In re James Thomas Rollins
Attorney-Respondent

Commission No. 2021PR00054

Synopsis of Hearing Board Report and Recommendation
(August 2022)

The Administrator charged Respondent with engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by fabricating documents and submitting them to his law firm partners to make it appear as though he had paid his capital contribution to the firm when he had not, and then fabricated additional documents to conceal his actions. The Hearing Board found that the charges were proved and recommended that Respondent be suspended for five months.

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

In the Matter of:

JAMES THOMAS ROLLINS,

Attorney-Respondent,

No. 6291923.

Commission No. 2021PR00054

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

The Administrator charged Respondent with engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation by fabricating documents and submitting them to his law firm partners to make it appear as though he had paid his capital contribution to the firm when he had not, and then fabricated additional documents to conceal his actions. The Hearing Board found that the charges were proved and recommended that Respondent be suspended for five months.

INTRODUCTION

The hearing in this matter was held remotely by videoconference on February 24, 2022, before a panel of the Hearing Board consisting of Stephen S. Mitchell, Chair, Joseph L. Stone, and Daniel G. Samo. Scott Renfroe represented the Administrator. Respondent was present and represented by Samuel J. Manella.

PLEADINGS AND MISCONDUCT ALLEGED

On June 28, 2021, the Administrator filed a one-count Complaint against Respondent, alleging that Respondent engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Illinois Rule of Professional Conduct 8.4(c), in that he fabricated

and submitted false bills, receipts, and bank statements to his firm partners to make it appear as though he had paid $81,859.39 in expenses that would be credited toward his capital contribution, when, of those purported expenses, he actually had paid only $18,071.81. The Complaint further alleged that, when questioned about the purported expenses, Respondent fabricated two checks in an attempt to conceal his conduct.

In his Answer, Respondent admitted most of the factual allegations and the charge of misconduct.

EVIDENCE

The Administrator's Exhibits 1 through 11 were admitted into evidence. (Tr. 11.) The Administrator called Respondent as an adverse witness, and also presented the testimony of Respondent's former law firm partner, Douglas Sinars. Respondent testified on his own behalf and called two character witnesses, Brian Ronald Hecht and Ken Sullivan.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

The Administrator charged Respondent with engaging in dishonest conduct, in violation of Rule 8.4(c)

A. Summary

Respondent engaged in dishonest conduct when he fabricated and submitted false bills, receipts, and bank statements to his firm partners to make it appear as though he had paid his capital contribution to the firm when, in fact, he had not. He then engaged in further dishonest conduct when he attempted to conceal his conduct from the firm by fabricating and submitting two false checks to the firm.

B. Admitted Facts and Evidence Considered

Respondent was licensed to practice law in 2007. In about March 2016, Respondent and attorneys Douglas Sinars, Megan Slowikowski, and James Tomaska agreed to form a limited liability corporation to engage in the practice of law under the name Sinars Rollins, LLC. Respondent agreed with his fellow shareholders that he would contribute $100,000 in capital in exchange for a 32.5% ownership interest in the firm. Respondent's capital contribution was to be in the form of cash or the payment of firm-related start-up expenses, which would then be credited toward the capital contribution requirement. (Ans. at pars. 1-2.)

Over the course of several months in 2016, Respondent fabricated and submitted purported bills, receipts, or bank statements to the Sinars Rollins, LLC firm that he asked to be credited toward his $100,000 capital contribution obligation. Those documents, totaling $81,859.39, purported to establish that Respondent had paid various vendors for services to or equipment for Sinars Rollins LLC. (Ans. at par. 3; Adm. Exs. 1-9.) However, the documents were false. Of the $81,859.39 that Respondent claimed that he had paid for services to or equipment for the firm, he had actually paid only $18,071.81. (Ans. at par. 4.) Respondent knew the purported documents were false, because he had created them using a common word-processing program, and he knew

the fabricated documents did not reflect either the amounts paid to the vendors nor the actual circumstances of the payments made to those vendors. (Ans. at par. 5.)

In or around May 2017, the firm's bookkeeper noticed irregularities in the documents Respondent submitted to the firm, and asked Respondent for additional documentation to support his claimed capital contributions. (Ans. at par. 6; Tr. 28-29.) Respondent then provided the firm with two purported personal checks, one for $17,175 made out to a vendor and one for $17,550 made out to a person affiliated with a vendor. (Ans. at par. 6; Tr. 36-37; Adm. Exs. 10-11.) Both of these purported personal checks were false. Respondent knew they were false because he created them himself using a computer program, and he knew that the documents did not describe the actual amounts paid to the vendors nor the circumstances of the actual payments. (Ans. at pars. 7-8.)

C. Analysis and Conclusions

In his Answer, Respondent admitted all of the salient facts that form the basis of the misconduct charge against him, and admitted that he violated Rule 8.4(c). In addition, in their opening statements, counsel for both parties agreed that Respondent had admitted the misconduct with which he was charged, and during his testimony at hearing, Respondent fully acknowledged that he had committed the charged misconduct.

The misconduct to which Respondent has admitted, and which the evidence supports, is that he violated Rule 8.4(c) by fabricating and submitting false bills, receipts, and bank statements to his firm partners to make it appear as though he had paid his capital contribution to the firm when, in fact, he had not. The fabricated documents purported to show that Respondent had paid $81,859.39 in expenses that would be credited toward his capital contributions, when, of those purported expenses, he actually had paid only $18,071.81.

Then, when a bookkeeper noticed irregularities in the documents Respondent submitted and asked for additional information to support his claimed contributions, he fabricated and submitted two false checks to conceal his conduct.

In light of Respondent's admissions in his Answer, his testimony at hearing, and documentary evidence presented by the Administrator, we find that Respondent fabricated documents in order to misrepresent his capital contributions to his firm and, after his firm became suspicious of his actions, to conceal his misconduct. He therefore engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c).

EVIDENCE IN MITIGATION AND AGGRAVATION

Mitigation

When Respondent's partners confronted him in July 2017 with evidence of his wrongdoing, he admitted what he had done and said he was "very sorry." (Tr. 39.) He was contrite and told his partners that he wanted to stay with the firm and would go along with whatever they decided. (Tr. 40.) Shortly after the meeting, the firm partners came up with a plan that would allow Respondent to remain with the firm: For a period of time, his percentage of ownership in the firm would be reduced to reflect his actual contribution, and he could eventually return to his original ownership percentage by paying the full $100,000 that he was required to make as his capital contribution. (Tr. 41-43, 50.) Respondent paid his $100,000 capital contribution requirement in full within about a year and a half. (Tr. 51, 78.)

At hearing, Respondent admitted his misconduct. (Tr. 60-65.) He testified that what he did was "wrong" and "horrible" and a "horrible decision on [his] part," and that he let his partners and his family down. (Tr. 76.) He testified that he should have been honest but was not, and that his dishonesty with his firm "was the worst mistake of [his] life." (Tr. 77.) Respondent testified that

his conduct "eats away at [him] every single day." (Tr. 81.) He stated that he was "truly sorry" for what he put his firm co-partners through, and that what he did "was wrong" and "unlike [his] character" and "unlike what [he] … was taught." He explained that "a confluence of factors" led to a "really bad" decision on his part. (Tr. 82.)

With respect to the "confluence of factors" that led to his misconduct, Respondent testified that he had not been paid in eight or nine months, and, when the firm partners asked about his capital contribution, he did not have the money to pay it, and could not come up with the money at that time, because he was barely getting by, trying to save his house and marriage and support his then-infant children. (Tr. 82-83.) He testified that he "panicked," because he "knew [he] had to come up with the money, and [he] couldn't, and so [he] panicked." (Tr. 95.)

When asked by his attorney how he could assure the hearing panel that he would not engage in similar misconduct in the future, Respondent responded that he had "done a lot of self-reflection," and "a lot of work" on himself about why he felt the need to deceive his firm. (Tr. 83.) He stated:

> … I really took time to examine what was going on in my life and what the root cause of my dishonesty was, and I was able to determine that … I never want to be in this position again. And I've -- I've tried to do everything I -- live my life over the last couple of years in a more honest and -- and forthright manner.

Id. Respondent further testified that he is "extremely sorry and extremely upset" about what he did, and that he knows what he did was wrong. (Tr. 87.)

Respondent has engaged in *pro bono* work through Chicago Volunteer Legal Services, handling several mortgage foreclosure cases. He is a volunteer youth basketball coach, coaching his son's team. He was a member of the Red Cross Disaster Action Team from 2015 through 2020. He is a member of the Chicago Bar Association, and is active on the tort committee. He is on the Illinois State Bar Association's legal education committee. (Tr. 84-86.)

Aggravation

Respondent's misconduct occurred over a period of about two months, and involved the fabrication of multiple documents. In addition, he fabricated additional documents to conceal his conduct. (Ans. at pars. 3-8; Adm. Exs. 1-11.) Respondent's actions put the firm in jeopardy, in that it was still a new firm and trying to build its reputation, and Respondent's actions created uncertainty for the firm. (Tr. 45.)

Character Witnesses

Respondent presented two character witnesses. Brian Ronald Hecht has known Respondent for about 25 years, and is aware of the misconduct charge against Respondent. He testified that he believes Respondent is "of the highest moral character" and is "a great attorney." He testified that he believes Respondent is "extremely remorseful" for his misconduct. He testified that he believes Respondent's misconduct is "an aberration from the character and individual" he knows. He further testified that he thinks Respondent is a "very knowledgeable, very trustworthy attorney." (Tr. 104-105, 107.)

Ken Sullivan, who has his own law practice named Sullivan and Associates, has known Respondent for 11 or 12 years. Their relationship began as a personal relationship but expanded into a business relationship as well, where Respondent would refer cases to Sullivan. Sullivan hired Respondent to work for his firm in September 2021. Sullivan testified that he knows about the allegations against Respondent, and that those allegations do not lead Sullivan to want to terminate Respondent's employment. He testified that he "implicitly trust[s]" Respondent, that he sees Respondent's misconduct as "one misstep" in Respondent's career, and that he would never bring someone into his firm that he thinks would be a problem or that he could not trust. As to his opinion about Respondent's reputation for truth and veracity, Sullivan testified that Respondent

has always been truthful with him, and that Respondent's reputation in the legal community for truth and veracity is, in Sullivan's opinion, "excellent and stellar." (Tr. 112-16.)

Prior Discipline

Respondent has no prior discipline.

RECOMMENDATION

A. Summary

Based upon the serious nature of Respondent's misconduct, and taking into account the significant mitigation and minimal aggravation, the Hearing Board recommends that Respondent be suspended for five months.

B. Analysis and Conclusions

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

In arriving at our recommendation, we consider those circumstances that may mitigate or aggravate the misconduct. In re Gorecki, 208 Ill. 2d 350, 802 N.E.2d 1194 (2003). In mitigation, we find that Respondent has acknowledged his misconduct and expressed sincere remorse for it. Upon observing and hearing his testimony, we found his regret to be deep and genuine. We also found Respondent's testimony to be forthright and candid, and note that he did not make excuses for his actions but rather accepted full responsibility for them. We find that Respondent fully understands the wrongfulness of his conduct.

In addition, Respondent's misconduct occurred over a limited time period of two months. When confronted by his colleagues about his actions, Respondent immediately admitted to them what he had done, and he repaid the full amount he owed to his firm before this disciplinary matter was brought against him. Respondent's misconduct did not involve a client matter and no clients were harmed. Finally, Respondent has no prior discipline; he engages in volunteer and *pro bono* activities; and two witnesses, including a partner in the firm that currently employs him, testified about his good character. Both character witnesses also testified that they believe Respondent's misconduct to be an aberration. Based upon Respondent's testimony as well as the testimony of his character witnesses, we agree that his conduct appears to be an aberration and that he is unlikely to repeat it.

In aggravation, Respondent engaged in a pattern of dishonest conduct, and fabricated additional documents to conceal his conduct when it was first discovered by the bookkeeper. Also, his actions caused stress for his colleagues and put the fledgling firm at risk of harm.

Under the circumstances of this matter, we find the one-year suspension requested by the Administrator to be excessive. The cases the Administrator relies on involve much more egregious misconduct occurring over lengthy time periods and other circumstances that are not on point with this matter. See In re Smolen, 2013PR00060, M.R. 27199 (March 12, 2015) (over a five-year period, attorney submitted over 800 receipts for cab rides he did not take and received almost $70,000 in reimbursement from his firm for the falsified expenses; in addition, the attorney received an additional $379,000 in reimbursement for expenses for which a forensic accounting firm could not identify a sufficient underlying basis); In re Solomon, 1992PR000159, M.R. 9073 (May 21, 1999) (during his employment with an accounting firm, attorney submitted requests for duplicate reimbursements on 154 occasions over an eight-year period, and obtained reimbursement

for duplicate expenses totaling $22,135); In re Alpert, 01 CH 13, M.R. 17749 (Nov. 28, 2001) (over a period of about two years, attorney submitted approximately $35,000 in fraudulent expense vouchers to his firm for reimbursement, which resulted in clients being billed for the fraudulent reimbursement requests; some of the fraudulent reimbursement requests were related to the attorney's personal vacation to Puerto Rico, and he made false statements to a firm partner when questioned about those particular expenses).

Weighing the serious nature of Respondent's misconduct with the substantial mitigation and minimal aggravation present in this matter, we conclude that a five-month suspension is appropriate under the circumstances of this matter, and is supported by precedent. For guidance, we have looked to cases, discussed below, in which attorneys engaged in dishonest conduct by receiving and using fees owed to their firms without authorization, thereby depriving their firms of those funds. In several of the cases, the attorneys took additional actions to conceal their misconduct. Recognizing that no two cases are identical, we find the following cases to be analogous to the present matter in that Respondent deprived his firm of funds he owed it, and took additional steps to conceal his dishonesty.

In In re Hilliard, 04 CH 58, M.R. 1967 (March 18,2005), an attorney, who was a partner in a law firm, received a $15,000 retainer and used it for his own personal purposes when he should have remitted it to his law firm. When confronted by his law firm, he concealed his conduct by claiming the client had yet to tender the fee. In mitigation, the attorney made prompt restitution to the firm and resigned; acknowledged he improperly used law firm funds; would have presented three character witnesses if the matter had proceeded to hearing; and had no prior discipline. In aggravation, his use of the funds was related to financial problems caused by gambling. He was suspended for five months and required to receive treatment for his gambling problem.

In In re Morse, 99 CH 82, M.R. 17319 (March 22, 2001), an attorney, on behalf of his firm, referred a litigation matter to a second law firm and entered into an agreement that his firm would receive a referral fee. After the matter settled, the attorney, without his firm's knowledge or authorization and in order to enable himself to personally collect the referral fees, prepared a written release of his firm's statutory lien for attorney's fees and provided the release to the second firm. The attorney then received a check for referral fees and a check for reimbursement of costs expended by his firm, totaling nearly $35,000; deposited the funds into his personal account; and used the funds for his own purposes. In mitigation, the attorney expressed remorse, made restitution, cooperated with the Administrator, was active in bar association activities, participated in *pro bono* and fundraising activities, and had no prior discipline. In aggravation, when confronted, he claimed he accepted the referral fee based on his mistaken belief that he was entitled to the fee. He was suspended for five months and required to complete the ARDC Professionalism seminar.

In In re Michod, 97 CH 99, M.R. 17317 (March 22, 2001), an attorney, who was planning to depart a law firm, deposited a $112,500 fee into an account he controlled and unilaterally determined that he would keep $62,500 for himself. Mitigating factors included substantial *pro bono* and community work, involvement in professional organizations, character evidence from prominent attorneys and judges, prompt restitution, no client harm, stress from wife's illness, and no prior discipline. He was suspended for five months.

In addition to the foregoing cases involving attorney dishonesty toward their own law firms, we also found guidance in cases where attorneys fabricated documents in order to reap financial benefits for themselves. See In re Magar, 99 CH 79, M.R. 16581 (April 21, 2000) (five-month suspension on consent where attorney created two fraudulent leases in order to qualify for

a mortgage, signed another person's name to those documents without the person's knowledge or authority, and made false statements on a mortgage application); In re Loprieno, 2016PR00082, M.R. 29397 (Sept. 20, 2018) (five-month suspension where attorney created two false documents, falsified signatures on the documents, and used his colleague's notary stamp and signature to falsely notarize the documents, in order to obtain a loan).

After reviewing the cases cited by the parties as well as the foregoing cases, and considering the relevant circumstances of this matter, we believe that a five-month suspension is commensurate with Respondent's misconduct, consistent with discipline that has been imposed for comparable misconduct, and sufficient to serve the goals of attorney discipline and deter others from committing similar misconduct.

Accordingly, we recommend that Respondent, James Thomas Rollins, be suspended for five months.

Respectfully submitted,

Stephen S. Mitchell
Joseph L. Stone
Daniel G. Samo

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 August 11, 2022.

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

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