In re Margaret Jean Lowery
Attorney-Respondent

Commission No. 2020PR00018

Synopsis of Hearing Board Report and Recommendation
(November 2021)

Respondent was charged with making statements impugning a judge's integrity, which she knew were false or with reckless disregard for their truth. The statements were made on a website, on a Facebook page and during a telephone conversation with a customer service representative. Respondent was also charged with making false statements to the ARDC.

The Hearing Board found that Respondent knowingly made false statements to the ARDC about her involvement in setting up the website. However, the Hearing Board found that the evidence did not clearly and convincingly establish that it was Respondent who made the statements on the website or the Facebook page. The Hearing Board declined to find misconduct based on the statement during the telephone conversation, as Respondent's comment was made in a very limited context, unrelated to any court proceeding, and did not identify anyone by name

The Hearing Board recommended that Respondent be suspended for sixty days and required to complete the ARDC Professionalism Seminar within one year after entry of the Court's final order of discipline.

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

In the Matter of:

MARGARET JEAN LOWERY,

Attorney-Respondent,

No. 6271777.

Commission No. 2020PR00018

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

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INTRODUCTION

The hearing in this matter was held on July 21 and 22, 2021 at the Springfield office of the Attorney Registration and Disciplinary Commission (ARDC) before a Panel of the Hearing Board consisting of Janaki H. Nair, Chair, Stephen R. Pacey and Peggy Lewis LeCompte. Peter L. Rotskoff represented the Administrator. Respondent appeared at the hearing and was represented by Adrian M. Vuckovich.

PLEADINGS AND ALLEGED MISCONDUCT

The Administrator filed a four-count Complaint alleging that Respondent made statements which she knew were false or with reckless disregard for their truth about a judge's qualifications or integrity, in violation of Rule 8.2(a) of the Illinois Rules of Professional Conduct (2010), and made false statements to the ARDC, in violation of Rules 8.1(a) and 8.4(c) of the Rules. The charges are based on online posts accusing a judge of racism, a telephone conversation in which Respondent suggested that the judge was involved in a conspiracy to falsely accuse another judge of a crime and Respondent's statements to the ARDC about her involvement in the matter.

EVIDENCE

The Administrator presented testimony from three witnesses, including Respondent as an adverse witness. Administrator's Exhibits 1 through 16 were admitted into evidence. (Tr. 8, 43-47). Respondent testified on her own behalf and presented testimony from six additional witnesses. Respondent's Exhibits 1 through 4, 6 through 9, 11 through 13, 15 through 19, 21 through 27, 29 through 30, 33 through 42, and 46 through 48 were admitted into evidence. Respondent's Exhibits 5, 10, 14, 20, 28, 31, 32, 43 – 45 and 49 were withdrawn. (Tr. 107-108, 439-41).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In an attorney disciplinary proceeding, the Administrator has the burden of proving the misconduct charged by clear and convincing evidence. In re Thomas, 2012 IL 113035, ¶ 56. Clear and convincing evidence requires a high level of certainty, which is greater than a preponderance of the evidence, but less stringent than proof beyond a reasonable doubt. 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.

BACKGROUND

Hon. Andrew Gleeson is the Chief Judge of the Twentieth Judicial Circuit. Judge Gleeson has been a judge since 2003 and chief judge since November 2016. (Tr. 111-12).

Former judge Ronald Duebbert was elected as a circuit judge for the Twentieth Judicial Circuit in November 2016. On December 30, 2016, police questioned Duebbert in connection with a murder investigation in which a close friend of Duebbert's was a suspect. As a result of Duebbert's allegedly deceptive responses to police, Judge Gleeson reported the matter to the Judicial Inquiry Board (JIB) and, in early January 2017, placed Duebbert on administrative duties. The JIB investigated the matter and later filed charges against Duebbert. Following a full hearing, the Illinois Courts Commission concluded that Duebbert had been dishonest with police, lied to the JIB and testified falsely before the Courts Commission. The Courts Commission removed Duebbert from the bench in January 2020. (Tr. 42, 60-67, 99, 138-40; Resp. Ex. 3).

These circumstances also form the basis for a pending ARDC complaint against Duebbert and Duebbert's interim suspension from the practice of law. In a prior, unrelated matter, Duebbert was censured for knowingly making false statements about an opponent in a campaign mailer, distributed when Duebbert ran for judicial office in 2012. (Tr. 96-98; Resp. Exs. 4, 46).

Respondent is an attorney with an office in Belleville, who was acquainted with Duebbert over time. Based on Respondent's testimony, she gave Duebbert a statement to use in connection with the JIB investigation, but he published the statement instead. The published statement described comments Respondent reportedly overheard, which suggested that court personnel were involved in a conspiracy to falsely accuse Duebbert of murder. Respondent has had limited interaction with Judge Gleeson, although he has reported Respondent to the ARDC a number of times, including allegations that she improperly circulated rumors of a conspiracy against Duebbert. (Tr. 29, 112-15, 152-54, 184-85, 218, 258-59, 311-13; Resp. Exs. 13, 36, 37).

In fall 2018, Judge Gleeson was seeking to be retained as a circuit judge. Duebbert opposed Judge Gleeson's retention, but could not publicly engage in political activity as he was still a judge at the time. Other individuals were actively working to oppose Judge Gleeson, in part because of their views about Duebbert's removal from office. Duebbert communicated constantly with members of that group, which included Guy Don Carlos, Donna Ayers, Respondent and others. (Tr. 69-70, 77-79, 105-106, 112, 393-94). Later, friction developed between Duebbert and Respondent. In March 2021, Respondent told the ARDC that Duebbert had killed her dog and threatened violence against her and others. Duebbert denied the accusations. Respondent and Duebbert have not communicated since March 2020. (Tr. 47-49, 218-25, 302-303, 318-23; Adm. Ex. 9).

Respondent got involved in the anti-retention group in summer 2018. While she denied extensive participation, Respondent attended two group meetings, one of which was held at Respondent's home in August or September 2018. During those meetings, the group decided to set up a website and communicate through Facebook. (Tr. 260-63, 275).

Respondent had experience purchasing domain names and setting up websites for herself and others. She agreed to perform those tasks for the anti-retention group. In September 2018,

Respondent contacted GoDaddy and purchased firetheliarjudge.com (Fire the Liar website), the domain name the group chose. Respondent paid for the purchase through her PayPal account, using funds the group supplied. Respondent testified that, in obtaining the domain name, setting up the website and communicating with GoDaddy, she was acting on behalf of the group, not herself. (Tr. 186-89, 191, 262-67, 274-75, 300).

When she set up the GoDaddy account, and purchased the Fire the Liar website, Respondent used the email address madeline.dinmont@charter.net. This email address belonged to Respondent, as did a Dinmont terrier named Madeline. Respondent used the name Madeline Dinmont in all her communications with GoDaddy. According to Respondent's testimony, whenever she set up a website or purchased a domain name for someone else, she used whatever name was on the account. (Tr. 104, 189, 209, 274-75, 283; Adm. Exs. 1-5, 15).

Thereafter, Respondent designed and built the Fire the Liar website, using a GoDaddy web builder. According to Respondent's testimony, this entailed creating a structure where text or images could be put in later. Respondent put in some basic content, such as information about the group, and links to articles about Judge Gleeson. She also purchased a second domain name, firejudgegleeson.com for the group and worked with GoDaddy representatives to ensure that anyone who clicked on a post on that domain would automatically be directed to the Fire the Liar website. This was done, at the request of group members, as Facebook had blocked access to the Fire the Liar website. Respondent testified that, otherwise, she did not write any of the Fire the Liar website's content or post any pictures on the site. After she built the frame, she turned the website over to others. Respondent was actively involved with the website from September 2018 until early October 2018. (Tr. 187-88, 196-200, 212, 236, 262-63, 268-71, 277-78, 301; Adm. Exs. 2, 3).

Based on Respondent's testimony, she also gave the anti-retention group a Facebook page she was no longer using. Respondent had set up this Facebook page in 2012, under the name Madeline Dinmont, to post pictures of her dog. That Facebook page was linked to the madeline.dinmont@charter.net email account. A comment posted on the Madeline Dinmont Facebook complained about Facebook blocking access to the Fire the Liar website. Respondent denied posting that comment. (Tr. 209, 212-13, 275-76, 279; Adm. Ex. 10).

The login information was the same for the Fire the Liar website and the Madeline Dinmont Facebook page. When Respondent turned the website over to the group, the group set up its own email, madeline.dinmont@icloud.net, which Respondent did not control. The email address for the website was changed on October 6, 2018. (Tr. 276-79, 283-85; Resp. Ex. 38 at 4).

A separate group, Justice for Kane, opposed retention of a different local judge, Judge Zina Cruse, based on a ruling by Judge Cruse in a criminal case. Lori Friess organized this group. On October 4, 2018, Lori Friess posted a message on the Madeline Dinmont Facebook page, in response to posts on that page inviting Justice for Kane supporters to join an upcoming protest against Judge Gleeson. Respondent denied posting that invitation or the accompanying pictures, but she had taken photographs similar to those pictures. In her post, Friess asked Respondent to stop including Justice for Kane in her campaign against Judge Gleeson. (Tr. 36-37, 130-31, 215-16, 303-304; Adm. Exs. 13, 14). A response followed, from Madeline Dinmont, stating "Lori Friess is on a rant about me…" (Adm. Ex. 13 at 1-2). Respondent denied writing those words or knowing who did so. Respondent had responded to other online comments from Friess on Respondent's own Facebook page and using her own name. (Tr. 207-209; Adm. Ex. 13 at 3-5).

I. Respondent is charged with posting two entries on a website which falsely indicated that Judge Gleeson was behind the campaign against Judge Cruse and that his efforts were motivated by Judge Cruse's race and gender, in violation of Rule 8.2(a).

A. Summary

Material posted on a website falsely accused Judge Gleeson of being part of a white supremacy group and opposing another judge's retention due to her race and gender. While there was no basis for these allegations, the evidence did not establish that Respondent made the posts. Therefore, the Administrator did not prove that Respondent violated Rule 8.2(a).

B. Admitted Facts and Evidence Considered

We consider the following admitted facts and evidence, in addition to the background outlined above.

On or about October 4, 2018, the following statements were posted on the Fire the Liar website:

> "**A FAILURE TO VOTE IS A YES VOTE ON RETENTION!**
>
> Kane's founder has a vendetta against a judge who followed the law.
>
> **Why Judge Gleeson Must Go!**
>
> Judge Zina Cruse is a female African American judge from East St. Louis. The Justice For Kane anti-retention campaign is the brain child of Gleeson & others to run a female minority judge off the bench in order to preserve their white male privilege."

(Adm. Ex. 12).

After various negative comments about Friess, the post continued:

> "**JFK is a WHITE SUPREMACIST GROUP!**
>
> JFK is a front for a WHITE SUPREMACIST GROUP called the National Association for Majority Equality which Judge Gleeson supports. That is why they are targeting judge of color and that is why their members are exclusively white."

(Adm. Ex. 12).

JFK referred to Justice for Kane (Tr. 92). These statements, particularly the allegations that Judge Gleeson was involved with white supremacy groups and acted against other judges due to racial or gender bias, were false. (Tr. 126, 129-32).

Judge Gleeson believed that Duebbert and Respondent were responsible for these posts. As to Respondent, this belief stemmed from Judge Gleeson's understanding that Respondent had improperly circulated information about the alleged conspiracy against Duebbert. Judge Gleeson had no personal knowledge or direct evidence that Respondent posted these statements. (Tr. 114-15, 128, 137, 167-68).

Duebbert denied creating or posting these statements. According to Duebbert, Respondent, and others, had sent him that material and, at some point, Respondent showed it to Duebbert on her iPad. (Tr. 34-38, 54-55).

Respondent denied making those posts or showing Duebbert their content as if she had written it. According to Respondent's testimony, she never posted any content about Judge Gleeson on the Fire the Liar website and all substantive content on the site was written or posted by other people. Based on Respondent's testimony, as of October 4, 2018, anybody in the anti-retention group could have posted material on the Fire the Liar website. Two-factor authentication was not required. Anyone who had the pass code or log-in information for the Fire the Liar site could write or post content on the site. That information was shared through an app. Don Carlos, Ayers and, according to Respondent, Duebbert, all had that information. (Tr. 188-89, 198, 205-206, 268-73, 276-82, 288, 293-94, 301-302). It is not uncommon for third parties to have access to, and be able to post content on, campaign websites and campaign Facebook pages. (Tr. 59-60, 147-52, 285-86).

Respondent also testified that she did not control the content on the Fire the Liar website and that items posted on the site did not have to be submitted through her. Given her concerns

about content that others might post, on September 19, 2018, Respondent asked a GoDaddy representative whether the website administrator could review comments before they were posted. Respondent was told that was not possible through the GoDaddy website builder. (Tr. 187-89, 200, 238, 277-78, 297-98; Adm. Ex. 3 at 22-25).

On October 5, 2018, Respondent called GoDaddy and arranged to link two domain names related to Justice for Kane to the Fire the Liar website. According to Respondent, she did this at the request of Duebbert and other anti-retention group members to get greater visibility for the Fire the Liar website. This process required two-factor authentication. Respondent received the authentication code in a text message sent to the phone from which Respondent had called GoDaddy. Based on Respondent's testimony, that was a "burner" phone, which was circulated among anti-retention group members so anyone using the account would have the phone with the number connected to the website. (Tr. 190, 194, 200-202; Adm. Ex. 4).

Don Carlos was very active in opposing Judge Gleeson. Among other things, in October 2018, Don Carlos made false accusations about Judge Gleeson to the Judicial Inquiry Board. Don Carlos routinely posted his views online, regardless of whether the material was caustic or inflammatory and typically without hiding his identity. Given the nature of some of his posts, at times Facebook suspended Don Carlos's ability to use Facebook. Don Carlos continued posting anyway, by sharing material with someone who could post, posting anonymously, or setting up a Facebook page using an alias. (Tr. 70-76, 79-80, 104-105, 168-73, 178, 392, 407-410; Adm. Ex. 16; Resp. Ex. 11 at 1-2; Resp. Ex. 12 at 1; Resp. Exs. 15, 19, 41).

Ayers also frequently and openly posted her political views online. Ayers likewise would post "almost anything" and had a very negative view of Judge Gleeson. (Tr. 78-80). Ayers had accused Judge Gleeson of being a white supremacist more than once and had suggested Justice for

Kane was connected to a racist group in an online post on October 10, 2018. (Tr. 92-93, 165-66; Adm. Ex. 13 at 2; Resp. Exs. 16, 18).

Respondent is a person who "plays it by the book." (Tr. 76). Comments such as those posted on the Fire the Liar website were not characteristic of Respondent. (Tr. 80, 93, 431).

C. Analysis and Conclusions

A lawyer shall not make a statement that the lawyer knows is false or with reckless disregard for its truth or falsity concerning the qualifications or integrity of a judge. Ill. Rs. Prof'l Conduct R. 8.2(a). The statements posted on the Fire the Liar website on October 4, 2018 impugned Judge Gleeson's integrity, falsely and without any basis. Those statements clearly are within the scope of Rule 8.2(a).

However, the Administrator must prove the elements of the specific misconduct charged, by clear and convincing evidence. See In re Harris, 2013PR00114, M.R. 27935 (May 18, 2016). Clear and convincing evidence requires a high degree of certainty, a firm and abiding belief that it is highly probable that the proposition at issue is true. In re Czarnik, 2016PR00131, M.R. 29949 (Sept. 16, 2019). The Administrator's burden is not met merely because the evidence raises suspicious circumstances. In re Winthrop, 219 Ill. 2d 526, 550, 848 N.E.2d 961 (2006).

In our role as trier of fact, we determine the sufficiency of the evidence, weigh the credibility of the witnesses and resolve evidentiary conflicts. In re Wick, 05 CH 66, M.R. 23942 (Sept. 22, 2010). We consider circumstantial evidence, draw reasonable inferences and need not be naïve or impractical in assessing the evidence. In re Isaacson, 2011PR00062, M.R. 25805 (Mar. 15, 2013).

The Complaint charged Respondent with violating Rule 8.2(a) by making the October 4, 2018 statements on the Fire the Liar website. Before and after that date, Respondent had access to the Fire the Liar website and took substantive actions related to that website. However, no

evidence directly connected Respondent with these posts. Significantly, the Administrator did not present any evidence which established that Respondent was the only person able to post material on the website.

Respondent testified that anyone with the username and password could post material on the Fire the Liar website and that other members of the anti-retention group had the username and password. We considered this testimony as part of the evidence, mindful that Respondent does not have the burden of proof, (In re Landis, 05 CH 69, M.R. 22970 (Mar. 16, 2009)), and that we do not automatically reject testimony because it came from an interested party, particularly if the testimony is not inherently improbable. See In re Geleerd, 07 CH 31, M.R. 24359 (Mar. 21, 2011).

Respondent's testimony, that only the username and password were required to post content on the website, seemed reasonable, and there was no evidence that anything more was required. Similarly, Respondent's testimony, that other members of the anti-retention group had the username and password, seemed reasonable, particularly given the purpose of the website and the aims of the group for which the site was created. We weighed the evidence that tended to contradict this aspect of Respondent's testimony but remained unconvinced. The fact that some individuals opposed to Judge Gleeson's retention did not have the log-in information did not eliminate the possibility that some persons, other than Respondent, had that information. There is some inconsistency between Respondent's testimony that she shared the log-in information and the concerns she expressed to GoDaddy over what might get posted. Despite that inconsistency, we still found it quite plausible that, since Respondent had set up a website for the anti-retention group at that group's request, group members would have the means to post material on that website. Further, in context, Respondent's statements to the GoDaddy representative seemed to presuppose that others already could post on the site.

We also considered other circumstances, including the content of the October 4, 2018 posts, the comments made around the same time by and about Friess, and Respondent's actions on October 5 to link Justice for Kane sites with the Fire the Liar site, as well as Respondent's comment, during one call with GoDaddy, describing herself as "the storm." These circumstances raised our suspicions but did not demonstrate that it was Respondent who posted the material at issue. This was particularly true because some members of the anti-retention group had a proven track record of making false accusations against Judge Gleeson and accusations of racial bias.

Respondent set up a structure in which negative comments could be made, regardless of their truth or falsity, about the integrity of a judge. She knew or should have anticipated the type of material that might be posted, yet Respondent allowed persons she had no basis to expect would exercise any restraint to have access to the website. We found that behavior extremely troubling and the posts themselves highly offensive.

However, the Complaint charged that Respondent made the posts herself. The clear and convincing standard applicable in these proceedings does not allocate the risk of error equally between the parties, but requires greater proof, qualitatively and quantitatively, from the Administrator. In re Lucas, 2016PR00103 (Hearing Bd. Sept. 29, 2017) (complaint dismissed). The evidence indicated that Respondent might have posted the material which appeared on the Fire the Liar website on October 4, 2018, but did not demonstrate, clearly and convincingly, that it was Respondent who posted these comments. Therefore, the Administrator did not prove that Respondent violated Rule 8.2(a), as charged in Count I.

II. Respondent is charged with posting material on a Facebook page which falsely suggested that Judge Gleeson was a member of racist groups, in violation of Rule 8.2(a).

A. Summary

Material posted on a Facebook page falsely suggested that Judge Gleeson was a member of racist groups, including the Ku Klux Klan. While there was no basis for these suggestions, the evidence did not establish that Respondent posted that material. The Administrator did not prove that Respondent violated Rule 8.2(a).

B. Admitted Facts and Evidence Considered

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

On or about October 23, 2018, text and a picture were posted on the Madeline Dinmont Facebook page.[1] The text read:

> "Gleeson is part of the St. Clair County Secret Order of the Hibernians. That's why he uses the Irish clover. Wanna guess how many of its members are persons of color? None. Wanna see Gleeson in his 'chief' regalia?"

(Adm. Ex. 11 at 1).

The picture depicted a person in a Ku Klux Klan type white robe and hood, with a clover and the name Gleeson on the robe, standing near a Confederate flag and a noose. The words "Vote No Retention!" appeared over the picture. (Tr. 133-34; Adm. Ex. 11 at 3).

A meme, posted separately, depicted Judge Gleeson at a St. Patrick's Day celebration, in front of a sign bearing the words "Gleeson Clan," with red marks around the word Clan and the words "More Proof!" above the picture. A meme is a picture to which something is added to change the meaning. (Tr. 162-64, 405-406; Adm. Ex. 11 at 2).

Judge Gleeson is not, and never has been, a member of the Ku Klux Klan. There is no such thing as the Secret Order of the Hibernians. Judge Gleeson does belong to the Ancient Order of the Hibernians, which is a Catholic charitable organization, not a racist group. (Tr. 133-34).

Judge Gleeson believed that Respondent was responsible for the posts made on the Madeline Dinmont Facebook page on or about October 23, 2018. That belief was based in part on Judge Gleeson's view of Respondent's involvement in circulating allegations of a conspiracy against Duebbert. He also understood that Respondent was connected to the Madeline Dinmont Facebook page given, among other things, the presence of a post on that page, from September 2015, directed to Respondent's niece. Further, posts made over time on that page related to legal matters and included attacks on court personnel. Judge Gleeson did not have any direct personal knowledge that Respondent made the posts at issue. (Tr. 114-16, 167-68; Adm. Ex. 8 at 9).

Respondent denied creating or posting the material at issue. Respondent testified that she did not see that material until after it was posted and denied previously showing any such material to Duebbert. Respondent denied intentionally using the Madeline Dinmont Facebook page except to play games and post pictures of her dog. She usually used her own Facebook page to communicate with relatives and believed she had acted inadvertently when she posted the message to her niece on the Madeline Dinmont page, rather than on her own Facebook page. (Tr. 209-12, 216-18, 289, 293-94).

Duebbert denied making the October 23, 2018 posts and denied ever posting anything on the Madeline Dinmont Facebook page. According to Duebbert, Respondent and other people often showed him content from the Madeline Dinmont Facebook page, including the October 23, 2018 posts. (Tr. 30-31). According to Duebbert, Respondent spoke with him about those posts multiple times and stated, in relation to them: "(d)on't I do good work?" (Tr. 32-33). Duebbert did not

know when that conversation occurred. Respondent did not tell Duebbert she had created those posts, and Duebbert did not see Respondent post any of that material. (Tr. 52-54).

According to Respondent's testimony, anyone with the log-in information could post on the Madeline Dinmont Facebook page. People in the anti-retention group, including Don Carlos and Ayers, had the username and password for that Facebook page. While he denied it, Respondent testified that Duebbert also had the log-in information for the Madeline Dinmont Facebook page. Respondent also testified that, when she turned the Madeline Dinmont Facebook page over to the anti-retention group, in September 2018, the madeline.dinmont@charter.net email address was deleted. Group members then set up and used a different email address for the Facebook page, madeline.dinmont@icloud.net, which Respondent did not control. (Tr. 31, 209, 278-84). According to Respondent's testimony, as of October 23, 2018, everyone but her had access to the Madeline Dinmont Facebook page. (Tr. 289).

Respondent had limited, if any, familiarity with the Ancient Order of the Hibernians before October 23, 2018. In contrast, Don Carlos had a particular aversion to that group, which he considered racist and corrupt. He frequently shared those views with others. Don Carlos showed a friend material similar to the posts at issue, before October 23, 2018. Don Carlos also had sent Duebbert a list of Ancient Order of the Hibernians members, on which some members' names were circled in red. (Tr. 83-89, 290-91, 398-405, 435-36; Resp. Ex. 39).

Don Carlos was skilled in creating memes and periodically posted altered photographs online. The material in Adm. Ex. 11 was of a type that Don Carlos might have created. (Tr. 82, 90, 216-17, 406-407; Resp. Ex. 8).

C. Analysis and Conclusions

Rule 8.2(a) prohibits a lawyer from making a statement the lawyer knows is false or with reckless disregard for its truth or falsity about the qualifications or integrity of a judge. The text

and picture at issue falsely suggest that Judge Gleeson belongs to racist organizations. Clearly, this impugns Judge Gleeson's character and integrity, and there was no reason for Respondent, or anyone else, to think such suggestions were true. The posts are highly offensive and well with the scope of Rule 8.2(a).

However, the Administrator must prove the misconduct charged, by clear and convincing evidence. Harris, 2013PR00114 (Hearing Bd. at 3). We incorporate the discussion in Section I C as to the law applicable to that standard of proof and to our consideration of the evidence. The Complaint charged that Respondent violated Rule 8.2(a) by posting the text and picture at issue.

As was true in relation to Count I, the only evidence of what was required to post on the Madeline Dinmont Facebook page came from Respondent's testimony. Respondent testified that this required only the username and password. That testimony seemed quite plausible, and no evidence was presented that indicated otherwise.

The next issue became who had access to that information. Based on the evidence, at some point, Respondent did control the Madeline Dinmont Facebook page and did post material on that page. However, according to Respondent's testimony, as of October 23, 2018 when the posts at issue were made, other persons were able to post on the Madeline Dinmont Facebook page. By then, Respondent had turned over the Madeline Dinmont Facebook page to the anti-retention group and group members had set up a new email for the page. Limited, if any, evidence was presented to contradict that testimony. Even if everyone who opposed Judge Gleeson's retention did not have the log-in information for the Madeline Dinmont Facebook page, it is entirely possible that some members of the anti-retention group did have the username and password. This aspect of Respondent's testimony seemed plausible, for the same reasons discussed above regarding the Fire the Liar website. That testimony is also consistent with the evidence that, as of October 6, 2018,

the email for the Fire the Liar website was changed to the same email address that Respondent identified as the new email address for the Madeline Dinmont Facebook page.

According to Respondent's testimony, as of October 23, 2018, she no longer had the log-in information for the Madeline Dinmont Facebook page. We question that portion of Respondent's testimony, particularly as Respondent knew that the Facebook page used the same log-in information as the Fire the Liar website and Respondent was later able to access the website. However, Respondent does not bear the burden of proof. See Landis, 05 CH 69 (Review Bd. at 11). Even discounting this aspect of Respondent's testimony, the evidence left open a genuine possibility that someone other than Respondent had the information needed to make posts to the Madeline Dinmont Facebook page and posted the material at issue here.

Testimony from Duebbert, that Respondent showed him the content posted on October 23 and characterized it as her work, tended to connect Respondent to these two posts. However, we did not find Duebbert's testimony in these proceedings credible. The fact that Duebbert made multiple false statements which led to his removal from the bench and the potential bias arising from his history with Respondent were among the factors which led us to that conclusion.

We also considered the posts themselves. The text reflected a view that the "Secret Order of the Hibernians" was a racist group. Don Carlos viewed the Ancient Order of the Hibernians as a racist group. The picture, of the person in Ku Klux Klan attire, represents a clear accusation of racism. Don Carlos had shown a friend similar material, months before these posts were made. Don Carlos often created memes. The meme, posted around the same time as the text and picture, was designed to further the suggestion of racism and contained markings similar to those on documents Don Carlos had sent Duebbert.

Respondent was charged with posting the text and picture at issue, not with taking action that enabled this material to be posted. Respondent might have made these posts. However, the evidence did not leave us with a clear and abiding conviction that it was Respondent who did so.

Therefore, the Administrator did not prove that Respondent violated Rule 8.2(a) as charged in Count II.

III. Respondent is charged with making false statements concerning her involvement with the Fire the Liar website during her sworn statement to the Administrator, in violation of Rules 8.1(a) and 8.4(c).

A. Summary

During Respondent's sworn statement, counsel for the Administrator inquired about the Fire the Liar website. Respondent denied any involvement with setting up the site and denied knowledge of specifics concerning the site. Given her activity in relation to that website, Respondent's answers were false, and Respondent knew they were false. The Administrator proved Respondent violated Rules 8.1(a) and 8.4(c).

B. Admitted Facts and Evidence Considered

We consider the following admitted facts and evidence, in addition to those discussed in Sections I B and II B.

On July 2, 2019, Respondent appeared at the Administrator's office, with counsel, to give a sworn statement in relation to the online posts about Judge Gleeson. (Tr. 232; Adm. Ex. 6). During the sworn statement, counsel for the Administrator inquired about the Fire the Liar website. In response to counsel's questions, Respondent acknowledged helping people in the anti-retention group set up the website and purchase the domain name, but characterized her role as responding to questions from group members, directing them to work with GoDaddy, showing group members how to do tasks and assisting them in setting up the GoDaddy account. (Ans. at pars. 18, 23; Adm. Ex. 6 at 39, 47, 52). Respondent also stated that:

a) she did not know who set up the Fire the Liar website;

b) she had no involvement in setting up the website and did not manage it;

c) she did not know when the website was set up;

d) she did not set up the domain name;

e) she did not set up or have control over the account at GoDaddy; and

f) she did not know what email address was used when the website was set up or if the address used was Madeline Dinmont's email address.

(Ans. at pars. 18, 23).

Respondent spoke with GoDaddy customer service representatives about the Fire the Liar website at least four separate times in September and October 2018. During those conversations, GoDaddy representatives assisted Respondent in determining the correct log-in information for the Fire the Liar website, resetting the password, upgrading the website to a business version and arranging when the site would expire. GoDaddy representatives also assisted Respondent in linking other domain names to the Fire the Liar website. When the Fire the Liar website was set up, GoDaddy assigned Respondent a default administrator email address for the website. Respondent made conflicting statements as to whether she or GoDaddy was the website administrator. (Tr. 186-88, 196-97, 294-96; Adm. Exs. 1, 2, 3, 4).

On November 13, 2018, Respondent contacted GoDaddy and asked GoDaddy to take the Fire the Liar website down. Before proceeding, GoDaddy sent a verification code to the number of a mobile phone which was in Respondent's possession at that time. Once Respondent confirmed her receipt of the code, GoDaddy deleted the website at Respondent's request. Based on Respondent's testimony, at that time, the group had changed the website password and she could no longer access the website as administrator. However, she obtained the new password from

Duebbert and was able to get into inside the web page before contacting GoDaddy that day. (Tr. 202-204, 302-303, 327-28; Adm. Ex. 5).

Respondent denied any intent to deceive counsel for the Administrator. Based on Respondent's testimony, during her sworn statement, she focused on the inappropriate posts and content identified in the request for investigation and answered counsel's questions from that perspective. Respondent found some of those questions confusing. Respondent answered questions as to what she knew about the Fire the Liar website, who set it up and who managed it in the context of who prepared the content on the site. (Tr. 233-36, 305-309, 398; Adm. Ex. 8).

C. Analysis and Conclusions

We incorporate our discussion from Section I C as to the Administrator's burden of proof, the implications of that burden and how evidence is assessed.

A lawyer shall not knowingly make a false statement of material fact in connection with a lawyer disciplinary matter. Ill. Rs. Prof'l Conduct R. 8.1(a). A lawyer who appears for a sworn statement in the Administrator's investigation of the lawyer's conduct and knowingly testifies falsely about matters pertinent to the investigation violates Rule 8.1(a). In re Field, 2018PR00015, M.R. 30536 (Jan. 21, 2021). In addition to proof that an attorney's statement was false, Rule 8.1(a) also requires the Administrator to prove that, when the attorney made the statement, the attorney knew the statement was false. Rule 8.1(a). Knowledge denotes actual knowledge, but knowledge can be inferred. Field, 2018PR00015 (Hearing Bd. at 8).

It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. Ill. Rs. Prof'l Conduct R. 8.4(c). A lawyer who violates Rule 8.1(a) also violates Rule 8.4(c). Field, 2018PR00015 (Hearing Bd. at 17).

The Complaint charged that Respondent violated Rules 8.1(a) and 8.4(c) based on certain statements she made during her sworn statement. The statements clearly fall within the scope of

Rule 8.1(a). Respondent made them at a sworn statement, in the context of the Administrator's investigation into her conduct, and her statements were pertinent to the investigation. The issue is whether the Administrator proved the statements were false and that Respondent knew they were false when she made them.

Respondent was extensively involved in setting up the Fire the Liar website, as is clear from her conversations with GoDaddy in fall 2018 and her testimony at the hearing. Respondent contacted GoDaddy to arrange for the website. Respondent obtained the domain name, set up the log-in information, determined specifics for the site and knew the email address connected with the website when it was set up. Respondent built the website, even if that only involved setting up the frame. She was actively engaged in that process during September and early October 2018.

Respondent's conversations with GoDaddy likewise established that GoDaddy communicated with and took direction from Respondent on significant matters concerning the Fire the Liar website. Those matters included password and log-in information, linking other domain names to the website and, ultimately, deleting the website.

Count III alleged that Respondent violated Rules 8.1(a) and 8.4(c) based in part on her statements that she: a) did not know who set up the Fire the Liar website; b) did not know when the website was set up; and c) did not set up the website. The evidence outlined above clearly established that Respondent's contrary statements were false, and Respondent knew they were false when she gave her sworn statement in July 2019.

Count III also alleged that Respondent violated Rules 8.1(a) and 8.4(c) by her statements that she did not manage or have control over the website. However, the nature of Respondent's dealings with GoDaddy and the substantive matters on which GoDaddy dealt with her demonstrated that she had, and knew she had, at least some decision-making authority and control over the website itself. This is true even if Respondent did not control the content on the website

and even allowing for a possibility of some misunderstanding as to what "managing" the website meant in terms of the site's content.

Respondent asserts that she did not intend to mislead counsel for the Administrator and did not knowingly respond to counsel's questions in an inaccurate way. We are not required to accept this testimony if it is not credible given the circumstances. See In re Forrest, 2011PR00011, M.R. 26358 (Jan. 17, 2014). We did not find that portion of Respondent's testimony credible.

Respondent suggests that she understood counsel's questions restrictively. The questions, however, were posed in simple, ordinary language. Respondent, an experienced lawyer, could have asked for clarification if the questions truly had been confusing or seemed to require a more technical response. Further, as Respondent's statements were made in the course of the ARDC's investigation into her conduct, she clearly should have recognized the need to respond accurately and completely. Forrest, 2011PR00011 (Hearing Bd. at 13). Instead, Respondent's answers sought to inaccurately minimize her involvement with the Fire the Liar website. Her claims of ignorance as to when the website was set up or what email address was used exemplify that effort. Respondent may have acknowledged giving the anti-retention group some help, but her responses suggested, very inaccurately, that this "help" was limited to only very basic advice.

The Administrator proved that Respondent violated Rules 8.1(a) and 8.4(c).[2]

IV. Respondent is charged with making false statements about Judge Gleeson's integrity based on a comment during a telephone conversation with a GoDaddy customer service representative, in violation of Rule 8.2(a).

A. Summary

While speaking with a GoDaddy customer service representative about the Fire the Liar website, Respondent stated that the subject of the website orchestrated an attempt to set up another judge for murder. While false and baseless, Respondent's comment was made in a very limited

context, unrelated to any court proceeding, and did not identify anyone by name. Given these circumstances, the statement did not violate Rule 8.2(a).

B. Admitted Facts and Evidence Considered

We consider the following admitted facts and evidence, in addition to those described in Sections I B and II B.

On September 17, 2018, Respondent called GoDaddy for customer service assistance. She spoke with a GoDaddy operator about such things as the password and log-in information, payment details and how long the website should remain active. Thereafter, a conversation ensued, in which the GoDaddy operator mentioned that she had glanced through the website and Respondent mentioned that she practiced law. (Ans. at par. 29; Tr. 309-310; Adm. Ex. 1).

During that conversation, Respondent made negative comments about politics in her area and negative, but general, comments about the subject of the website. She did not mention Judge Gleeson by name. (Adm. Ex. 1). Respondent continued: "I will tell you how evil it is. They've attempted to set up another judge of a different political party for murder if that tells you anything… And this is the guy who orchestrated it." (Ans. at par. 31).

Judge Gleeson never attempted to set up another judge for a murder charge and never orchestrated any attempt to do so. (Tr. 127-29). Respondent did not point to any evidence that Judge Gleeson had done so. Respondent attributed her comment to sarcasm, based on Judge Gleeson's report about her to the ARDC in April 2017. (Tr. 193, 311-13).

Other than what appears to be an internal code, the transcript of the call identifies the GoDaddy operator only by first name and does not specify her location. (Adm. Ex. 1). There was no evidence that the transcript of the call was disseminated to anyone. (Tr. 179-80).

C. Analysis and Conclusions

A lawyer shall not make a statement that the lawyer knows is false or with reckless disregard for its truth or falsity concerning the qualifications or integrity of a judge. Ill. Rs. Prof'l Conduct R. 8.2(a). We incorporate our discussion in Section I C of the Administrator's burden of proof and the implications of that burden.

The Complaint charges that Respondent violated Rule 8.2(a) based on her statements suggesting that Judge Gleeson was involved in an attempt to set up another judge for murder. Those statements were false, and Respondent had no reasonable basis to believe they were true.

Respondent described her statements as sarcastic commentary on Judge Gleeson's report against her to the ARDC in 2017. Even if that was how Respondent saw things, this does not excuse her statements, as no such intent would have been apparent at the time.

In considering whether Respondent violated Rule 8.2(a), however, we consider the purpose of Rule 8.2(a), the statement itself and the context in which the statement was made. The public tends to rely on statements by lawyers about the integrity of persons within the judicial system. In re Amu, 2011PR00106, M.R. 26545 (May 16, 2014). Lawyers' expressions of honest opinions on the integrity and qualifications of judges and candidates for judicial office can contribute to improving the administration of justice, while false and unfounded attacks unfairly undermine public confidence in the judicial system. See Rule 8.2(a), Comment [1]. Judges are not exempt from just criticism, but there is a significant public interest in seeing that the courts have the confidence and respect of the people. See In re Mann, 06 CH 38, M.R. 23935 (Sept. 20, 2010). Rule 8.2(a) is designed to avoid the undermining of public confidence that results from false and baseless allegations about the character or integrity of members of the judiciary. See Amu, 2011PR00106 (Review Bd. at 11-12).

Cases in which violations of Rule 8.2(a) have been found typically involve statements made publicly, (e.g. In re Duebbert, 2013PR00127, M.R. 27475 (Sept. 21, 2015) (campaign mailer, sent to 75,000 people); In re Denison, 2013PR00001, M.R. 27522 (Sept. 21, 2015) (statements in an online blog)), or disseminated widely. E.g. In re Ditkowsky, 2012PR00014, M.R. 26516 (Mar. 14, 2014) (numerous emails, sent over time, including emails to news media and law enforcement personnel). Rule 8.2(a) violations also have been found based on statements made in connection with a court proceeding. E.g. Amu, 2011PR00106 (pleadings and on a website); see also In re Hoffman, 08 CH 65, M.R. 24030 (Sept. 22, 2010) (correspondence with the court and phone call with the judge and opposing counsel). This is consistent with the purpose of Rule 8.2(a).

In contrast, the statements here were made during a single one-on-one telephone conversation that did not involve a court proceeding or Respondent's role as an attorney. This is a significant factor differentiating this case from other cases in which statements not broadly disseminated were found to violate Rule 8.2(a). Compare e.g. Hoffman, 08 CH 65 (Hearing Bd. at 23-25). Respondent referred to the fact that she practiced law, but was not acting as an attorney in making this call. She was seeking customer service in relation to setting up a website. Further, despite its clearly inappropriate content, Respondent's comment was not made for the purpose of influencing anyone. The person to whom Respondent made the statement had no apparent connection to the State of Illinois, St. Clair County, the local judiciary or the local public. In addition, during the call, Respondent never specifically named the person about whom she was speaking and would not have expected that the call might later become public, such that the subject of her statement could be identified later. We know in hindsight that Respondent was referring to Judge Gleeson, but the evidence does not indicate that the person to whom Respondent was speaking would have had that information. The fact that the GoDaddy representative had viewed

the website does not change this situation as, at the time of this call, Respondent was just setting up the Fire the Liar website and had not yet purchased the firejudgegleeson.com domain name.

These factors all tend to dilute the rationale for applying Rule 8.2(a) to this situation. For these reasons, we decline to find that Respondent violated Rule 8.2(a).

EVIDENCE IN AGGRAVATION AND MITIGATION

Respondent was licensed to practice law in Oklahoma in 1987 and in Illinois in 2000. Most of Respondent's practice involves corporate legal work. (Tr. 185-86, 256).

Respondent has been active in bar association work and civic organizations. Respondent has served on the Illinois Character and Fitness Committee, the Oklahoma Professional Responsibility Commission and the Oklahoma equivalent of the Lawyers' Assistance Program. She has provided *pro bono* legal services, contributed articles to professional journals and taught undergraduate and graduate level courses in healthcare, healthcare law, and business law. Respondent's character witnesses described her as a very honest person, who always dealt with others in a respectful manner. (Tr. 246-48, 315-18, 373-74, 381-85, 420-21, 429-31).

Respondent testified that, in retrospect, she would not have gotten involved in the anti-retention campaign. When Respondent first got involved, she did not know how other group members behaved or how they would use the website and Facebook page. Respondent testified that she first learned about the October 23, 2018 Facebook posts after she received a text from Duebbert later that day. She had not yet seen the posts. After looking at them, she expressed dismay, told Duebbert to take everything down and left the anti-retention group. (Tr. 290-91, 314, 435).

Prior discipline

Respondent has no prior discipline. (Tr. 186, 496).

RECOMMENDATION

In determining the sanction to recommend, we consider the proven misconduct, as well as any aggravating and mitigating factors. In re Gorecki, 208 Ill. 2d 350, 360-61, 802 N.E.2d 1194 (2003). We also consider the purpose of discipline, which is not to punish the attorney, but to protect the public, maintain the integrity of the profession and protect the administration of justice from reproach. In re Edmonds, 2014 IL 117696, ¶ 90. While the system seeks some consistency in sanctions for similar misconduct, each case is unique, and the sanction must be based on the circumstances of the specific case at issue. Edmonds, 2014 IL 117696 at ¶ 90.

The sanction requested by the Administrator, a suspension for two years and until further order of the Court, is not commensurate with the misconduct which was proven here. Compare e.g. In re Denison, 2013PR00001, M.R. 27522 (Sept. 21, 2015). Respondent requested minimal discipline, but most of the cases she cited to support that request did not involve false statements to the ARDC. E.g. In re Harrison, 06 CH 36, M.R. 22839 (Mar. 16, 2009); but see In re Stroth, 2019PR00065, M.R. 30839 (Sept. 23, 2021).

We found that Respondent intentionally made false statements of material fact during the ARDC's investigation in her matter. This is serious misconduct. In re Field, 2018PR00015, M.R. 30536 (Jan. 21, 2021). That said, suspensions for short terms, with a requirement that the attorney complete the professionalism seminar, have been imposed in some cases involving a violation of Rule 8.1(a) and other misconduct that would not warrant harsh discipline. In re Cooper, 2014PR00166, M.R. 28490 (Mar. 20, 2017) (ninety days); In re Haime, 2014PR00153, M.R. 28532 (Mar. 20, 2017) (sixty days); Stroth, 2019PR00065 (thirty days). Despite some distinguishing features, these cases provide guidance as to the range of discipline appropriate in this case.

Respondent has no prior discipline, which is mitigating. Stroth, 2019PR00065 (Hearing Bd. at 19-20). Other mitigating evidence was presented, which included favorable character testimony, *pro bono* legal services and Respondent's involvement in organizations designed to assist lawyers. We considered that evidence, but it did not cause us to recommend a different sanction. We did not consider Respondent's service on the Illinois Character and Fitness Committee or as a volunteer adjudicator in Oklahoma in mitigation. That service, while commendable, should have given Respondent greater awareness of the need to comply with ethical obligations, particularly those relating to candor with the ARDC. See In re Hall, 09 SH 23, M.R. 25193 (May 18, 2012).

In aggravation, we considered the fact that Respondent facilitated individuals gaining access to online sites, even though she knew or should have known that those individuals might post inappropriate material. Subsequently, posts made on those sites falsely and baselessly maligned a sitting judge's character and integrity. Respondent did not take actual corrective action to ensure that the sites were down until November 13, 2018, after the election had occurred.

We considered the Administrator's arguments concerning additional factors in aggravation, but those factors did not cause us to recommend a harsher sanction. While harm resulting from an attorney's misconduct can be considered in aggravation, we did not consider, in aggravation, harm to Judge Gleeson as the evidence did not connect that harm to Respondent's proven misconduct. See In re Czarnik, 2016PR00131, M.R. 29949 (Sept. 16, 2019). A failure to accept responsibility for one's misconduct or display remorse can be considered in aggravation. In re Kowalski, 2015PR00032, M.R. 28804 (Sept. 22, 2017). We are troubled by Respondent's continued insistence in claiming that her responses at her sworn statement were true. They very clearly were not. Otherwise, we viewed Respondent's position as a good faith assertion of a

defense, which should not be treated as a lack of remorse. See In re Grosky, 96 CH 624, M.R. 15043 (Sept. 28, 1998).

The other factors identified by the Administrator did not significantly affect our decision as to the sanction. Respondent did not disclose that Steve Korris was with her, while she observed Judge Gleeson's deposition, conducted over Zoom. If the deposition had been conducted in person, all parties would have known who was present. The same considerations should apply even though the deposition was conducted over Zoom. However, it was not clear whether Respondent had a genuine opportunity to disclose Korris's presence. Somehow, Don Carlos acquired, and published, an excerpt from the deposition transcript, but the evidence did not show that Respondent was responsible for that publication. The Administrator suggested that Respondent's accusations against Duebbert to the ARDC reflected a pattern of baseless accusations. We did not see it that way, particularly given our impression of Duebbert. It did seem odd that Respondent belatedly told the ARDC of Duebbert's alleged violence and threats, rather than promptly informing law enforcement officials. However, even if they may have been overstated, it was not at all clear that Respondent's accusations were baseless.

Respondent's misconduct is serious. She lied to the ARDC about the manner in which she assisted the anti-retention group in setting up the website, on which some of the false accusations against Judge Gleeson were made. Given all the circumstances, Respondent's misconduct deserves some period of suspension, to impress upon Respondent and the bar as a whole the need for honesty in responding to the ARDC. That said, a short suspension, with the requirement that Respondent successfully complete the ARDC's Professionalism Seminar, should suffice to serve those purposes.

After considering Respondent's proven misconduct, the aggravating and mitigating factors present in this case, and the range of discipline reflected in the case law, we concluded that a

suspension for sixty days is appropriate. While this is longer than the suspension in Stroth, Respondent presented less mitigating evidence than Stroth, for whom the particularly extensive mitigation was a significant factor in the sanction. Stroth, 2019PR00065 (Hearing Bd. at 20).

For these reasons, we recommend that Respondent, Margaret Jean Lowery, be suspended for sixty days and required to successfully complete the ARDC's Professionalism Seminar within one year after entry of the Court's final order of discipline.

Respectfully submitted,

Janaki H. Nair
Stephen R. Pacey
Peggy Lewis LeCompte

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 November 10, 2021.

/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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[1] During the hearing, the Panel granted the Administrator's oral motion to amend the Complaint by interlineation, to change the date these posts were allegedly made from October 5, 2018 to October 23, 2018. (Tr. 8-9).

[2] The Complaint also charged that Respondent violated Rules 8.1(a) and 8.4(c) based on statements denying that she posted anything on the Fire the Liar website, made any entries on the website or owned the domain name. However, as discussed in Section I C, the evidence did not establish that Respondent posted any substantive content on the website. She also may have legitimately understood that the group owned the domain name, as group funds were used to purchase it. While the evidence did not meet the Administrator's heavy burden of proof as to those statements, this does not detract from our finding that the Administrator proved a violation of Rules 8.1(a) and 8.4(c) based on Respondent's other statements.