

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

In the Matter of:

RUSSELL JOHN LUCHTENBURG,

Attorney-Respondent,

No. 6185746.

Commission No. **2022PR00025**

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Matthew D. Lango, pursuant to Supreme Court Rule 753(b), complains of Respondent, Russell John Luchtenburg, who was licensed to practice law in Illinois on November 9, 1983, and alleges that Respondent has engaged in the following conduct which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

COUNT I

(Conflict of Interest; Dishonest statements in ARDC investigation)

1. On March 5, 2018, S.G.¹ filed a *pro se* Petition for Dissolution of Marriage from her husband in Boone County, IL. The matter was docketed in the Circuit Court of Boone County as case number 2018-D-25.

2. On July 23, 2018, S.G.'s Petition for an Order of Protection was heard and S.G. was granted an emergency order of protection. On August 7, 2018, S.G.'s Emergency Order of Protection was modified and extended to August 22, 2018.

¹ Respondent's former client is referred to by her initials throughout this Complaint.

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ARDC Clerk

3. On or about August 10, 2018, Respondent and S.G. met at Respondent's office and agreed that Respondent would represent S.G. in her pending divorce proceedings in the Circuit Court of Boone County.

4. On August 15, 2018, Respondent filed an appearance on behalf of S.G. in her pending divorce proceedings.

5. Shortly after S.G. retained Respondent to represent her in the dissolution of marriage proceeding, the two began exchanging frequent text messages, often sharing personal details of each other's lives. Between August 22, 2018 and October 31, 2018, S.G. and Respondent exchanged nearly 2,000 text messages.

6. Beginning in August 2018, in their text exchanges, Respondent quickly began expressing his fondness for S.G. For example, on August 23, 2018, Respondent told S.G. that she "needs some love," and went on to tell her that he does not want her to "fall apart" because "you mean too much to me."

7. On, August 27, 2019, Respondent and S.G. had the following text message exchange:

S.G. [4:42 PM]: You always make me smile

Respondent [5:01 PM]: :)

S.G. [5:04 PM]: ❤️

S.G. [5:04 PM]: I wish we were both healed

Respondent [6:24 PM]: I would love to heal your pain 🐼❤️🤔

S.G. [6:33 PM]: You are

8. On August 30, 2018, Respondent and S.G. had the following text message exchange:

Respondent [9:22 PM]: I would like to bite your ass

Respondent [9:23 PM]: Oh yes I am a womanizer

Respondent [9:23 PM]: Well?

S.G. [9:25 PM]: Funny

I would love to see a movie and snuggle

Ya well I'm already rejected

Respondent [9:24 PM]: No movie. Just snuggle

Respondent [9:25 PM]: Your naked?

S.G. [9:26 PM]: I think about that but my crazy needs stable before I lose it.

Respondent [9:25 PM]: My arms around you.

9. On August 31 and September 1, 2018, Respondent and S.G. had the following text exchange:

S.G. [10:18 PM]: You barely let me know anything about you

Respondent [10:18 PM]: Not sure who I am right now.

S.G. [10:23 PM]: Yes you are. You are the man who cared for a friend and ex lover and saw them through. You are a dad/caregiver to Danny, you're a lawyer who cares about his clients most of the time! Lol

You have a good heart and your healing. Plus you have your past that you can learn from! You are a survivor like me. I can't believe I am saying this cause I've been so negative but I have to believe it gets better. If I don't what's the point?

S.G. [10:24 PM]: ❤️💋

Respondent [10:32 PM]: ❤️❤️💋

S.G. [10:33 PM]: Got it!

S.G. [11:37 PM]: Wish we could cuddle and sleep I haven't slept forever !

Respondent [12:52 AM]: You need great sex to sleep well

S.G. [12:53 AM]: Why are you up peeing

S.G. [12:54 AM]: Lol

Respondent [12:53 AM]: Yes peeing

S.G. [12:54 AM]: I need to feel loved and secure

Respondent [12:53 AM]: You want to watch

S.G. [12:55 AM]: Golden shower are not my thing

S.G. [12:55 AM]: Flomax!

S.G. [12:55 AM]: 😬

Respondent [12:54 AM]: Nothing is secure. Change is always happening

S.G. [12:56 AM]: Maybe but being best friends usually helps

S.G. [12:57 AM]: I'm starting to believe at our age there is no reality to that

Respondent [12:56 AM]: We are good friends

S.G. [12:59 AM]: Yes but best friends takes awhile. You know their little things, coffee, tv shows, style, favorite foods, you go through things together good and bad.

S.G. [1:00 AM]: I may be hurt but I still have morals.

S.G. [1:00 AM]: 😊

Respondent [1:00 AM]: Oh my god. You are crazy girl. Trust your gut.

Respondent [1:00 AM]: What do you feel?

S.G. [1:03 AM]: Your my good friend but you have healing to do. I care a lot about you. I'm figuring me out. I'm still angry and hurt. Sometimes I'd like to have revenge sex but I will feel guilty. Though I shouldn't

Respondent [1:02 AM]: I am sorry but I trust you. You are a friend.

10. Later in the morning on September 1, 2018, Respondent texted S.G. to ask if she wanted to meet him at his office "for a hug." Respondent then told S.G. that he needed "a hug from a messed up woman."

11. On September 6, 2018, Respondent and S.G. exchanged several text messages that concluded with Respondent stating to S.G., "Let me bite your butt."

12. Between September and October 31, 2018, Respondent and S.G. exchanged more text messages during which, among other things, Respondent repeatedly told S.G. that he wanted to hug her and wanted to "cuddle."

13. On October 31, 2018, Respondent and S.G. had the following text exchange:

S.G. [11:36 AM]: Do you really love me or is it a friend love

S.G. [11:36 AM]: Erase when done

Respondent [11:40 AM]: Carolyn saw your message. She was here helping out

S.G. [11:41 AM]: Sorry quit on me.

S.G. [11:43 AM]: Let me know what's owed. Don't contact anymore

S.G. [11:54 AM]: You all win.

S.G. [11:55 AM]: You got some money. It's perfect.

S.G. [11:57 AM]: Actually switch me the your partner

S.G. [12:38 PM]: Actually I confided in my mom about this. It's ridiculous. You took me on as a client. You can't dismiss.

Respondent [12:41 PM]: I am going to continue to represent you. I can be your friend if you want.

S.G. [12:42 PM]: Please stop before I do something I regret

14. Between August and October 31, 2018, Respondent engaged in a conflict of interest by representing S.G. where he knew there was a significant risk that his representation of S.G. would be materially limited by his personal interest in pursuing a romantic relationship with her.

15. Shortly after Respondent and S.G.'s text exchange on October 31, 2018, S.G. informed Respondent that she was terminating his representation of her. Subsequently, on November 20, 2018, Respondent filed a motion for leave to withdraw from his representation of S.G. in Boone County case number 2018-D-25. Respondent's motion to withdraw was granted on November 21, 2018.

16. On December 26, 2018, the Administrator of the Attorney Registration and Disciplinary Commission received a request for investigation of Respondent from S.G. alleging, among other things, that during the course of the attorney-client relationship Respondent made inappropriate sexual comments and advances towards her, flirted with her, and told her he loved her. The request for investigation contained S.G.'s handwritten allegations along with documents from the underlying divorce proceeding, various screenshots of text messages, and partial text message exchanges alleged to be between Respondent and S.G.. The Administrator docketed an inquiry into Respondent's conduct as investigation number 2018IN04953.

17. On January 7, 2019, counsel for the Administrator sent a copy of S.G.'s request for investigation to Respondent, requesting a response to the allegations.

18. On February 5, 2019, the Administrator received Respondent's response to investigation number 2018IN04953. In his response, among other things, Respondent stated the following:

I did not tell [S.G.] that I was going to an AA meeting. This is personal and not something that I would discuss with a client. I am not sure how [S.G.] knows the name of the AA group that I go to. [S.G.] did tell me that her husband was an alcoholic so I can only guess that living in a smaller community we must know some of the same people.

...

[S.G.] states in her complaint details regarding my personal life which I know I did not share with her. I never told her I was in AA, I never told her my step-son's name, or that he was in Special Olympics.

...

I never told [S.G.] I was in AA.

...

I did not ask to bite [S.G.'s] butt. I did not tell [S.G.] I would dream about her. I did not tell her that I love her. I did not tell her that I wanted to snuggle with her.

...

[S.G.] states she met with my friend, Sally. Sally is a member of Alcoholics Anonymous. Sally and I are friends. This is deeply concerning to me as Sally and [S.G.] have never met to the best of my knowledge. I certainly did not authorize my client to discuss personal matters with a friend/member of alcoholics anonymous.

...

I never asked for any hugs to solicit sex from [S.G.]. Hugs are not my way for soliciting sex. [S.G.] and I never spent personal time together. We had a professional relationship only.

...

[S.G.] was aware on August 22, 2018 that she had to be in court on October 31, 2018. She informed me the day before court that she had a doctor's appointment and could not appear in court. I felt I was not going to be in a position to represent her on any matters.

19. On May 28, 2019, Respondent appeared at the Chicago ARDC office to provide sworn testimony related to matters described in this complaint.

20. During the sworn statement, Counsel for the Administrator asked Respondent the following questions and Respondent gave the following answers:

Q: And she claims that you said things to her like, I would like to bite your ass. I'm a womanizer. You asked her if she was nude. And those are just some of the allegations.

A: Many allegations, yes.

Q: And she claims that you texted her these things.

A: Right.

Q: So she produced some copies of things that I'm going to show you.

...

A: Okay. I have taken a look at all of Exhibit 6.

Q: So what is that?

A: Given what she said, she's taken clips of things out of context, and she's putting things together which have nothing – I mean, when you look at it, it's clear that what – she's providing you with the same kind of stuff that her husband and his wife were showing me and the things that we were dealing with where she had done the same thing to them, accusing them – here's screen shots of text messages. I mean, I have got hundreds of pages of that when they're saying she didn't do it.

...

A: . . . I mean, that's – I mean, that's what happened. And it's like when I'm looking at this and I'm going – you know, I mean, like, my response to, you know, "I'd like to bite your ass," I know that I said that to her, if you don't stop doing this, you're going to get bit in the ass. It's a common expression that we use in recovery. You know, you keep doing dumb stuff, you're eventually going to get bit.

And you know, it's terminology that if you talk to people in recovery that know me, they're going to say, yeah, Russell is going to say, you know, you're going to get bit in the ass. If they turn it around and say it – you know, again, you know, one of the things is that I'm looking at the dates and times. I mean, I know that we talked about different things. I know that she texted me, I'm depressed. I'm going to the doctor. I can't get out of bed. And I know that I responded back to her, you know, you've got to get up. You've got to face the day. You've got to do these things. It's what I do. It's part of what I do in recovery.

And, you know, that's where I'm at with [S.G.]. I mean, she's cut and pasted things. I don't even know that it's true that I sent certain of these items.

21. On or about July 9, 2019, based upon a lack of supporting evidence to prove a violation of the Illinois Rules of Professional Conduct, the Administrator closed investigation number 2018IN04953.

22. On or about June 19, 2020, the Boone County State's Attorney advised the Administrator that the Belvidere Police Department reviewed a criminal sexual assault complaint filed against Respondent by S.G..² As part of the Belvidere Police Department's investigation, a Belvidere Police Sergeant trained in electronic forensics recovered and downloaded all text

² The Boone County State's Attorney ultimately did not find sufficient evidence of criminal behavior to charge Respondent.

messages between Respondent and S.G. from S.G.'s cell phone between the period of August 22, 2018 and November 2, 2018. The Boone County State's Attorney's office tendered those records to the Administrator.

23. The records produced to the Administrator by the Boone County State's Attorney's office showed that between August and November 2018, Respondent and S.G. exchanged hundreds of text messages.

24. On or about October 2, 2020, after review of the information and S.G.'s cell phone records provided by the Boone County State's Attorney, the Administrator reopened investigation number 2018IN04953. On October 2, 2020, counsel for the Administrator sent a copy of the Boone County State's Attorney's request for investigation to Respondent, requesting additional information in response to the allegations.

25. On November 7, 2020, the Administrator received Respondent's response to the request for additional information under investigation number 2018IN04953. In his response, among other things, Respondent stated the following:

My written response to the original complaint remains accurate. My statements made to ARDC on May 28, 2019 also remain accurate.

...

I have reviewed the downloaded text messages from [S.G.'s] cell phone. I find that the messages are inaccurate communications between [S.G.] and myself.

26. Respondent's statements in his letter to the Administrator on February 5, 2019, as set forth in paragraph 18, that he did not tell S.G. that he was going to an AA meeting, that "this is personal and not something I would discuss with a client," and that he never told S.G. he was in AA were false. Respondent knew his statements were false because he knew that on August 24, 2018, August 26, 2018, August 28, 2018, and September 8, 2018, Respondent texted S.G. that he

was at or going to an AA meeting, the locations of his AA meetings, or that he was with some friends from AA.

27. Respondent's statements in his letter to the Administrator on February 5, 2019, as set forth in paragraph 18, that S.G. had details regarding his personal life which he knew he did not share with her, such as that never told S.G. his step-son's name or that he was in Special Olympics were false. Respondent knew his statements were false because he knew that on August 24, 2018, Respondent texted S.G. that he was going to pick up his step-son at Special Olympics.

28. Respondent's statement in his letter to the Administrator on February 5, 2019, as set forth in paragraph 18, that he did not ask to bite S.G.'s butt, and his statement during his May 28, 2019, sworn statement, as set forth in paragraph 20, that he told S.G. "if you don't stop doing this, you're going to get bit in the ass" were false. Respondent knew his statements were false because he knew that on August 30, 2018, and September 6, 2018, Respondent texted S.G. "I would like to bite your ass," and "Let me bite your butt."

29. Respondent's statement in his letter to the Administrator on February 5, 2019, as set forth in paragraph 18, that he did not tell S.G. he would dream about her was false. Respondent knew his statement was false because he knew that on September 6, 2018, after texting her "Nighty nite," Respondent texted S.G. "Dream about you."

30. Respondent's statement in his letter to the Administrator on February 5, 2019, as set forth in paragraph 18, that he did not tell S.G. he loved her was false. Respondent knew his statement was false because he knew that on September 1, 2018, Respondent texted S.G. "I already love you. I would not have done anything to you if I did not love you." Additionally, on September 6, 2018, Respondent texted S.G. "my love for you is real."

31. Respondent's statement in his letter to the Administrator on February 5, 2019, as set forth in paragraph 18, that he did not tell S.G. that he wanted to snuggle with her was false. Respondent knew his statement was false because he knew that on August 30, 2018, in response to a text from S.G. saying she would like to see a movie and snuggle, Respondent texted S.G. "No movie. Just snuggle." Additionally, on September 6, 2018, in response to a text from S.G. saying she owed Respondent a snuggle, Respondent texted S.G. "Yes you do."

32. Respondent's statements in his letter to the Administrator on February 5, 2019, as set forth in paragraph 18, that he was deeply concerned about S.G.'s allegation that she met with Respondent's friend who is a member of Alcoholics Anonymous and that he "certainly did not authorize [his] client to discuss personal matters with a friend/member of alcoholics anonymous" were false. Respondent knew his statements were false because he knew that on September 12, 2018, S.G. texted Respondent that she had met his friend at a meeting, but that she did not tell Sally she knew Respondent due to anonymity and Respondent texted S.G., "You can tell Sally you know me."

33. Respondent's statement in his letter to the Administrator on February 5, 2019, as set forth in paragraph 18, that he never asked for hugs as a way to solicit sex from S.G. was false. Respondent knew his statement was false because he knew that on August 24, 2018, Respondent texted S.G. asking, "You need me to hug you?" after he informed her that he was finished with a meeting and might be going home. S.G. replied to him tomorrow because her children were with her at the time. Additionally, on September 1, 2018, Respondent texted S.G. "you want to meet at the office for hug [o]r Spencer court pavilion." In response, S.G. texted Respondent that she was "a mess," and he replied "But I need a hug from a messed up woman. Do you qualify?" Later that

evening of September 1, 2018, Respondent texted S.G. “Big hugs to you” and included an emoji of a tongue; when S.G. texted “That would be licking,” Respondent texted, “Yes it is!!!!”

34. Respondent’s statement in his letter to the Administrator on February 5, 2019, as set forth in paragraph 18, that Respondent and S.G. “had a professional relationship only” was false. Respondent knew his statement was false because he knew that he sent multiple text messages of a highly personal nature to S.G. between the period of August 22, 2018 and November 2, 2018, including, but not limited to, text messages Respondent sent on August 30, 2018, in which he texted S.G. “You should dream of that womanizer” in reference to himself, sent her an emoji of a face blowing a kiss and an emoji of a tongue, asked her if she was naked, and responded “Yes” when S.G. told him “Your [sic] a big horny flirt.” Additionally, Respondent sent numerous personal and unprofessional text messages to S.G. on the night of August 31, 2018, into September 1, 2018, including, but not limited to, Respondent texting S.G. “You need great sex to sleep well” in response to S.G. saying she wished the two could cuddle and sleep, and Respondent asking S.G. if she wanted to watch him “pee.”

35. Respondent submitted the purported statements referred to in paragraphs 18, 20, and 25, above, in an effort to deceive the Administrator, and to conceal from the Administrator his conduct in relation to S.G..

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

- a. conflict of interest by representing a client when there is a significant risk that the representation of the client will be materially limited by a personal interest of the lawyer, by conduct including pursuing a romantic or sexual relationship with S.G., in violation of Rule 1.7(a)(2) of the Illinois Rules of Professional Conduct (2010); and
- b. knowingly making false statements of material fact in connection with a disciplinary proceeding, by conduct including making false

statements in a letter to the Administrator dated February 5, 2019, as described in paragraph 18, above, and in sworn testimony on May 28, 2019, as described in paragraph 20, above, during the Administrator's investigation of his conduct, in violation of Rule 8.1(a) of the Illinois Rules of Professional Conduct (2010); and

- c. conduct involving dishonesty, fraud, deceit or misrepresentation, by conduct including making false statements in a letter to the Administrator dated February 5, 2019, as described in paragraph 18, above, and in sworn testimony on May 28, 2019, as described in paragraph 20, above, during the Administrator's investigation of his conduct, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

Respectfully submitted,
Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Matthew D. Lango
Matthew D. Lango

Matthew D. Lango
Counsel for the Administrator
130 East Randolph Drive, Suite 1500
Chicago, Illinois 60601
Telephone: (312) 565-2600
Email: mlango@iardc.org;
Email: ARDCeService@iardc.org

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