tr. 31-32). For out-of-court work, Respondent billed at least a quarter hour for each task, including reviewing a client text, reading a client email, and exchanging emails with a client. (Tr. 223-24). For in-court work, Respondent charged a full hour for each court appearance lasting up to an hour and then billed in quarter-hour increments thereafter. He also billed for in-court time while waiting for his case to be called, whether in person or remote, because he did not work on other matters while waiting. The only time he did not charge for was when a remote matter started on time and was continued in five minutes or less because a judge, party, or witness called in sick. (Tr. 32, 259-60, 302-303).

Retired Presiding Judge Robert Balanoff testified that, when he joined the Child Protection Division in 2005, he learned from his fellow judges that most court-appointed attorneys billed in quarter-hour increments. This custom continued until the court began requiring one-tenth hour billing increments sometime after October 2022. (Tr. 80, 107-109, 119-21).

Stephen Jaffe, Brian O'Hara, and Charles J. Aron have worked as court-appointed attorneys in the Child Protection Division for at least 30 years. (Tr. 153, 164, 169). Mr. Jaffe and Mr. Aron testified that, until at least October 2022, they used the same minimum billing increments as Respondent, except that Mr. Jaffe used quarter hours for both in-court and out-of-court work. (Tr. 156-57, 159-61, 172-74, 176-78). No one ever told Mr. Aron that he should not use these increments. (Tr. 175).

Several witnesses testified about the billing rules promulgated by the Circuit Court of Cook County. Respondent, attorneys Jaffe and O'Hara, Judge Balanoff, and current Child Protection Division Judges Patrick Murphy and Peter Vilkelis testified that a former presiding judge instituted an unwritten policy allowing court-appointed attorneys to bill one hour of in-court time to

compensate for their time spent preparing, filing, and presenting each fee petition. (Tr. 26-27, 105-107, 131, 144, 157-58, 165, 207, 224-25, 233). Most judges would approve one hour of in-court time per fee petition, in accordance with this policy. (Jt. Stip. at par. 5; Tr. 131, 144, 207).

Additionally, Respondent, attorneys Jaffe and O'Hara, and Judge Balanoff testified that a local court rule required court-appointed attorneys to file fee petitions within six months of the work performed. (Tr. 30, 93-96, 119, 156, 158, 165-66; Resp. Ex. 2). Respondent, attorneys Jaffe and Aron, and former Chief Financial Officer of the Chief Judge's Office John Hourihane testified that, as of March 31, 2022, the court had issued no guidance on court-appointed attorneys' billing practices, other than the fixed hourly rates, the allowance of one in-court hour billed for each fee petition presented, and the six-month deadline for filing fee petitions. (Tr. 32-33, 65, 68-69, 71-73, 155-58, 175).

Between April 1, 2021, and March 31, 2022, Respondent presented 275 fee petitions, totaling 4,401.25 hours. Each of the 12 judges in the Child Protection Division reviewed some of Respondent's fee petitions, and all 275 fee petitions were approved. (Jt. Stip. at pars. 3, 6; Tr. 205-207, 309-10). The judge presiding over a case reviewed individual fee petitions as they were filed in that case, generally every six months, and never saw an attorney's fee petitions in the aggregate. (Jt. Stip. at par. 4; Tr. 35, 93-94, 138, 149, 205-206). Judges Balanoff and Vilkelis testified that they spent 15 to 20 minutes reviewing each fee petition, for example by checking that in-court billed time matched a court date on the calendar, but they generally trusted attorneys to represent their time honestly and accurately. Judge Balanoff only rejected about ten petitions for unreasonable billing in 20 years. (Tr. 94-98, 101, 122, 150-51). Judge Murphy relied on the assistant state's attorney in his courtroom to object to any unreasonable billing and only glanced at fee petitions for up to a minute before approving them. (Tr. 127-28, 139). Neither these three

judges nor the assistant state's attorneys ever questioned the reasonableness or fairness of Respondent's fee petitions. (Tr. 123, 133, 143, 151).

In 2021, the Chief Judge's Office developed a system that checked court-appointed attorneys' billings for math errors and duplications. (Jt. Stip. at par. 1; Tr. 48-49). In 2022, Chief Financial Officer James Anderson and his soon-to-be successor John Hourihane used this system to identify how much each court-appointed attorney was being paid. (Tr. 46-50). Mr. Hourihane testified that the vast majority of the annual budget for court-appointed attorneys was being paid to just 10 individuals. (Tr. 47-51). Among those, Respondent was the highest-paid, billing approximately $300,000 between August 2021 and August or September 2022. (Tr. 51, 63).

Mr. Hourihane testified that Respondent appeared to have reached his peak of 4,401.25 total hours between April 2021 and March 2022 in two ways. First, Respondent billed six or more hours of in-court time on many days, which was a rare occurrence in Mr. Hourihane's experience as an attorney, and which seemed especially unlikely when all proceedings were held remotely during the pandemic. Second, Respondent billed more than 10, 15 or even 20 hours on numerous days, which "just doesn't happen in the ordinary course of being a practicing attorney." (Tr. 54-56, 67).

Judges Balanoff, Murphy, and Vilkelis testified that, during the period from April 2021 to March 2022, the Child Protection Division judges were typically hearing cases for six to eight hours a day. (Tr. 98-100, 138-39, 149-50). The parties stipulated that Respondent billed more than 10 hours of in-court time on 24 dates, between 15 and 20 total work hours on 115 dates, and greater than 20 total work hours on 17 dates during the year at issue. (Jt. Stip. at pars. 9-11). Respondent testified that the total in-court hours "really had no relationship to the time I spent in court" on days when he presented fee petitions, billing one hour for each, per the court's policy. (Tr. 26-30, 212-13, 298-307). For example, on December 14, 2021, Respondent billed 23.75 hours, including

13.75 hours of out-of-court time and 10 hours of in-court time. (Adm. Ex. 1 at 7). Respondent testified that he presented five fee petitions and had a hearing at 9:00 a.m., for which he charged five hours for the fee petitions and one hour for the hearing. Then he charged one hour for a motion at 10:00 a.m. and an unknown amount of time for a status at 1:30 p.m. He was also on duty to take newly appointed cases remotely that day. (Tr. 225-34).

Mr. Hourihane testified that he shared the data about Respondent's billings with Presiding Judge Balanoff. Thereafter, on October 18, 2022, Respondent was removed from all of his child protection cases and prohibited from further appointments. (Tr. 58-60, 107, 110-12, 146-47, 204, 264-66; Adm. Ex. 4).

C. Analysis and Conclusions

Rule 1.5(a) prohibits lawyers from making an agreement for, charging, or collecting an unreasonable fee. Ill. R. Prof'l Cond. R. 1.5(a). The Administrator alleged that Respondent charged an unreasonable fee when he billed 4,401.25 hours in a one-year period for his work as a court-appointed attorney. Respondent admitted to billing those hours, so the only remaining question is whether, by doing so, he charged an unreasonable fee in violation of Rule 1.5(a). We find that he did.

This case is unusual in that the Administrator does not claim that Respondent charged an hourly rate that was too high, inadequately served his clients, or failed to perform the tasks itemized on his fee petitions. Rather, the Administrator alleged that Respondent unreasonably billed too many hours for the work he actually performed. Courts have addressed this issue when deciding whether to approve fee petitions. To determine a reasonable hourly-billed fee, courts begin by multiplying the reasonable hourly rate by the reasonable amount of time spent. Casey v. Rides Unlimited Chicago, Inc., 2022 IL App (3d) 210404, ¶¶ 9-12, 232 N.E.3d 36. However, "[t]he total hours as shown by attorneys' records should not be considered conclusive. A court in fixing the

attorneys' compensation must also consider the necessity for and the quality of the time spent. Wasted time or needless duplications cannot be used to enhance the fees." Leader v. Cullerton, 62 Ill. 2d 483, 491, 343 N.E.2d 897 (1976). Courts should deduct unreasonable hours when calculating a total reasonable fee. See also In re Estate of Halas, 159 Ill. App. 3d 818, 832-33, 512 N.E.2d 1276 (1st Dist. 1987). These concepts apply to attorney disciplinary matters, as Rule 1.5(a) recognizes "the time and labor required" as one of the factors to consider in determining whether an attorney charged an unreasonable fee. Ill. R. Prof'l Cond. R. 1.5(a)(1).

The Administrator argued that it was impossible for one attorney to have actually worked over 4,400 billable hours in a year and that Respondent reached this unreasonable total through his improper use of minimum billing increments. Some federal courts have found billing in a minimum one-hour increment to be unreasonable when the time billed exceeded the time actually spent. Nichols v. Illinois DOT, No. 12-cv-1789, 2019 U.S. Dist. LEXIS 4633, at **28-30 (N.D. Ill. Jan. 10, 2019) ("blatantly inappropriate" to bill one hour for brief court appearances, such as telephonic status hearings, that did not last an hour); In re Adventist Living Centers, Inc., 137 B.R. 692, 699 (Bankr. N.D. Ill. 1991) (unacceptable to bill in one-hour increments in contravention of court's preference for one-tenth hour increments).

Other federal courts have found nothing inherently wrong with a firm's normal practice of billing in quarter-hour increments. Garcia v. R.J.B. Properties, 756 F. Supp. 2d 911, 918-19 (N.D. Ill. 2010); Herrejon v. Appetizers &, Inc., 97 C 5149, 1999 U.S. Dist. LEXIS 2550, at **9-10 (N.D. Ill. Feb. 19, 1999). An Illinois appellate court agreed that this practice was not unreasonable in principle but rather may become unreasonable in application, noting, "the larger the minimum billing increment, the greater the likelihood that overbilling will occur." In re Marriage of Andres, 2021 IL App (2d) 191146, ¶¶ 80-81, 196 N.E.3d 430. The Andres court found that the attorneys' practice of rounding up and down to the closest quarter-hour and not billing for brief email

responses resulted in an acceptable balancing of overbilled and underbilled time. Id. at pars. 81-82.

Accordingly, in the present case, we find that Respondent's Rule 1.5(a) violation stems not from his use of minimum billing increments in general but rather from the way in which he applied them. We consider whether there were any applicable court policies affecting Respondent's use of such increments and whether Respondent's overall billing practices resulted in reasonable fees charged between April 2021 and March 2022.

Based on the undisputed evidence from several judges and lawyers, we find that the Child Protection Division had established a policy by April 1, 2021, that allowed court-appointed attorneys to bill one hour for the preparation and presentation of each fee petition. Moreover, the evidence showed that billing court appearances at a one-hour minimum and out-of-court work at a quarter-hour minimum was an acceptable practice in that Division during the period at issue. Several attorneys and judges consistently testified that the Child Protection Division did not change this custom until later, when a local rule set the minimum billing increment at one tenth of an hour from then on for court-appointed attorneys.

Considering these circumstances, we find that it was not unreasonable for Respondent to bill one hour for each of the 275 fee petitions he presented in the Child Protection Division between April 1, 2021, and March 31, 2022. But even if we disregard those 275 hours, Respondent still billed well over 4,000 hours during that time, which averages to nearly 80 billable hours per week, every week, for a year straight. Based on our experience, we find it highly implausible for any attorney to sustain this extraordinary workload, which more than doubles the standard 40-hour workweek, not counting unbillable time off for illness, vacation, or other personal needs. We are clearly convinced that this unreasonable total did not reflect the amount of time that Respondent

actually worked, and we agree with the Administrator that Respondent's flawed application of minimum billing increments contributed to his overbilling.

While the parties did not dissect Respondent's individual fee petitions, Respondent testified that, as a practice, he billed at least a quarter hour for each out-of-court task, including those as brief as reading a text message or an email. Unlike in Andres, there was no evidence that Respondent engaged in any offsetting of the time he overbilled for those tasks when they took less than a full 15 minutes. For example, if Respondent spent a minute reading a text message in one case, 10 minutes reading and responding to an email in another case, and 4 minutes calling a client in yet another case, he would bill a quarter hour to each case, for a grand total of 45 billed minutes when he actually worked for only 15 minutes. Likewise, for in-court time, Respondent charged at least an hour for each court appearance, including brief remote statuses, a practice deemed unreasonable in Nichols. Instead of offsetting on the other end, he billed for the full time spent on long court appearances by shifting to quarter-hour increments after the first hour. Respondent testified that the only circumstance when he did not bill was if he spent five minutes or less continuing a case because a necessary party was out sick. We do not believe that this very specific exception occurred with enough frequency to counterbalance the rest of the overbilling that inevitably occurred during his almost daily court appearances.

Finally, we address Respondent's argument that no one objected to his fee petitions for decades, so he did not think he was doing anything wrong. While this is relevant to his state of mind for the Rule 8.4(c) charge of dishonesty, it does not change our finding of misconduct under Rule 1.5(a). It was Respondent's responsibility to ensure that he was charging reasonable fees, regardless of whether the assistant state's attorneys or the court objected to his fee petitions. "Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public

opinion and finally, when necessary, upon enforcement through disciplinary proceedings." Ill. R. Prof'l Cond. Preamble at ¶ 16.

In summary, Respondent's testimony about his billing practices and the extraordinarily high number of billed hours during the 12 months at issue demonstrate that he overrepresented his hours worked as a court-appointed attorney and thus overcharged his fees. We find that the Administrator proved by clear and convincing evidence that Respondent violated Rule 1.5(a).

II. Respondent is charged with engaging in dishonest conduct by knowingly submitting false fee petitions for his work as a court-appointed attorney, in violation of Rule 8.4(c).

A. Summary

We find that the Administrator did not prove by clear and convincing evidence that Respondent acted dishonestly when he submitted fee petitions that erroneously overbilled his work hours. Therefore, we find that the Administrator did not prove that Respondent's conduct violated Rule 8.4(c).

B. Admitted Facts and Evidence Considered

We consider the following admitted facts and evidence, in addition to those described in Section I (B).

Respondent testified that he never had support staff in his solo practice. (Tr. 224). He also testified that he did not use timekeeping software but rather used an unsophisticated system that he created on his computer. It consisted of a folder labeled "fee petitions" containing an individual file for each client, into which he entered the out-of-court and in-court charges as they accrued in each case. Every six months, he prepared a fee petition using this information. Then he would type a horizontal line in the file to indicate that all charges above the line had already been billed, and he added new charges below the line. (Tr. 234-35, 282).

Administrator's Counsel questioned Respondent about certain dates for which he billed between 10 and 23.75 hours per day, sometimes several days in a row and on weekends. Respondent testified that he had no independent recollection of what he did on those days, which were almost four years prior. He testified about his typical weekend work tasks, which included reviewing files, contacting clients, and preparing for hearings in the upcoming week. He testified that he was able to concentrate on and process information for over 20 hours in a 24-hour period, he had no idea how much sleep he required to effectively function as an attorney, and he could not recall if he got sick that year. Respondent explained that this was during the pandemic, a time when he was working in his home office "all the time" and had no other activities, other than playing pickleball for an hour or two each week. (Tr. 29, 208-21, 225-37; Adm. Ex. 1).

Administrator's Counsel asked Respondent about certain religious holidays that he observes. Respondent strongly asserted that he would never go to court on a particular holiday. His work diary did not indicate any court appearances on that holiday, even though his fee petitions charged 4.75 hours of in-court time. (Tr. 221-23, 275-76; Adm. Ex. 2 at 191). Likewise, Respondent was "highly surprised" that he had billed one hour of in-court time for a case management conference on Sunday, June 6, 2021. (Tr. 241-46). He testified that he must have mistakenly put down the wrong dates when he billed in these two instances. (Tr. 245-46, 275-76). Respondent recalled that this had happened a few times over the years, when an assistant state's attorney noticed an incorrect date for in-court time that he billed, and the fee petition was amended on its face. (Tr. 276).

Respondent agreed that, during the period at issue, the hourly rates for court-appointed attorneys started at $50 for out-of-court time and $75 for in-court time, and he billed 3,015.25 out-of-court hours and 1,386 in-court hours in total. (Tr. 6-7, 238; Adm. Ex. 1 at 9). Administrator's Counsel multiplied these numbers and asked if Respondent would dispute that he billed

$254,712.50 between April 2021 and March 2022. Respondent testified that he did not remember ever making that much, even though he used to receive an annual income tax form from Cook County. He also testified that he never got paid for some of the hours billed at the end of those 12 months, even though the judges had approved all of the fee petitions. (Tr. 237-39, 267-68).

Respondent testified that he did not know why he stopped receiving checks from Cook County after August 2022. In October 2022, he emailed Chief Financial Officer James Anderson and another Cook County employee, expressing concern that recent changes to payment procedures or his recent move to a new address may be to blame. (Tr. 239, 263-64; Resp. Exs. 10-11). In response, on October 18, 2022, Judge Balanoff emailed Respondent a letter notifying him about the audit, the findings regarding his overbilling, and the decision to summarily vacate all of his appointments in the Child Protection Division. (Tr. 264-65, 278-80; Adm. Ex. 4). Respondent testified that he was "in shock" when he received the letter and "didn't know what to make of it," as this was the first time he learned what the problem was. (Tr. 265, 278). He felt that he had not done anything wrong because, even though he billed a large amount of time, he also had a large number of cases and had never been busier. (Tr. 270). The next morning, he sent an email to the Child Protection Division judges, sharing this explanation and his concerns about the lack of due process behind the decision. (Tr. 271-72; Resp. Ex. 8).

C. Analysis and Conclusions

Rule 8.4(c) provides that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Ill. R. Prof'l Cond. R. 8.4(c). The Administrator charged Respondent with violating this Rule by submitting fee petitions that falsely overstated his hours worked as a court-appointed attorney.

Dishonesty includes any conduct, statement, or omission that is calculated to deceive, including the suppression of truth and the suggestion of what is false. In re Gerard, 132 Ill. 2d 507,

528, 548 N.E.2d 1051 (1989). There must be an act or circumstance that shows purposeful conduct or reckless indifference to the truth, rather than a mistake. In re Gauza, 08 CH 98, M.R. 26225 (Nov. 20, 2013) (Hearing Bd. at 42-43). "In this inquiry, a critical factor is whether the attorney knew, when his or her representations were made, those representations were false." Id. (Hearing Bd. at 42).

We determined, *supra*, that Respondent's fee petitions overstated his work hours between April 2021 and March 2022 due to his improper application of minimum billing increments. However, for the Rule 8.4(c) charge, the Administrator must prove by clear and convincing evidence that Respondent made those inaccurate statements knowingly or with the intent to deceive. Id. (Hearing Bd. at 46). We find that the Administrator did not meet this burden of proof.

We find that Respondent's excessive billed hours were the product of several factors, none of which involve dishonesty. First, Respondent used a rudimentary system to track his billable hours. This system involved making individual time entries in individual client files, with no method for aggregating hours by the day, week, or year across all of his files. Second, Respondent was a sole practitioner who had no partner, associate, or administrative assistant who might have suggested or supported a better timekeeping system. Third, as discussed in the Rule 1.5(a) analysis, Respondent used minimum billing increments that were commonly accepted in the Child Protection Division, although he erroneously applied them in a way that resulted in overbilling. Fourth, Respondent relied on the decades-long acceptance of his fee petitions by the judges and attorneys in the Child Protection Division as a stamp of approval of his billing practices, so he did not question those practices. Fifth, until the Chief Judge's Office looked at Respondent's numbers in the aggregate, no one in the court system was aware of the scope of his excessive billing, which occurred across 275 fee petitions that were reviewed by 12 different judges and numerous assistant state's attorneys over the course of a year.

For all of these reasons, we find credible Respondent's testimony that he, too, was unaware of his overbilling until he was confronted with the data in October 2022. The Administrator attempted to prove fraudulent conduct by asking Respondent how he could have managed to work so many extraordinarily long days, often in a row, with such little sleep. But this approach assumed that Respondent actually worked all of the hours that he billed, which we have found that he did not do.

The Administrator also attempted to highlight two errors in Respondent's fee petitions that indicated an intent to deceive the court. However, we believe Respondent's explanation that these were innocent mistakes. He billed one hour of in-court time on a Sunday when the court was not open, but this only occurred once during the entire year at issue. He also billed 4.75 hours of in-court time on a religious holiday despite insisting that he would never go to court that day. We find credible Respondent's testimony that these entries were inadvertent errors, especially in conjunction with his work diary showing no court cases on that holiday. These two discrete examples do not constitute a pattern or imply a dishonest motive. Rather, we find it likely that the wrong dates were billed because Respondent mistakenly entered incorrect dates when he made those two time entries.

Finally, we have considered certain facts that may appear suspicious. For example, Respondent's highest daily total of work hours was 23.75, which hovers just under the physically impossible total of more than 24. However, because there was no evidence that Respondent was aware of his daily total hours, we find this does not constitute clear and convincing evidence of calculated deception. Also, Respondent testified that he received paychecks and annual income tax forms from Cook County, yet he denied ever making more than $250,000, the amount that his fee petitions from April 2021 to March 2022 would have generated. We find it plausible that Respondent could have remained unaware of the total fees he billed during those 12 months

because they spanned two separate tax years and because he was never paid for some of the hours he billed at the end of this period. Suspicious circumstances alone are not enough to prove misconduct, and we find insufficient evidence of dishonesty in this case. Winthrop, 219 Ill. 2d at 550.

Although, in hindsight, it seems rather obvious that an attorney of Respondent's experience and caliber should have taken steps to better track his time and prevent the overbilling that occurred, we must judge Respondent's conduct in light of the circumstances existing at that time. Gerard, 132 Ill. 2d at 530. When looking at the evidence as a whole, we are not persuaded that Respondent knowingly made false statements in his fee petitions or was recklessly indifferent to the excessive total hours he billed. Therefore, we find that the Administrator did not prove by clear and convincing evidence that Respondent violated Rule 8.4(c).

EVIDENCE OFFERED IN MITIGATION AND AGGRAVATION

Aggravation

Mr. Hourihane and his staff spent 50 to 100 hours auditing Respondent's billings dating back to 2020. (Tr. 55, 60). Then Mr. Hourihane prepared a report and met with Judge Balanoff to discuss it. Judge Balanoff wrote letters to Respondent and the ARDC with the audit's findings, which were also shared with the Chief Judge and the State's Attorney's office. (Tr. 59-60, 104-105, 110-12).

Judge Vilkelis testified that he was "painfully aware" that Respondent's appointments were vacated on October 18, 2022, because they were in the middle of a trial in which Respondent represented an incarcerated mother. The judge had to declare a mistrial, appoint new counsel for the mother, and restart the trial. (Tr. 146-47).

Mitigation

Judge Balanoff and Respondent testified that, until his appointments were vacated, Respondent helped to lead the Chicago Bar Association committee that partnered with the Juvenile and Criminal Courts in managing the court-appointed attorney program. (Tr. 113, 260-61; Resp. Exs. 5, 7). Judge Balanoff testified that he sought Respondent's advice once or twice when issues arose with court-appointed attorneys. (Tr. 114).

Judge Murphy testified that Respondent had a reputation with the Child Protection Division judges for being honest and among the best trial attorneys, representing his clients with zeal while maintaining collegiality with other lawyers. (Tr. 126, 132; Resp. Ex. 9). Judge Vilkelis also testified that Respondent's character was "of the highest nature" and that he was one of the best lawyers they ever had in Juvenile Court, known for his reliability and diligence. (Tr. 142-44).

Attorneys Jaffe, O'Hara, and Aron, who worked with Respondent in the Child Protection Division for decades, testified to their high opinion of his character as an honest, hard-working, and well-prepared attorney. His reputation for honesty and legal expertise extended to attorneys throughout the Juvenile Court community. (Tr. 153-54, 164-66, 170). Mr. O'Hara testified that Respondent did not have a reputation for overbilling on his fee petitions. (Tr. 166).

Attorney Laura Chrismer testified that Respondent spent 51 unpaid hours mentoring her as a prospective court-appointed attorney in the Child Protection Division between July and October 2022. (Tr. 192-93, 197; Resp. Ex. 6). She spoke of his honesty and his excellent reputation among the judges, attorneys, guardians ad litem, and court staff. (Tr. 194-95, 201).

Respondent's caseload grew from 70 to 200 during the pandemic because many court-appointed attorneys left at that time, and the Child Protection Division judges asked the remaining attorneys to take as many cases as they wanted to meet the demand. (Tr. 88-92, 261-62; Resp. Ex. 4). The pandemic also changed the process for appointing attorneys, resulting in judges and court

staff frequently directing cases to Respondent instead of the on-duty attorneys because of his favorable reputation. He never declined a case unless he was already obligated to another court appearance at the same time. (Tr. 28-29, 134-36, 144-46, 170-72, 261-63; Resp. Ex. 1). Respondent testified that he had "this crazy, ridiculous macho pride in being able to handle all of these cases," which was "stupid in retrospect." (Tr. 29, 263).

At the time of the hearing, Respondent was "virtually retired," albeit involuntarily, and representing only one private client. (Tr. 38, 272).

Prior Discipline

Respondent has been licensed to practice law in Illinois since 1973 and has no prior discipline.

RECOMMENDATION

A. Summary

Based on the proven misconduct, aggravation, and mitigation, the Hearing Board recommends that Respondent be suspended for six months, with the suspension stayed after 90 days by a six-month period of probation with conditions designed to improve his timekeeping and billing practices.

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. When recommending discipline, we consider 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 to recommend similar sanctions for similar types of misconduct, but we must decide each case on its own unique facts. Edmonds, 2014 IL 117696, ¶ 90.

In mitigation, Respondent has practiced for over 51 years without prior discipline, and several judges and attorneys testified to his excellent reputation for honesty and for being among the best lawyers in the Child Protection Division. This reputation, along with the decrease in available court-appointed attorneys during the pandemic, led to the massive growth of his caseload during the time period at issue. Respondent expressed remorse for his "stupid" pride that he could handle so many cases at once. Although he overstated the number of hours he worked on those cases, there was no allegation that he inadequately served any of his clients. His rudimentary timekeeping system and lack of support staff contributed to his overbilling. Additionally, Respondent has a history of volunteer service through the Chicago Bar Association and was cooperative throughout this proceeding.

In aggravation, Respondent's overbilling occurred over the course of a year and across 275 fee petitions, which evidences a pattern of conduct. We found that he did not have actual knowledge of the total hours he was billing at that time, but such a highly experienced attorney should have recognized the need to have a system in place that enabled him to identify and take corrective action on billing issues such as excessive hours billed in a given period. Even if we assume that Respondent was regularly working more than the standard 40 hours per week, based on his credible testimony that he frequently worked into the night and on weekends, we still find that there was a substantial gap between how much he actually worked and the incredible number of hours he billed, resulting in a significant amount of overcharged fees. Additionally, Respondent's misconduct caused numerous court staff and judges to unnecessarily expend time addressing his overbilling and caused the delay of a child protection trial after Respondent was removed from that matter.

The Administrator requested disbarment or a suspension until further order of the Court, citing cases in which attorneys engaged in acts of deceit for personal financial gain, such as

dishonestly overbilling. In re Silets, 2023PR00024, M.R. 031789 (Sept. 21, 2023); In re Hankes, 2019PR00102, M.R. 031005 (Jan. 20, 2022); In re Nadell, 96 CH 348, M.R. 12524 (May 28, 1996); In re Salomon, 94 CH 526, M.R. 10420 (Sept. 12, 1994); In re Crain, 92 CH 270, M.R. 8397 (Jun. 25, 1992); Disciplinary Counsel v. McCloskey, 172 Ohio St. 3d 588, 225 N.E.3d 981 (2023); Lawyer Disciplinary Board v. Cooke, 239 W. Va. 40, 799 S.E.2d 117 (2017). We find these cases largely inapplicable because we did not find that Respondent engaged in dishonest conduct.

The appropriate sanction must be based on the proven misconduct, which is Respondent's overcharging of fees during the year at issue, along with the applicable mitigating and aggravating factors. In disciplinary caselaw, Rule 1.5(a) violations are often accompanied by other charges related to client neglect, failure to promptly return unearned fees, mishandling of client funds, or dishonest conduct. In determining our recommended sanction, we considered cases of overbilling which may include other Rule violations but have no proven dishonesty. Sanctions in these cases ranged from censure to suspension, which may be stayed in whole or in part by probation.

An attorney was censured for charging an unconscionable fee when he refused to refund unearned fees after his client's criminal case was dismissed at the first court date. There were no aggravating factors and several mitigating factors. In re Kutner, 78 Ill. 2d 157, 399 N.E.2d 963 (1979). Other attorneys were suspended for between 30 days and five months for overcharging and failing to promptly return unearned fees to one or two clients whose matters were resolved with little effort by the attorneys. These cases had both aggravation and mitigation. In re Serritella, 03 SH 115, M.R. 21655 (Sept. 18, 2007); In re Salerno, 93 CH 188, M.R. 10433 (Nov. 30, 1994).

In Serritella, the Review Board noted the Court's opinion that collecting an excessive fee merits a suspension, as anything less would damage the integrity of the legal profession among a public that is already skeptical about the fees charged by attorneys. Serritella, 03 SH 115 (Review

Bd. at 22) (citing In re Gerard, 132 Ill. 2d 507, 541, 548 N.E.2d 1051 (1989)). Accordingly, we recommend that Respondent be suspended. We find that a base suspension greater than five months is warranted because of the extent of Respondent's overcharging, making his misconduct more egregious than in Kutner, Serritella, and Salerno. For the following reasons, we further find that a portion of the suspension should be stayed by a period of probation.

Probation is appropriate when the misconduct was not motivated by personal gain but rather arose from deficiencies in an attorney's practice that can be remedied through support and monitoring. In re Jordan, 157 Ill. 2d 266, 274-76, 623 N.E.2d 1372 (1993). Respondent's timekeeping and billing practices need improvement and can be addressed by probationary conditions. Probation also benefits and protects the public by allowing the public to continue accessing the attorney's services with safeguards in place. Id. Like Jordan, Respondent has led an exemplary career representing an underserved population and providing community service, has no prior discipline, and expressed remorse for the errors in judgment that contributed to his misconduct. Id. at 276-77. In another recent case, the Court approved a suspension for five months, stayed after 60 days by two years' conditional probation, for an attorney who overcharged and failed to refund unearned fees in eight client matters. In re Leving, 2023PR00004, M.R. 032333 (Sept. 20, 2024). We find that the recommended education, mentoring, and monitoring conditions will facilitate the necessary improvements to Respondent's timekeeping and billing practices after he serves his suspension.

Accordingly, we recommend that Respondent be suspended for six months, with the suspension stayed after 90 days by a six-month period of probation, subject to the following conditions:

1. 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 investigations relating to his conduct;

2. During the first thirty (30) days of probation, Respondent shall enroll in a law office management program acceptable to the Administrator and shall, upon enrollment, notify the Administrator in writing of the name of the attorney with whom Respondent is assigned to work. Respondent shall successfully complete the law office management program prior to the end of the probation term;

3. Through Respondent's participation in the law office management program, Respondent shall establish and utilize the following:

    a. A system for maintaining records as required by Supreme Court Rule 769; and

    b. A system for timekeeping and billing in accordance with the requirements established by the law office management program, including a mechanism by which his total billed hours are aggregated and regularly made available for his review;

4. Respondent shall authorize the attorney assigned to work with him in the law office management program to:

    a. Disclose to the Administrator on a quarterly basis, by way of signed reports, information pertaining to the nature of Respondent's compliance with the law office management program and the above described conditions;

    b. Promptly report to the Administrator Respondent's failure to comply with any part of the above described conditions; and

    c. Respond to any inquiries by the Administrator regarding Respondent's compliance with the above described conditions;

5. 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;

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

7. 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;

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

9. Respondent shall reimburse the Commission for the costs for this proceeding as defined in Supreme Court Rule 773 and shall reimburse the Commission for any further costs incurred during the period of probation; and

10. Probation shall be revoked if Respondent is found to have violated any of the terms of his probation. The remaining period of suspension shall commence from the date of the determination that any term of probation has been violated.

Respectfully submitted,

Patrick M. Blanchard
Arlette G. Porter
Brian B. Duff

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 September 4, 2025.

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

4913-1441-9046, v. 1