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

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In the Matter of

TIMOTHY A. DUFFY,

Attorney-Respondent,

No. 6224836.

Commission No. 2025PR00079

**RESPONDENT'S ANSWER TO ADMINISTRATOR'S COMPLAINT**

Timothy A. Duffy, Respondent, by his attorney, Stephanie Stewart, of Robinson, Stewart, Montgomery & Doppke LLC, answers the complaint filed by the Administrator in this matter, as follows:

***Information Provided Pursuant to Commission Rule 231***

Respondent was a Member of the Law Society of Upper Canada (No. 67123Q) from 2015 to 2022, at which time he surrendered his license to practice in Ontario as a barrister and solicitor due to the completion of his work for clients in Ontario.

Respondent has never been a member of the bar of any U.S. state other than Illinois.

Respondent has been and is admitted to practice in the following courts:

U.S. District Court for the Northern District of Illinois (01/09/1996)

U.S. District Court for the Eastern District of Wisconsin (10/12/2001)

U.S. District Court for the Eastern District of Michigan (02/01/2006)

U.S. Court of Appeals for the Second Circuit (07/07/2008)

U.S. Court of Appeals for the Third Circuit (01/14/2002)

U.S. Court of Appeals for the Sixth Circuit (04/19/2007)

U.S. Court of Appeals for the Seventh Circuit (08/10/2009)

U.S. Court of Appeals for the Eighth Circuit (04/12/2002)

U.S. Court of Appeals for the Ninth Circuit (11/24/1998)

U.S. Court of Appeals for the Federal Circuit (3/12/2024)

Respondent has not held any other professional licenses.

(*Knowingly Making Material Misrepresentations to Magistrate Judge McShain and Failing to Correct the Misrepresentations, Unlawfully Obstructing the Chicago Transit Authority's Access to Evidence, and Needlessly Prolonging Litigation*)

1. At all times alleged in this complaint, Respondent was a solo practitioner in Lake Forest, where he practiced primarily in the area of business law and tax law.

**ANSWER: Admitted.**

2. As set forth more fully below, in or around January of 2019, Respondent agreed to represent an individual named Christopher Pable ("Pable") in his alleged whistleblower claims against his former employer, the Chicago Transit Authority ("CTA"), and a vendor of the CTA, Clever Devices, Ltd. ("Clever Devices"). By the conclusion of that litigation, the United States District Court for the Northern District of Illinois sanctioned Respondent a total of approximately $112,300 for his repeated discovery violations and misrepresentations. In July 2025, that sanction was affirmed by the United States Court of Appeals for the Seventh Circuit.

**ANSWER: Admitted.**

A. *Factual Background of the Whistleblower Claims*

3. Between May 2012 through mid-November 2018, Pable worked as a computer programmer and software engineer for the CTA. In August of 2018, Pable discovered a cyber-security vulnerability within the computer code of the CTA's BusTime application, which he

reported to his supervisor, an individual with the initials M.H. The BusTime system is a real-time transit tracking application developed by Clever Devices.

**ANSWER: Admitted.**

4. After receiving Pable's report of the security vulnerability, M.H. tested the security on Dayton, Ohio's transit system because Dayton used the same application developed by Clever Devices ("Dayton test"). In the days following the Dayton test, Pable and M.H. communicated using the Signal messaging application, which allows users to send and receive encrypted messages, to discuss what they would do based on the results of the Dayton test.

**ANSWER: The first sentence is admitted. The second sentence is denied, due to vagueness and insufficient knowledge.**

5. On or about October 22, 2018, the CTA decided to terminate M.H. and Pable. Rather than being told they had been terminated, M.H. and Pable were told that they were being placed on administrative leave, with no reference to the Dayton test. After Pable and M.H. were placed on purported administrative leave, they were notified that they would be interviewed by the CTA at their headquarters. On or about November 2, 2018, M.H. and Pable met to discuss the upcoming interviews by the CTA.

**ANSWER: Admitted.**

6. In the days immediately following their separated interviews on November 2, 2018, M.H. and Pable exchanged Signal messages which discussed topics relevant to the whistleblower matter ("pre-November 2018 Signal Messages"). During a November 2, 2018 meeting, between Pable and M.H., M.H. decided to delete all his conversation history on Signal with Pable.

**ANSWER: The first sentence is denied. The pre-November 2018 Signal Messages were exchanged prior to November 2, 2018. The second sentence is admitted.**

7. On or about November 8, 2018, Pable and M.H. resigned from the CTA, allegedly in lieu of termination. After their resignation, Pable and M.H. continued to use Signal to communicate.

**ANSWER: The First Sentence is Denied. M.H. resigned November 2, 2018. Pable resigned on November 9, 2028. The Second Sentence is admitted.**

8. On May 2, 2019, Pable initiated an administrative proceeding by filing a whistleblower complaint against CTA and Clever Devices with the Occupational Health and Safety Administration ("OSHA"). Ultimately, OSHA took no action with respect to Pable's administrative complaint.

**ANSWER: Admitted.**

9. In October of 2019, Pable enabled the disappearing messages function on the Signal app on his phone which caused all his messages to be automatically deleted within 24 hours. The disappearing messages function must be enabled by the user.

**ANSWER: Admitted.**

10. Pable's enabling of the disappearing messages function caused all Signal messages sent after October 29, 2019, between M.H. and Pable to be inaccessible to either individual and the CTA and Clever Devices ("post- October 2019 Signal messages").

**ANSWER: Denied. Enabling the disappearing messages function did cause some Signal messages to be permanently deleted for both the sender and recipient, but there were some post-October 29, 2019, Signal messages between M.H. and Pable that were retrieved during the discovery process as a result of doing so within the availability window and/or having been saved by other means.**

B. *Respondent's Representation of Pable*

11. On December 2, 2019, Respondent, on behalf of Pable, filed a complaint in the United States District Court for the Northern District of Illinois, Eastern Division against the CTA and Clever Devices alleging that the CTA and Clever Devices violated Pable's rights as a whistleblower under the National Transit Systems Security Act ("whistleblower matter"). That same day, Respondent filed his appearance on behalf of Pable in the whistleblower matter.

**ANSWER: Admitted.**

12. Shortly after the whistleblower matter was filed in the United States District Court for the Northern District of Illinois, the CTA and Respondent became involved in a discovery dispute, that involved extensive motion practice and communications between counsel over the production of the contents of Pable's cellphone.

**ANSWER: Admitted, except as to the allegations "shortly after the whistleblower matter was filed…" and the characterization of the motion practice or communications as "extensive," which are denied.**

13. Throughout the discovery dispute, Pable provided different explanations for the deletion of the Signal messages. Initially, Pable testified that the pre-November 2018 Signal messages had been deleted because M.H. deleted them from his device. The CTA refuted this by providing an affidavit from Signal's Chief Operating Officer which stated that, at that time, a user's deletion of specific messages would not delete those same messages on another user's device.

**ANSWER: Denied, except it is admitted that Pable testified the deletion was because M.H. deleted them from his device and the CTA provided an Affidavit from Signal's Chief Operating Officer.**

14. On March 18, 2020, the CTA sent Respondent a letter pursuant to the local discovery rules, requesting that the cellphone Pable used in 2018 be imaged by a third-party vendor due to alleged deficiencies in Pable's initial discovery disclosures, including the missing Signal messages. Respondent, on behalf of Pable, and the CTA agreed that "Pable's 'personal devices' would be preserved and the 'work profile' on Pable's phone would be imaged, but Pable refused to allow that his personal or 'non-work related' profile to also be imaged.

**ANSWER: Admitted, except as to the allegation that "Pable refused to allow…" in the second sentence.**

15. Eventually, Respondent and counsel for the CTA came to an agreement that Pable's cellphone would be imaged and aforesaid image would be produced to the CTA. Respondent hired Quest Consultants International ("Quest Consultants") as a third-party expert to image Pable's cellphone. On October 23, 2020, the CTA emailed Respondent to confirm that Pable would produce "a complete and searchable forensic image file of his personal cellphone as it was previously imaged by [plaintiff]'s third-party expert during the course of written discovery." On October 24, 2020, prior to producing the image, Respondent sent an email to the CTA confirming that the image taken by Quest Consultants is a complete forensic image, "[t]he image is a complete image of the data on the phone when the phone was imaged", and "nothing about the imaging process affected the 'completeness' of the image."

**ANSWER: The first sentence is denied. The second sentence is admitted except with respect to the purpose of the retention of Quest, which was not specifically or exclusively to image the phone. The Third and Fourth sentences are admitted.**

16. Respondent's statement in his email to the CTA on October 24, 2020, as set forth in paragraph 15, above, was false because Quest Consultants only imaged certain portions of Pable's phone based upon search terms, not the entire contents of the phone.

**ANSWER: Denied. Quest did not restrict its imaging to "search terms." Data retrieved from the phone was searched using search terms, but this process was entirely separate and distinct from the imaging process. It is not possible to "image" a device "based on search terms." Quest also imaged the phone, and Respondent believed at the time that the image was complete because he thought Quest imaged all communication on the phone and he had not modified it in any way after receiving the image from Quest.**

17. Respondent knew that his statement in his email to the CTA on October 24, 2020, as set forth in paragraph 15, above, was false at the time that he made the statement because Respondent had been the individual responsible for giving Quest Consultants instructions on what data to extract and/or capture during the forensic imaging process from Pable's cellphone.

**ANSWER: Denied.**

18. On or about October 31, 2020, Respondent, produced the first image of his cellphone to the CTA ("First Cellphone Image"). The First Cellphone Image included only .2 GB of user-generated data, which was less than 1% of the phone's storage capacity. There were no communications exchanged on third-party applications; internet browsing and/or search histories; audio or visual files, including photos; information or data associated with 151 of the 200 third-party applications contained on the cellphone amongst the data produced. According to an affidavit submitted by the CTA's technical expert, besides call log history, the data contained in the phone image did not predate June 5, 2020."

**ANSWER: The first sentence is admitted. Respondent produced the image of the cellphone as it had been obtained and provided to him by Quest. The remainder of the paragraph is admitted to the extent it purports to relate statements by the CTA's technical expert, but Respondent lacks knowledge of the truth or accuracy of those statements. Respondent admits that the CTA's expert was unable to retrieve any new data from the image file, but is without knowledge as to whether that was the result of a lack of data on the phone, a corruption or some other problem with the image file, or a lack of skill on the part of the expert.**

19. As a result of Respondent's initial limited production of data, on February 5, 2021, the CTA moved to compel a second imaging of Pable's cellphone, which was subsequently granted by Magistrate Judge Heather McShain of the Northern District of Illinois, who presided over the whistleblower matter.

**ANSWER: Admitted, expect that Magistrate Judge Heather McShain was only handling discovery matters on a referral from the District Court.**

20. On April 29, 2021, Magistrate Judge McShain held a hearing to resolve the pending discovery dispute over Pable's cellphone. During this hearing, Magistrate Judge McShain asked Respondent "'whether the first image that was produced to the defense' was 'a complete image or did you cull out or remove items from that image?'" Respondent stated that "'[i]n the process of getting information out of the phone an image was taken. When the CTA requested access to that image, that image was produced without any further review…I didn't remove anything from that image..."

**ANSWER: Admitted.**

21. Later during the April 29, 2021, hearing, Respondent further stated in open court, "So there's a lot of choices that are made on things there. So, I just want to be clear that when we say complete, it was complete for our purposes, we think, to pick up all the communications that it takes. Were there things on the phone that were not included in that image? That's probably likely. I think that's almost true for almost any image."

**ANSWER: Admitted.**

22. Respondent's statement in open court that the image of Pable's cellphone was complete and no data had been removed, as described in paragraph 20, above, was false because Respondent knew that he had only produced limited data which Respondent believed to be relevant, not the entire image of Pable's cellphone.

**ANSWER: Denied. At the time of the hearing, Respondent's discovery productions on behalf of Pable had been limited to relevant data retrieved from the phone, but this data was not derived from the image, but a separate process; namely, the direct extractions of files from the phone, which Respondent made clear during this same hearing had been retrieved and searched with agreed search terms to generate the discovery productions.**

23. Respondent knew the statement that the image of Pable's phone was complete, and no data had been removed, as described in paragraph 20, above was dishonest because Respondent knew that he had only produced limited data which Respondent believed to be relevant, not the entire image of Pable's cellphone.

**ANSWER: Denied. The "limited data which Respondent believed to be relevant" refers to the data produced by applying the agreed-upon search terms to the extracted files, which did not involve the use of the image, which was produced in its original form as obtained by Quest without alteration or limitation.**

24. In April 2021, the CTA's electronically stored information vendor created a second forensic image of Pable's cellphone ("Second Cellphone Image"). The Second Cellphone Image contained 25 GB of unique data. The Second Cellphone Image captured 42 Signal messages exchanged between M.H. and Pable between May 2019 and October 2019, Google Hangout messages, emails, and web browsing history that were not originally produced by Respondent to the CTA.

**ANSWER: Respondent admits that the CTA's vendor was able to extract data from the cell phone that he was been unable to extract from the first image, and that this data included the indicated items, which had not previously been produced to the CTA because they were not within the scope of the agreed search terms run on the extracted data, not because it has been excluded from or removed from the initial image.**

25. On or about October 12 and October 19, 2021, the Quest Consultant employer who conducted the image of Pable's phone at Respondent's direction, an individual with the initials D.J. testified in a deposition conducted by the CTA. During D.J.'s deposition, he testified that Respondent instructed D.J. to image Pable's cellphone based on limited search terms and time ranges.

**ANSWER: The first sentence is admitted. The second sentence is denied. Respondent instructed D.J. to extract data and run search terms on that data. Respondent did not specifically instruct D.J. to image the phone, but D.J. did generate the image of the phone as part of his normal protocol. This image was not used to generate Pable's initial discovery productions, and was in fact never used at all prior to its provision to the CTA.**

26. On July 15, 2021, the CTA filed a motion for leave to serve discovery upon Quest Consultants and for an extension of the discovery period in the whistleblower matter. A hearing

was held on that motion on August 13, 2021. During the August 13, 2021, hearing, Respondent stated that the "idea" that there was information from the First Cellphone Image had not been produced to the CTA was a "brand new thing" to Respondent. On September 13, 2021, Magistrate Judge McShain granted the CTA's July 15, 2021 motion.

**ANSWER: The first, second, and fourth sentences are admitted. The third sentence is denied: What Respondent testified was "a brand new thing" was the allegations by the CTA that "there was communications that we are improperly withholding or that we have another image that is better or has more relevant data" and "there is some cache of information that we have not shared with them."**

27. Respondent's statement that the "idea" that there was information from the First Cellphone Image had been produced to the CTA was a "brand new thing", as described in paragraph 26, above, was false because Respondent knew that he had only produced limited data which Respondent believed to be relevant, not the entire image of Pable's cellphone.

**ANSWER: Denied.**

28. Respondent knew the statement that the image of Pable's phone was complete, and no data had been removed, as described in paragraph 26, above was false because Respondent knew that he had only produced limited data which Respondent believed to be relevant, not the entire image of Pable's cellphone therefore he knew that there was additional data which had not been produced to the CTA.

**ANSWER: Denied.**

29. On November 1, 2021, the CTA filed a document entitled "Motion to Enforce the Subpoena for Documents Against Quest and for Sanctions against Quest and Attorney Timothy Duffy", which alleged that Respondent had spent the past two years making misrepresentations to

the Court. On June 27, 2022, the CTA filed a document entitled "First Amended Motion for Sanctions Against Plaintiff Pable George Pable and Attorney Timothy Duffy for the Intentional and Repeated Spoliation of Evidence" which alleged that Pable spoliated electronically stored information and Respondent engaged in sanctionable conduct during his representation of Pable.

**ANSWER: Admitted, except as to the assertion that the CTA alleged Respondent "had spent the past two years making misrepresentations to the Court".**

30. On August 23, 2022, the CTA filed a document entitled "Motion to Modify the Spoliation Motion Briefing Schedule to Allow for Discovery on Plaintiff's Newly Filed Affidavit, and to Strike the Newly Filed Certified Statement of Plaintiff's Counsel in Support of Plaintiff's Response to the Spoliation Motion" which requested that the CTA be allowed to issue limited additional written discovery and take a limited deposition of Pable and to strike Respondent's certified statement which was submitted in connection with Pable's Response in Opposition to the Motion for Sanctions.

**ANSWER: Admitted.**

C. *Findings by the U.S. District Court for the Northern District of Illinois and the Seventh Circuit Court of Appeals*

31. On March 2, 2023, Magistrate Judge McShain entered a Memorandum Opinion and Order and Report and Recommendation ("Order") in connection with the motions, as described in paragraphs 29 through 30, above, and the Court's inherent authority. The Order stated, in pertinent part,

> Duffy's representations to the CTA on October 24, 2020 that the first image of [Pable]'s cell phone was "a complete forensic image" and that "the image is a complete image of the data on the phone when the phone was imaged," were false and that Duffy knew they were false when he made them….at Duffy's direction, [Quest Consultants] prepared the first image based on the limited subset of data that had been collected from the phone in June 2020…. Because

> [Quest Consultants] never prepared a complete image of [Pable]'s phone, Duffy's representations to the CTA that the image was "complete" and "a complete image of the data on the phone when the phone was imaged" could not have been true. And because Duffy was the one who instructed [Quest Consultants] what work to perform, he knew that the representations were untrue. (internal citations omitted).

**ANSWER: Admitted that the quotation is part of the Court's order.**

32. Moreover, Respondent failed to correct the misrepresentations, as set forth in paragraph 31, above, to the CTA and the Court. Respondent was required to correct the misrepresentations, as set forth in paragraph 31 above, to the CTA and the Court because the statements made by Respondent to Magistrate Judge McShain and the CTA were false statements of material fact or law.

**ANSWER: Denied.**

33. Magistrate Judge McShain's order finally stated, in pertinent part,

> As dictated by rules and ethical standards, the discovery process- and the entire judicial system- assumes that attorneys and parties will provide complete and truthful information to adversaries, to the Court, and when under oath. Duffy and [Pable] repeatedly lied regarding their failure to preserve relevant discovery that very likely contained information pivotal to the lawsuit, to include the CTA's defenses. As a result of Duffy and [Pable]'s actions, it is impossible to know the scope and quality of the now non-recoverable discovery. The recommended sanctions are harsh, to be sure, but they are supported by this record of repeated egregious abuse of the litigation process by [Pable] and Duffy. [Emphasis Added].

**ANSWER: Admitted that the quotation is part of the Court's order.**

34. Ultimately, Respondent and Pable were penalized $75,175.42, split equally, as a sanction for failing to preserve the relevant electronically stored information pursuant to Federal Rule of Civil Procedure 37(e). Respondent was further ordered to pay an additional $21,367 to compensate the CTA for having to engage in additional litigation due to Respondent's conduct and

to pay $53,388 for vexatiously and unreasonably litigating the whistleblower matter pursuant to 28 U.S.C. § 1927. The Order also dismissed the whistleblower matter with prejudice due to Respondent and Pable's conduct as set forth above.

**ANSWER: Admitted.**

35. On August 7, 2024, Judge Robert Gettlemen of the U.S. District Court for the Northern District of Illinois entered an order adopting the recommendations set forth in Magistrate Jude McShain's March 2, 2023 order. Respondent timely filed an appeal of Judge Gettlemen's Order. On July 28, 2025, the Seventh Circuit Court of Appeals affirmed Judge Gettlemen's Order.

**ANSWER: Admitted.**

36. In or around September 2024, Respondent and Pable paid the entirety of the sanctions, as set forth above in paragraph 34.

**ANSWER: Admitted.**

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

a. knowingly making a false statement of law or fact to a tribunal and failing to correct a false statement of material fact or law previously made to the tribunal by the lawyer, by conduct including but not limited to by failing to obtain a complete image of Pable's phone and then representing to the Chicago Transit Authority and Magistrate Judge Heather McShain that he had obtained a complete forensic image of Pable's phone and at no point did he correct the record or otherwise disclose that no complete image of Pable's phone had been obtained or produced in discovery, in violation of Rule 3.3(a)(1) of the Illinois Rules of Professional Conduct (2010);

b. unlawfully obstructing another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value, by conduct including but not limited to spoliating the electronically stored information, including but not limited to the Signal

messages on Pable's cellphone, in violation of Rule 3.4(a) of the Illinois Rules of Professional Conduct (2010);

c. conduct involving dishonesty, fraud, deceit or misrepresentation, including but not limited to by telling Magistrate Judge Heather McShain and the Chicago Transit Authority that he had obtained and produced a complete image of Pable's cellphone, when had only obtained and produced .2 GB of 25 GB of data, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010); and

d. engaging in conduct that is prejudicial to the administration of justice, by conduct including but not limited to spoliating evidence which was likely relevant to the Chicago Transit Authority's defense and for repeatedly abusing the litigation process in the matter of Christopher Pable vs. CTA et al., which caused and/or resulted in additional litigation, expenditure of unnecessary court resources, and defendants to incur additional unnecessary expenses in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

**ANSWER: Denied.**

Wherefore, Respondent respectfully requests that the Board dismiss the complaint and order any other relief it deems just.

Respectfully submitted,

/s/ Stephanie Stewart
Stephanie Stewart

Stephanie Stewart
Robinson, Stewart, Montgomery & Doppke LLC
159 North Sangamon Street, Suite 327A
Chicago, IL 60607
sstewart@rsmdlaw.com
(312) 782-5102