In re James P. Ginzkey
Respondent-Appellee

Commission No. 2021PR00031

Synopsis of Review Board Report and Recommendation
(December 2022)

The Administrator brought a one-count complaint against Respondent, charging him with knowingly disobeying an obligation under the rules of a tribunal, and engaging in conduct that is prejudicial to the administration of justice, in violation of Rules 3.4(c) and 8.4(d) of the Illinois Rules of Professional Conduct. The complaint alleged that Respondent knowingly disobeyed a court order by improperly disclosing privileged documents, and that doing so was prejudicial to the administration of justice.

The Hearing Board found that Respondent had committed the charged misconduct and recommended that Respondent be censured.

The Administrator appealed, challenging the Hearing Board's sanction recommendation and asking the Review Board to recommend a 30-day suspension instead.

The Review Board agreed with the Hearing Board's recommendation that Respondent be censured

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

In the Matter of:

JAMES P. GINZKEY,

Respondent-Appellee,

No. 3124355.

Commission No. 2021PR00031

REPORT AND RECOMMENDATION OF THE REVIEW BOARD

SUMMARY

The Administrator brought a one-count complaint against Respondent, charging him with knowingly disobeying an obligation under the rules of a tribunal and engaging in conduct that is prejudicial to the administration of justice, in violation of Rules 3.4(c) and 8.4(d) of the Illinois Rules of Professional Conduct. The complaint alleged that Respondent knowingly disobeyed a court order by improperly disclosing privileged documents, and that doing so was prejudicial to the administration of justice.

Following a hearing at which Respondent was represented by counsel, the Hearing Board found that Respondent committed the charged misconduct and recommended that Respondent be censured.

The Administrator appealed, challenging the Hearing Board's recommendation that Respondent be censured and asking this Board to recommend a 30-day suspension instead. Respondent did not file a cross-appeal and has not challenged any of the Hearing Board's findings. Respondent asks this Board to recommend a censure. The only issue on appeal is the sanction.

For the reasons that follow, we agree with the Hearing Board's recommendation that Respondent be censured.

BACKGROUND

The facts as found by the Hearing Board are fully set out in the Hearing Board's report. Because the only issue on appeal is the appropriate sanction for Respondent's misconduct, the facts are summarized only briefly here.

Respondent

Respondent has been licensed to practice law in Illinois since 1979. Respondent worked as a litigator at three law firms over a period of 25 years, and then opened his own law office in 2005. His practice has focused on personal injury work, primarily representing plaintiffs in medical malpractice cases. Respondent testified that he intends to retire in approximately 2024.

Respondent has one prior disciplinary matter. In 2010, he was reprimanded for violating a judge's order that limited Respondent's cross examination of a defendant in a dental malpractice case. *See In re Ginzkey*, 2010PR00006, *reprimand on consent,* (Hearing Bd., Oct. 7, 2010.)

Respondent's Misconduct

In 2018, Respondent filed a medical malpractice case on behalf of the estate of Eugene Wheat ("the *Wheat* case"), and the charged misconduct arose in that case. Eugene Wheat had died following a cardiac catheterization procedure performed by Dr. Patrick Murphy, at Advocate BroMenn Medical Center ("Advocate" or "the hospital").

A Peer Review Report and a letter: Shortly after Eugene Wheat died, the hospital suspended Dr. Murphy's staff privileges, primarily because of his actions relating to Eugene Wheat. Respondent obtained copies of two documents generated by the hospital during the peer

review process relating to Dr. Murphy's treatment of Eugene Wheat, namely, a Peer Review Report ("Report"), and a letter dated June 1, 2016 ("Letter"), which was sent to Respondent suspending his hospital privileges. The Report and Letter contained information concerning the hospital's peer review process, conclusions, and recommendations relating to Dr. Murphy's treatment of Eugene Wheat, which resulted in Dr. Murphy's hospital privileges being suspended.

Respondent planned to use the Report and Letter in the *Wheat* case. Respondent had obtained those documents from the court file of another civil case, in which Dr. Murphy had sued the hospital, challenging the suspension of his hospital privileges ("the *Murphy* case"). Although the judge in the *Murphy* case had ordered that those documents be sealed, according to Respondent those documents were not sealed at the time he reviewed the court file and obtained the documents. An appeal was filed in the *Murphy* case, and the Appellate Court issued an opinion that included information concerning the hospital's peer review process, conclusions, and recommendations.

The court's rulings in the Wheat case: During the discovery phase of the *Wheat* case, the parties filed motions concerning the issue of whether certain documents were privileged, including the Report and Letter. They also filed motions concerning other issues. In February 2019, after a hearing on the privilege issues, the court ruled on the pending motions. (Adm. Ex. 1.)

The court ruled that the Report and portions of the Letter were privileged and confidential under the Medical Studies Act (735 ILCS 5/8-2101), which generally prohibits the discovery of records generated by peer review groups. (Adm. Ex. 1 at 6, 11.)

The court also quashed Respondent's subpoenas to two doctors who participated in the peer review process, holding that the doctors' opinions were non-discoverable and inadmissible under the Medical Studies Act. (*Id*. at 4-5.) The court also denied Respondent's motion requesting

that the court take judicial notice of the peer review information contained in the Appellate Court's opinion in the *Murphy* case. (*Id*. at 2-4.) Additionally, the court noted that under the Medical Studies Act, the Appellate Court's disclosure of peer review information did not waive the privilege relating to that information.

Respondent disclosed the Report and Letter: In November 2019, Respondent sent the privileged Report and Letter to his expert witness, Dr. Timothy Sanborn, who was preparing his written medical opinion. That expert medical opinion had to be disclosed and filed in early December 2019, and Respondent was working with Dr. Sanborn on drafting the medical opinion.

Respondent sent the privileged documents to Dr. Sanborn attached to an email in which Respondent stated, "As a result of his mistreatment of Eugene Wheat in May of 2016 Dr. Murphy's privileges at Advocate were revoked per the attached." (Adm. Ex. 2 at 11.) The file that was attached to Respondent's email was entitled "May 2016 Peer Review," and it contained the privileged Report and Letter.

In January 2020, Respondent publicly filed Dr. Sanborn's medical opinion in the court record in the *Wheat* case, after obtaining an extension of time to file that medical opinion. Shortly thereafter, Respondent filed a revised medical opinion, which listed the materials that Dr. Sanborn relied on in forming his medical opinion, including the Report and Letter.

Motions and rulings in the Wheat case: In the summer of 2020, while preparing to depose Dr. Sanborn, defense counsel realized that Respondent had violated the court's order, at which point defense counsel filed motions to bar Dr. Sanborn's testimony and requesting other sanctions.

In response, Respondent filed a motion in which he stated that he had "[a]bsent mindedly" sent the documents to Dr. Sanborn, and doing so "was the product of inattention, not

willful or intentional misconduct." (Resp. Ex. 10 at 7.) Respondent also stated that the documents were forwarded to Dr. Sanborn "through inadvertence". (*Id*. at 8.)

The court subsequently ruled on those motions. (Adm. Ex. 5.) The court stated that the privileged documents were "disseminated to one expert witness and shared publicly with the Court file." (*Id*. at 2.) The court barred Dr. Sanborn from testifying, stating "Plaintiff's expert relied upon the privileged materials per plaintiff's expert witness disclosure, and some of the disclosed opinions mirror the content of those privileged materials." (*Id*. at 4.) The court also ordered Respondent to destroy all privileged materials. The court vacated the trial date and gave Respondent time to find another expert.

The court rejected Respondent's assertions that he had disclosed the privileged documents inadvertently. The court found that Respondent had "failed to act in good faith. [He] is a veteran trial attorney who deals with confidential records on a daily basis given his concentration in medical malpractice litigation …. [and he] has participated in extensive motion practice before this Court regarding the Medical Studies Act." (Adm. Ex. 5 at 5.)

The court ordered Respondent to personally pay Dr. Sanborn's expert witness fees, and to pay defense counsel's attorneys' fees, including $20,000 to the hospital and $12,000 to Dr. Murphy. At the time of the disciplinary hearing, Respondent had not paid those fees because he intended to appeal the sanction order and the *Wheat* matter was still pending in the circuit court.[1]

Respondent's testimony at the ARDC disciplinary hearing: During the disciplinary hearing, Respondent admitted that he sent the Report and Letter to Dr. Sanborn. Respondent also testified that he understood the court's ruling from February 2019, and he understood that he was not permitted to use the Report and Letter, which were privileged, based on the court's order. (Tr. 84, 98-99, 148-49.)

Respondent testified that he sent the privileged documents to Dr. Sanborn in order to jog Dr. Sanborn's memory concerning the most significant portions of the medical records, and to get Dr. Sanborn to focus on the medical records from May 2016. (Tr. 88-89, 99, 165.) Respondent also testified that he was feeling panicked because the deadline for filing the expert medical opinion was approaching rapidly. (Tr. 89-90, 167.)

Respondent admitted that Dr. Sanborn's written opinion included certain conclusions that were in the Report and Letter, and that Dr. Sanborn's opinion mirrored language in the Report and Letter to a certain extent. (Tr. 92-94.) Respondent testified that Dr. Sanborn's opinion had to mirror the language in the Report and Letter in order to preserve the record on appeal. (Tr. 94-95.)

Respondent testified that he did not intentionally send the documents to Dr. Sanborn. He testified that when he sent the documents, "it was simply by mistake." (Tr. 90.) Respondent also testified: "The judge's order never came into my mind" (Tr. 165); "I didn't realize that what I had pulled from my computer files and attached to my email to him violated the Court order. I just didn't realize that …. I made a mistake" (Tr. 168-69); and the disclosure resulted from "mere inattention." (Tr. 200.)

The Hearing Board rejected Respondent's testimony that he sent the Report and Letter by mistake, finding that his testimony on that issue was not credible. The Hearing Board found that Respondent sent those privileged documents intentionally, knowing that he was violating the court's order. Respondent has not challenged that finding on appeal.

HEARING BOARD'S FINDINGS, AND RECOMMENDATION

Misconduct Findings

The Hearing Board found that Respondent violated Rule 3.4(c), which provides that a lawyer shall not "knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists." Rule 1.0(f) provides that "knowingly" "denotes actual knowledge of the fact in question, [and a] person's knowledge may be inferred from the circumstances." The Hearing Board found that Respondent violated Rule 3.4(c) by knowingly disobeying the court's order that prohibited the disclosure and use of the Report and Letter, which the court ruled were privileged under the Medical Studies Act.

The Hearing Board also found that Respondent violated Rule 8.4(d), which prohibits an attorney from engaging "in conduct that is prejudicial to the administration of justice." The Hearing Board found that Respondent's misconduct caused additional work for the court and opposing counsel, which prejudiced the administration of justice in violation of Rule 8.4(d).

Mitigation and Aggravation Findings, and Respondent's Prior Discipline

In mitigation, the Hearing Board found that Respondent was active in the community and in bar associations, and he cooperated in the disciplinary proceeding. He volunteered with the Prairie State Legal Services; he was on its fundraising committee for ten years; he contributed money; and he did *pro bono* work. Respondent also volunteered with the Bloomington-Normal YMCA, which included serving as its President and as a Board member; donating money; and doing *pro bono* work. Respondent also did *pro bono* work for a local food pantry and has handled personal injury cases on a *pro bono* basis. Additionally, Respondent presented favorable character testimony from five witnesses, who testified that Respondent has an excellent reputation for honesty and integrity.

In aggravation, the Hearing Board found that Respondent did not take responsibility for his misconduct or show remorse; he blamed others for his misconduct; and he suggested that the disciplinary proceeding was unfair or unwarranted.

The Hearing Board also found that Respondent's prior discipline was an aggravating factor. Respondent was reprimanded in 2010 for violating a judge's order that limited Respondent's cross examination of a defendant in a dental malpractice case. The trial judge ruled, prior to trial and during trial, that Respondent could not ask the defendant, who was a dentist, about a state investigation concerning the dentist's office. Despite the judge's rulings, Respondent asked the dentist about that investigation. The court found Respondent to be in criminal contempt and fined him $500, which was affirmed on appeal.

Recommendation

The Hearing Board recommended that Respondent be censured.

SANCTION RECOMMENDATION

The only issue on appeal is the appropriate sanction for Respondent's misconduct. The Administrator argues that a censure is inadequate given the serious nature of Respondent's misconduct and the aggravating factors in this case and urges this Board to recommend a 30-day suspension.

Respondent argues that a censure is appropriate and that a 30-day suspension is unnecessary and inappropriate in light of the substantial mitigation in this case. Respondent asks this Board to recommend a censure.

We review the Hearing Board's sanction recommendations *de novo*. *See In re Storment*, 2018PR00032 (Review Bd., Jan. 23, 2020) at 15, *petition for leave to file exceptions denied*, M.R. 030336 (June 8, 2020). In making our recommendation, we consider the nature of

the proved misconduct, and any aggravating and mitigating circumstances shown by the evidence, *In re Gorecki*, 208 Ill. 2d 350, 360-61, 802 N.E.2d 1194 (2003), while keeping in mind that the purpose of discipline is not to punish but rather to protect the public, maintain the integrity of the legal profession, and protect the administration of justice from reproach. *In re Timpone*, 157 Ill. 2d 178, 197, 623 N.E.2d 300 (1993). We also consider the deterrent value of attorney discipline and whether the sanction will help preserve public confidence in the legal profession. *Gorecki*, 208 Ill. 2d at 361. We seek to recommend a sanction that is consistent with sanctions imposed in similar cases, *Timpone*, 157 Ill. 2d at 197, while considering the unique facts of each case. *In re Witt*, 145 Ill. 2d 380, 398, 583 N.E.2d 526 (1991). Although our review is *de novo*, the Hearing Board's findings regarding candor, intent, understanding of the misconduct, and other fact-finding judgments are ordinarily entitled to considerable weight because the Hearing Board is able to observe the witnesses' demeanor and judge their credibility. *In re Timpone*, 157 Ill. 2d at 196; *In re Martinez-Fraticelli*, 221 Ill. 2d 255, 280, 850 N.E.2d 155 (2006).

The Administrator argues that the Hearing Board failed to give sufficient weight to the seriousness of Respondent's misconduct and the aggravating factors. Respondent argues that a censure is the appropriate sanction.

We note that both sides make persuasive arguments on appeal. The Administrator's concerns about Respondent's actions are valid and his request for a 30-day suspension is reasonable. We believe, however, that a censure is an appropriate sanction in this case, in light of the significant mitigating factors, including Respondent's 43-year career, and the unlikelihood that Respondent will engage in similar misconduct in the future.

The Hearing Board's recommendation is well-reasoned: Although we consider the sanction *de novo*, we give the Hearing Board's recommendation substantial weight here

because the Hearing Board had the benefit of seeing Respondent's testimony in person and observing the five individuals who provided testimony concerning Respondent's good character. The Hearing Board was in the best position to evaluate Respondent's demeanor and character and determine the likelihood that he would engage in misconduct again before he retires. *See In re Capozzoli*, 2000PR00037 (Review Bd., Aug. 9, 2002) at 11, *petitions for leave to file exceptions allowed*, M.R. 18371 (Jan. 2, 2003) ("[T]he Hearing Board's conclusions as to the level of a respondent's credibility, remorse, understanding of his or her misconduct, and other similar matters do deserve deference, as these are factual matters.")

We find it particularly significant that the Hearing Board concluded Respondent does not present a risk to the public or the legal profession. The Hearing Board stated, "Based on our observations of Respondent and consideration of his testimony, we do not believe he poses a risk to the public or the profession such that a period of suspension is necessary." (Hearing Bd. Report at 15-16.)

Although the Administrator is correct that Respondent's misconduct is serious, and that his lack of remorse and his prior discipline are significant aggravating factors, the Hearing Board took those matters into consideration and still recommended a censure. The Hearing Board's recommendation is based on a well-reasoned and thorough analysis, in which the Hearing Board properly identified and considered the relevant facts, gave appropriate weight to the evidence presented, carefully assessed Respondent's testimony and the testimony of the character witnesses, evaluated the parties' arguments, and reviewed applicable cases. We are not persuaded that the Hearing Board failed to give sufficient weight to Respondent's misconduct and the aggravating factors.

<u>There is substantial mitigating evidence</u>: We believe that the mitigation here outweighs the need to impose a suspension. There is substantial mitigating evidence in this case, which includes the following:

- Respondent has a long history of participating in volunteer work and community service, including working with the Bloomington-Normal YMCA and the Prairie State Legal Services. Respondent also donated and raised a substantial amount of money for those organizations.

- Respondent has been active in several professional organizations, including the McLean County Bar Association, the Illinois Trial Lawyers Association, and the Illinois State Bar Association, where he held responsible positions.

- Respondent provided *pro bono* legal services to the YMCA and Prairie State Legal Services, a local food pantry, and certain plaintiffs in personal injury cases.

- Respondent has had a very long legal career, successfully practicing law for 43 years, which we give significant weight. At the time of the disciplinary hearing, Respondent was 69 years old, and he testified that he plans to retire in approximately 2024.

- Respondent cooperated in the disciplinary hearing, and his client was not harmed by his misconduct.

- The Hearing Board concluded that Respondent does not pose a risk to the public or the legal profession, which is a substantial mitigating factor.

- Respondent presented impressive testimony from five witnesses, which included two retired judges, an attorney, a court reporter, and the Chief Executive Officer of the Bloomington-Normal YMCA. Those individuals, who have known Respondent for many years, took time out of their schedules to testify on Respondent's behalf concerning his good character. They testified that Respondent is very honest and he has an excellent reputation for honesty and integrity. One of the retired judges testified that Respondent is also competent, courteous, and well prepared.

We concur with the Hearing Board's conclusion that a censure is appropriate in light of the mitigating evidence in this case. We note that Respondent's violation of the court's order was completely wrong and the mitigation cannot eliminate the severity of Respondent's deliberately disobeying a court order or excuse the aggravating factors. The mitigating evidence, however, is a strong indicator that Respondent will not repeat his misconduct, harm his clients or the public, or engage in other misconduct in the future.

The Hearing Board stated, "Having considered all of the relevant circumstances, we conclude that a censure adequately addresses the misconduct and balances Respondent's prior discipline and other aggravating factors with the substantial evidence in mitigation." (Hearing Bd. Report at 15.) We agree.

Cases involving a 30-day suspension: The Administrator argues that a 30-day suspension is warranted based on similar cases that resulted in a 30-day suspension, which involved the violation of a court order or the disclosure of confidential information, where there was also substantial mitigation. *See, e.g., In re O'Connor*, 2001PR00096 (Hearing Bd., Jan. 21, 2004), *approved and confirmed*, M.R. 19328 (June 7, 2004); *In re Levin*, 2000PR00072 (Review Bd., April 16, 2004), *petition to file exceptions denied*, M.R. 19490 (Oct. 15, 2004); *In re Nalick*, 1997PR00045*, petition to impose discipline on consent allowed*, M.R. 14186 (Jan. 29, 1998).

Although the Administrator is correct that those cases are similar in some ways to the instant matter, the attorney's misconduct in each of those cases was more serious than Respondent's misconduct in this case, as discussed below.

In *O'Connor*, the attorney violated the attorney/client privilege by sending an email to opposing counsel disclosing privileged information concerning the amount of money that the client would accept to settle the case. O'Conner betrayed the trust of a client by divulging relevant

attorney/client privileged information to opposing counsel. O'Connor's misconduct created a risk of damage to the client's case because opposing counsel could have used that privileged information against the client in determining how to proceed. O'Connor was motivated by his own personal interests and his selfish desire to harm his ex-partners by disrupting the settlement agreement secured by his ex-partners and impugning the reputation of one of those ex-partners.

In *Levin*, the attorney violated a court order by helping his client to transfer certain real estate, in direct violation of a court order prohibiting the transfer of the client's property. Levin's transfer of that real estate contributed to the creditors' inability to collect the outstanding judgment against Levin's client. Levin assumed that the creditors would not be able to attach Levin's real estate after it was transferred. As the Review Board in *Levin* explained, "Respondent, an officer of the court, counseled his client that his intended actions would violate the court's order and possibly the law, and then assisted him in doing so. The end result was that seven people who had each suffered injury …. were unable to collect dollar one." Additionally, during a deposition, Levin's client lied about his transfer of the real estate, and Levin did not correct his client's false testimony at that time.

In *Nalick*, the attorney failed to obey a court order, which directed him to place settlement funds into a restricted account on behalf of his client, who was a minor, and prohibited him from making withdrawals from the client's funds. Nalick disregarded the court order and placed the funds into his general escrow account, and then took approximately $4,000 of those funds. Nalick breached his fiduciary duty to his client and brought the legal profession into disrepute. Nalick repaid the funds after his client requested payment, but that payment was delayed by two months.

Although *O'Connor*, *Levin*, and *Nalick* are somewhat similar to the instant case, the facts of those cases are distinguishable from the facts here.

Cases involving a censure: We believe that the instant case is more comparable to three cases in which the attorneys were censured. *See In re Ripplinger*, 2017PR00081, *petition to impose discipline on consent allowed*, M.R. 029259 (May 24, 2018) (cited by the Hearing Board in the instant matter); *In re Hardy*, 2003PR00104 (Review Bd., Oct. 27, 2005), *petition to file exceptions denied*, M.R. 20607 (Jan. 13, 2006); and *In re Kramer*, 1994PR00581, *petition to impose reciprocal discipline allowed*, M.R. 10488 (Nov. 30, 1994).

In *Ripplinger*, the attorney was censured for violating court orders that excluded certain evidence. During two trials, Ripplinger attempted to elicit testimony that the judges had deemed inadmissible. In the second trial, the judge held Ripplinger in criminal contempt for violating the orders excluding evidence. Additionally, Ripplinger concealed relevant information from opposing counsel concerning his client's medical history. Ripplinger, who was 72 years old and had practiced law for 47 years, presented substantial mitigating evidence that included a long history of service to bar associations and community and charitable organizations. The Hearing Board in the instant case relied on *Ripplinger*, stating, "We believe a recommendation of a censure in the case before us is in line with *Ripplinger*, given that Ripplinger had more extensive misconduct, but Respondent has prior discipline." (Hearing Bd. Report at 15.) We agree.

In *Hardy*, the attorney was censured for intentionally disclosing privileged attorney/client information during a court hearing concerning a fee dispute with a former client. Additionally, prior to the hearing, Hardy threatened his former client, stating that he would disclose certain privileged attorney/client information to the judge, indicating that the former client may have engaged in misconduct, unless the former client paid the disputed fees immediately. The

judge ultimately ruled that the former client did not owe the disputed fees to Hardy. In *Hardy*, as in this case, the misconduct was found to be serious. Although Hardy accepted responsibility and had no prior discipline, Hardy's misconduct was more serious than the misconduct here, because Hardy used privileged information to threaten his former client, and intentionally disclosed privileged information for his own benefit.

In *Kramer,* a petition for reciprocal discipline was allowed. The attorney was censured for violating a court order and committing several other ethical violations. The court order disqualified Kramer from representing his client and the client's daughter in the same proceeding based on a conflict of interest, and the order discharged Kramer from the case. Despite the court order, Kramer continued to represent his client and the client's daughter in the proceeding and failed to withdraw as counsel in direct violation of the court order, although he did so in order to help his clients. Like Respondent here, Kramer did not accept responsibility or express remorse. Instead, Kramer maintained a haughty attitude, moved to dismiss the proceeding, threatened to file a lawsuit in federal court concerning the proceeding, and failed to appear for his disciplinary hearing. Although Kramer's misconduct was more serious than the misconduct in this case, Kramer did not have any prior discipline.

We believe that imposing a censure in this case is consistent with the sanctions imposed in *Ripplinger*, *Hardy*, and *Kramer*.

Our recommendation: We recommend that Respondent be censured. We find that a censure is commensurate with Respondent's misconduct and the aggravating factors, taking into consideration the extensive mitigation in this matter. We believe that the sanction is also consistent with discipline that has been imposed in similar cases.

We also note that this will be the second time that Respondent is disciplined for misconduct, and Respondent must realize that any additional misconduct may result in a very stringent sanction, so that even a censure will be sufficient to deter Respondent. The fact that Respondent plans to retire in the near future also makes it less likely that Respondent will engage in misconduct again.

CONCLUSION

For the foregoing reasons, we agree with the Hearing Board's recommendation that Respondent be censured.

Respectfully submitted,

Leslie D. Davis
Bradley N. Pollock
Esther J. Seitz

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 Review Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on December 29, 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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[1] Although Respondent has not paid the sanction imposed by the court in the Wheat case, the Hearing Board did not consider that an aggravating factor because Respondent intends to appeal the sanction. We agree.

BEFORE THE REVIEW BOARD
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ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of: **JAMES P. GINZKEY,** Respondent-Appellee, No. 3124355.	Commission No. 2021PR00031

PROOF OF SERVICE
OF THE REPORT AND RECOMMENDATION
OF THE REVIEW BOARD

I, Michelle M. Thome, hereby certify that I served a copy of the Report and Recommendation of the Review Board on the parties listed at the addresses shown below by email and by regular mail, by depositing it with proper postage prepaid, by causing the same to be deposited in the U.S. Mailbox at One Prudential Plaza, 130 East Randolph Drive, Chicago, Illinois 60601 on December 29, 2022, at or before 5:00 p.m. At the same time, a copy was sent to Counsel for the Administrator-Appellant by e-mail service.

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Michelle M. Thome,
Clerk

/s/ Michelle M. Thome
By: Michelle M. Thome
Clerk

FILED

December 29, 2022

ARDC CLERK