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

JEROME LARKIN as Administrator of the Illinois Attorney Registration & Disciplinary Commission Complainant vs. JOHN XYDAKIS Respondent	)	**Case No. 2021 PR 00104** Before the Hearing Board

To: Matthew D. Lango
Counsel for the Administrator
Suite 1500
130 East Randolph Drive
Chicago, IL 60601
mlango@iardc.org
ARDCeService@iardc.org

NOTICE OF FILING

PLEASE TAKE NOTICE that on November 27, 2023, we electronically filed with the Illinois Attorney Registration and Disciplinary Commission, Suite 1500, 130 E. Randolph Dr., Chicago, IL 60602, the attached: **ANSWER TO FIRST AMENDED COMPLAINT**, a copy of which is hereby served upon you.

BY:_____/s/ John Xydakis_____
John Xydakis, Attorney for Respondent

CERTIFICATE OF SERVICE

I, John Xydakis, an attorney in the above-captioned case, electronically served by e-mail a copy of this document and the attachment thereto upon the above-named person at his above-designated e-mail address when electronically filing it on November 27, 2023 on the Odyssey eFileIL electronic filing system and providing for electronic service by email upon him therein. Under penalties of perjury 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 that he verily believes the same to be true.

BY:_____/s/ John Xydakis_____
John Xydakis, Attorney for Respondent

FILED
11/27/2023 8:00 PM
ARDC Clerk

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

JEROME LARKIN as Administrator of the Illinois Attorney Registration & Disciplinary Commission Complainant vs. JOHN XYDAKIS Respondent	**Case No. 2021 PR 00104** Before the Hearing Board

ANSWER TO FIRST AMENDED COMPLAINT

Now Comes John Xydakis Respondent and attorney (hereafter "Respondent"), and in Answering the First Amended Complaint filed against him by Jerome Larkin as Administrator of the Illinois Attorney Registration and Disciplinary Commission, and asserting Affirmative Defenses thereto, state as follows:

COUNT I

(*Filing and maintaining frivolous litigation on behalf of Marshall Spiegel in the Circuit Court of Cook County*)

Background

1. In or about October 2015, Respondent began representing Marshall Spiegel ("Spiegel") in litigation in the Circuit Court of Cook County concerning a dispute with his neighbors and his condominium association.

ANSWER:

Respondent admits only that he began representing Spiegel in litigation in the Circuit Court of Cook County and this included disputes with his neighbors and condominium Association but denies that the issues but were solely in relation to these two foregoing matters.

2. In the fall of 2015, the President of the Board of Directors of the 1618 Sheridan Road Condominium Association ("Association") resigned. At that time, Spiegel was serving as Secretary of the Association's Board and Valerie Hall ("Hall") was serving as Treasurer. Following the President's resignation, Spiegel declared himself acting President over Hall's objections.

ANSWER:

Respondent admits only that the allegations but Respondent asserts that Robert's Rules of Order that were part of the Condominium Declarations also provided for the acting secretary, Spiegel, to become President if the President resigned or the

position was vacated.

3. In October 2015, Spiegel attempted to terminate the Association's existing relationship with its legal counsel, Michael C. Kim and his law firm, Michael Kim & Associates, without convening a meeting of the Board and over Hall's objections. Spiegel also attempted, over Hall's objection, to terminate the services of the Association's existing property management company and engaged the services of another property management company.

ANSWER:

Respondent admits only that Kim was fired for apparently overbilling the Association and refusing to produce his billing, the property manager was unfit, resigned and when he claimed otherwise, was replaced by Spiegel, and that Hall objected to the actions. Respondent further states that once Spiegel became acting president, he had authority to do so without any approval by Hall.

4. On October 22, 2015, Respondent filed a complaint on behalf of the Association, Spiegel, and Chicago Title Trust Company, as trustee of Trust Number 4179 ("Trustee"), which he claimed owned Spiegel's condominium unit, against Hall. The suit sought a temporary restraining order ("TRO") to remove Hall from the Association's Board of Directors, alleging she was not a unit owner and thus, could not be a Board member. The matter was docketed as Cook County case number 2015 CH 15594.

ANSWER:

Respondent admits only that he filed this case on Spiegel's behalf and the Trust, but that as the Trust was an Illinois Land Trust, Spiegel was the legal owner by law, that this case sought a TRO against Hall as she was not a unit owner as defined by the declarations, and the case was docketed as 2015 CH 15594.

5. On November 2, 2015, Judge Rodolfo Garcia denied the TRO and Respondent voluntarily dismissed case number 2015 CH 15594.

ANSWER:

Respondent admits only that Judge Garcia's clerk decided that the TRO would not be heard on an expedited basis, and the case was thereafter voluntarily dismissed. Respondent denies that the TRO issue was ever decided.

6. On October 26, 2015, Respondent filed a second lawsuit on behalf of the Association, Spiegel, and the Trustee for defamation, invasion of privacy, and breach of contract against Hall. The second lawsuit was docketed as Cook County case number 2015 L 10817. In that case, Respondent again moved for a TRO to remove Hall from the Association's Board, which the trial court denied.

ANSWER:

Respondent admits only that a second lawsuit was filed with these counts and case number. Respondent denies that a TRO was sought and denied to remove Hall.

7. On October 30, 2015, Respondent filed an amended complaint in case number 2015 L 10817 adding another unit owner. At that time, counsel for Hall wrote a letter to Respondent, detailing the false statements and improper legal theories alleged in the complaint and advising Respondent that the filed complaint lacked a basis in law and fact and should be dismissed.

ANSWER:

Respondent admits only that an amended complaint was filed on October 30, 2015 adding other counts and/or defendants. Respondent admits that Hall wrote a letter to Respondent seeking dismissal but denies that it detailed any false statements and improper legal theories. Instead, as noted in the answer to No. 9 below, in the letter, Hall claimed that she was a unit owner, when in fact, she was not. Respondent further states that the amended complaint did not contain any false statements or improper legal theories.

8. On November 2, 2015, Hall answered the complaint in case number 2015 L 10817, denying all material allegations, and provided a copy of the warranty deed that named her as the owner of the trust for her condominium unit. Respondent's receipt of a copy of that warranty deed put Respondent on notice that the claim that Hall could not be a Board member was not grounded in fact.

ANSWER:

Respondent admits only that a Hall answered on November 2, 2015 and denied certain allegations. Respondent admits that Hall provided a deed. However, Respondent asserts that the deed *did not* show that Hall was a unit owner as defined by the condominium declarations and hence *did not* show that the claim was not well grounded in fact. In fact, Hall refused to produce document showing she was a unit owner as defined by the condominium declarations.

9. On December 2, 2015, Respondent filed a counter and third-party complaint in case number 2015 L 10817, naming the attorneys for Hall and Michael C. Kim, attorney for the Association, as defendants. On December 3, 2015, Respondent filed the third amended complaint, deleting the Association as a co-plaintiff in the action.

ANSWER:

Respondent admits only that he filed a counter and third-party complaint in case 2015 L 10817 and that he filed third amended complaint on December 3, 2015 and the Association was not a named plaintiff.

10. On December 29, 2015, Spiegel was removed as a Director of the Association's Board by a vote of 76.2% of the Association's unit owners, exceeding the 2/3 vote required for removal.

ANSWER:

Respondent admits only that Hall, Waite, and others tried to hold a unit owners meeting to remove Spiegel and claimed to do so but that this meeting was invalid as it did not comply with the Association declarations as Spiegel was entitled to remain as director until his term ended.

11. On December 31, 2015, the Association filed a Verified Complaint for Declaratory and Injunctive Relief against Spiegel, docketed as Cook County case number 2015 CH 18825. The Association's complaint sought declarations from the court that certain members of the Association were unit owners and duly elected members of the board, and that Spiegel acted wrongfully and without authority in seeking to take over the Association's Board after he had been removed. It also sought to enjoin Spiegel from interfering with the functions of the duly elected Association Board.

ANSWER:

Respondent admits only that on December 31, 2015 the Association filed a Verified Complaint For Declaratory and Injunctive Relief (14 CH 18825) naming Spiegel and a Chicago Title Trust and seeking several forms of declaratory relief including an injunction. Respondent asserts that complaint included numerous false statements.

12. On January 11, 2016, the Association moved the court for a TRO to restrain Spiegel from continuing to prevent the Board from functioning. Spiegel was served with a copy of the complaint and the TRO motion on the same day. When the trial court heard the TRO motion on January 14, 2016, Respondent was present, but informed the trial court that he was not appearing on behalf of Spiegel in the matter. The trial court granted the Association's TRO, restraining Spiegel from claiming the authority to act as the Board's President and from engaging in any actions with third parties on behalf of the Association.

ANSWER:

Respondent admits only that January 11, 2016 the Association sought a TRO and that Respondent only appeared on January 14, 2016, to inform the Court that he was not appearing for Spiegel and that other matters relating to these issues were pending in another court. Respondent admits that the trial court granted the TRO. However, Respondent further asserts that the TRO was wrongly granted and based on false affidavits from the Association members. For example, affidavits claimed the Association's checks "bounced" and vendors were not being paid when, in fact, all its bills were paid on time and decisions were made to give agents/employees bonuses.

13. On January 19, 2016, Respondent filed a petition for leave to appeal the TRO order to the Illinois Appellate Court, pursuant to Illinois Supreme Court Rule 307(d). On February 4, 2016, the petition for leave to appeal the TRO was denied.

ANSWER:

Respondent admits only that he sought a petition for leave to appeal the TRO Order on January 19, 2016 and that it was denied on February 4, 2016.

14. On February 3, 2016, Respondent filed two motions for substitution of judge as a matter of right ("SOJ"), one on behalf of Spiegel and one on behalf of the trustee. On February 11, 2016, Judge Rita M. Novak granted the trustee's SOJ motion and allowed Spiegel to withdraw his motion without prejudice. The case was then transferred to Judge Peter Flynn.

ANSWER:

Respondent admits only that he filed two motions for substitution of judge as a matter of right, in the alternative, one for Spiegel and one for a trustee. Respondent admits that the trustee's motion for substitution was allowed and the other for Spiegel was withdrawn. Respondent admits that at some point thereafter the case was transferred to Judge Flynn.

15. On February 8, 2016, Respondent filed a fourth amended complaint, correcting the name for the land trust that owned Spiegel's unit. The complaint also re-asserted a claim that Spiegel was "acting president" of the Association and was bringing the action on behalf of the Association in the body of the complaint, even though the lawsuit was only brought on behalf of Spiegel and Chicago Title Land Trust Company, as trustee of trust number 8002351713.

ANSWER:

Respondent admits he filed a fourth amended complaint, corrected the land trust, was brought on Spiegel and the land trust's behalf, and claimed Spiegel was "acting president." Respondent denies that the fourth amended complaint stated it was being brought on the Association's behalf. .

16. In the fourth amended complaint, Respondent, on Spiegel's behalf, alleged 25 counts against 10 defendants. Amont other things, Respondent alleged that Spiegel's rights as a condominium owner were violated as a result of placement of empty water bottles in front of Spiegel's doorway; messages left on Spiegel's answering machine; lawn furniture purchased for common areas; Spiegel's neighbors hiding in bushes; the Director and Officer's insurance carrier's refusal to fund Spiegel's litigation, and; Association bylaws that prohibit Spiegel from having shirtless massages next to the building's pool.

ANSWER:

Respondent admits only that certain allegations noted above were included in the complaint but that the allegations do not fully set forth the factual circumstances or legal theories. Respondent asserts that the placement of empty water bottles was actually the placement of very large, Hinckley and Schmidt water bottles in front of Spiegel's door, the black and from exiting and that the Village of Wilmette Fire Department finally had to issue a citation to try to stop the Association members from doing so is it was a safety hazard. Similarly, Respondent asserts that the messages left on Spiegel's answering machine, were part of a broader factual allegations whereby Spiegel was accused of stealing the lawn furniture purchased for the common areas. Similarly, allegations of persons hiding in bushes, related to counts of intrusion upon seclusion and the Association's illegally spying on Spiegel and trying to fabricate alleged rule violations so the Association could try to evict Spiegel from the building. Likewise, allegations relating to shirtless massages, were founded on the Association's illegally passing a host of invalid regulations after they inappropriately seized control of the Board in an attempt to fabricate rule violations against Spiegel so they could evict him from the building. In fact, thereafter, the Association cited Spiegel with a host of invalid alleged rule violations including having a small crack in his window blind, and clutter and a bicycle in his window. Respondent admits that one of the allegations was that Spiegel was covered by the insurance policy pursuant to the policy itself, condominium declarations, and Illinois Condominium Property Act.

17. On April 8, 2016, after the filing of the fourth amended complaint, Respondent filed an additional lawsuit, raising nearly identical claims to some of the claims in 2015 L 10817. This lawsuit was docketed under Cook County number 2016 L 3564.

ANSWER:

Respondent admits only that he filed a complaint on April 8, 2016 as Case number 16 L 3564, but denies that it raised identical claims. In fact, Respondent asserts that this complaint contained completely separate actions that arose after the filing of the prior complaints.

18. In case number 2016 L 3564, Respondent brought claims on behalf of Spiegel against his neighbors, Corrine and William McClintic ("the McClintics"). In that case, Respondent alleged that Spiegel suffered "private nuisance" because the McClintics were "seeking to rent" their unit in the building at 1618 Sheridan Road. As of the date of the filing of the complaint, the McClintics had not rented their unit to anyone. As a result of the McClintics allegedly seeking to rent their unit, Respondent claimed, without any factual basis, that Spiegel suffered at least $50,000 in damages.

ANSWER:

Respondent admits only that he filed a complaint on April 8, 2016 as Case number 16 L 3564. Respondent denies the allegations and asserts that with regards to these factual allegations alleged, Spiegel was alleging that the Association bylaws prohibit unit owners from renting their units. A unit owner must show "undue hardship" and seek board approval to rent. In fact, McClintics had no "undue hardship." For example, they did not plan to move into the unit when they bought it and live in a house nearby that was worth $800,000. McClintic also sat on the Association board even though he was not a resident, as required. In fact, on information and belief, the McClintics never moved into this unit, and bought another one in the building as well – which they also rented for some time before finally moving in years later. Respondent further asserts that the $50,000 in damages was pursuant to the attached Rule 222(b) Affidavit filed in nearly every case for the Law Division and that in any event, the attorney's fees and damages of over $50,000 had a factual basis.

19. On May 27, 2016, the Association, Board, and other residents moved to consolidate the three active Cook County cases. On September 28, 2016, the trial court consolidated cases, 2015 CH 18825 and 2016 L 3564, into case 2015 L 10817.

ANSWER:

Respondents admits only that the others side moved to consolidate the three cases and on September 28, 2016, the three cases were consolidated for convenience purposes but kept their separate count numbers and were then reassigned to Judge Johnson.

20. On June 14, 2017, Judge Johnson granted the defendants' motion to dismiss all 25 counts of Spiegel's fourth amended complaint in the 2015 L 10817 case, on the basis that none of the claims stated a cause of action, and ordered Respondent to seek leave of the court to replead any amended complaint. Judge Johnson also struck all 33 counts of the first amended complaint in case 2016 L 3564.

ANSWER:

Respondent admits only that Judge Johnson dismissed the counts in 15 L 10817 solely because they incorporated prior paragraphs into each count. Respondent further asserts that this ruling was error as when facts are adequately stated in one part of" a complaint, they "need not be repeated" and may be "incorporated by reference" elsewhere in the complaint. Ill.S.Ct.R.134. Respondent asserts that Judge Johnson never ruled on the merits of either 15 L 10817 nor did Judge Johnson even address the counts in 16 L 3564. Respondent asserts that after Judge Johnson's ruling on 15 L 10817, Judge Johnson was informed that Spiegel may plead a consolidated law division complaint for these two cases and asserts that Judge Johnson then stated that leave for any amended complaints be sought first.

21. At the conclusion of the hearing on June 14, 2017, after dismissing all counts of Spiegel's fourth amended complaint, Judge Johnson addressed Respondent as follows:

> Right now we have no complaint. Mr. Xydakis has been admonished. He has been forewarned. He has everything that's getting ready to come at him already shown to him before he files this amended complaint. And so we have to see what he does.

ANSWER:

Respondent admits only that this was a snippet of the hours long oral argument on 15 L 10817. As noted above, Respondent asserts and the transcript shows that Judge Johnson dismissed the counts in 15 L 10817 solely because they incorporated prior paragraphs into each count. Respondent further asserts that this ruling was error as when facts are adequately stated in one part of" a complaint, they "need not be repeated" and may be "incorporated by reference" elsewhere in the complaint. Ill.S.Ct.R.134.

22. On July 21, 2017, the consolidated case was administratively reassigned from Judge Johnson to Judge Kathy M. Flanagan. On August 7, 2017, Respondent filed an SOJ motion on behalf of Spiegel, which was granted, and the matter was then transferred to Judge Patrick J. Sherlock.

ANSWER:

Respondent admits only that the consolidated cases were reassigned on July 21, 2017 to Judge Flanagan, that on August 7, 2016, Judge Flanagan granted Spiegel's motion for substitution of judge, and that it was thereafter reassigned to Judge Sherlock.

23. On August 14, 2017, Respondent filed a motion for leave to file a fifth amended complaint against 16 separate defendants, containing 99 counts, 223 pages, and 1,436 paragraphs. Respondent labeled the fifth amended complaint as "First Consolidated Law Division Complaint."

ANSWER:

Respondent admits only that on August 14, 2017, he filed leave to file a First Amended Consolidated Law Division Complaint that included both Case No. 15 L 10817 and 16 L 3564. As Judge Johnson ordered that prior paragraphs could not be incorporated and because each defendant needed to be in a separate count, the length of the complaint had to increase, even though the core group of operative facts may not have changed and was less than a dozen or so. For example, for the Association Board, and against its three members individually, for a count of breach of fiduciary duty, or alternatively for declaratory judgment, or breach of contract (the

condominium declarations), based on the same operative factual grouping, Respondent was now forced to have twelve counts.

24. Subsequently, an SOJ motion was filed on behalf of one of the Association parties, and the consolidated case was reassigned to Judge Margaret Ann Brennan on September 1, 2017.

ANSWER:

Respondent admits only that one of the Association parties filed a substitution of judge from Judge Sherlock and the case was then reassigned to Judge Brennan on September 1, 2017.

25. On September 12, 2017, Respondent filed another SOJ motion on behalf of the Trustee. However, on November 14, 2017, Judge Brennan denied this motion, finding that the Trustee had already received an SOJ.

ANSWER:

Respondent admits only that another substitution of judge motion was filed on September 12, 2017 on behalf of a different trustee. Respondent admits only that the motion was denied by Judge Brennan. However, Respondent asserts that such denial was improper as each trustee of a land trust is a separate person entitled to their own substitution of judge. Moreover, the parties were entitled to a substation of judge for each of the three cases.

26. On February 8, 2018, Judge Brennan denied Spiegel and the Trustee's motion for leave to replead the complaint. During the hearing on that date, Judge Brennan admonished Respondent for his "baffling" conduct in failing to correct the deficient and frivolous pleadings in the face of clear admonitions by previous judges, and instead, "only piling on more deficiencies." Judge Brennan further found that Spiegel and Respondent's act of restating the same allegations the court had already determined were not good enough to state a cause of action was harassment against the defendants.

ANSWER:

Respondent admits only that Judge Brennan denied leave to replead on February 8, 2018. Respondent further asserts that these snippets were taken out of context. Respondent asserts that Judge Brennan could not articulate any specific deficiency in any count. Instead, Judge Brennan claimed things like complaining of defendants' blocking Spiegel's door with large Hinkley & Schmidt bottles was "frivolous," it is "as simple as that." In fact, the Village of Wilmette had to finally issue an ordinance violation to stop them from doing so because it was a threat to public safety. Respondent asserts that Judge Brennan failed to address the requirements allowing leave to replead and denial was error. Respondent asserts that the at the hearing, Judge Brennan appeared to have indicated that she had engaged in *ex parte* conversations regarding the case.

27. On February 28, 2018, Respondent filed a petition for recusal or substitution of Judge Brennan for cause, alleging Judge Brennan engaged in multiple *ex parte* communications. The only facts alleged by Respondent were contained in the header ("Court Engaged In *Ex-Parte* Communication") and the first two paragraphs of the motion, which

referenced Judge Brennan's statement of "[y]ou've been advised in the fact of these very clear admonitions," when she denied Respondent's motion for leave to file the fifth amended complaint. Respondent alleged that the plaintiffs had only previously received one "vague, incorrect dismissal of a one complaint," thus, according to Respondent, Judge Brennan's reference to admonitions must have been received through *ex parte* communications.

ANSWER:

Respondent admits only that a petition for recusal or substitution of Judge Brennan was sought on February 28, 2018. Respondent denies that the motion was solely based on the allegations alleged in paragraph 31. Respondents asserts that the petition was based on Judge Brennan's other actions, as well as other statements indicating both bias and *ex parte* communication. In fact, thereafter, Judge Brennan admitted to *ex parte* communication, but denied it was substantive. Moreover, thereafter, the billing records from the other side's attorney as well as Freedom of Information Act requests on her phone records showed unauthorized *ex parte* phone conversations.

28. Respondent knew that he had no factual or legal basis for the allegation that Judge Brennan engaged in any unauthorized, *ex parte* communication. Respondent made the allegation of unauthorized, *ex parte* communications by Judge Brennan with reckless disregard to its truth or falsity concerning the integrity of Judge Brennan.

ANSWER:

Respondents denies this allegation. As noted above, Respondent had a reasonable belief that Judge Brennan engaged in unauthorized *ex parte* conversations. In fact, thereafter, Judge Brennan admitted to *ex parte* communication, but denied it was substantive. Moreover, thereafter, the billing records from the other side's attorney as well as Freedom of Information Act requests on her phone records showed unauthorized *ex parte* phone conversations.

29. On May 8, 2018, Judge Gregory J. Wojkowski denied the petition for recusal or substitution of Judge Brennan for cause. Respondent moved for reconsideration, and that motion was denied on May 14, 2018.

ANSWER:

Respondents admits only that a petition for recusal or substitution for cause of Judge Brennan was denied on May 8, 2018 by Judge Wojkowski as was reconsideration on May 14, 2018. However, Respondent asserts that such denial was in error. For example, among other things, *ex parte* communication does not require proof of actual bias.

30. On July 6, 2018, Respondent moved the court to reconsider the denial of leave to replead, and the trial court denied the motion to reconsider on July 11, 2018.

ANSWER:

Respondent denies this allegation. On July 6, 2018, Respondent requested leave to reconsider denial of the affirmative defenses and to file amended one instanter. Respondent admits only that at some point he deed seek reconsideration of the denial for leave to replead and this was denied on July 11, 2018.

31. Between May 9, 2018 and July 27, 2018, the parties filed four separate petitions for sanctions under Illinois Supreme Court Rule 137. Spiegel sought sanctions against Hall and her legal counsel; the Association, various unit owners and their counsel; and attorney, Michael C. Kim, his firm and their counsel. Hall and her counsel sought sanctions against Spiegel and Respondent. The Association also sought sanctions against Spiegel and Respondent. Kim sought sanctions against only Spiegel. On February 6, 2019, Judge Brennan ordered all matters besides the sanction petitions stayed until further order of the court.

ANSWER:

Respondent admits only that four separate Rule 137 sanction petitions were filed, that Spiegel sought sanctions against the other parties for false allegations relating to their claims that all of the filings were sanctionable and they should be compensated, that Hall and the Association filed sanctions against Spiegel and Respondent, and Kim only sought sanctions against Spiegel. Respondent denies that all matters beside the sanctions petitions were stayed until further order of court on February 6, 2019 and asserts that all matters were stayed pending a mediation to take place on February 27, 2019.

32. On August 6, 2018, Respondent filed an additional motion to disqualify Judge Brennan. Subsequently, on August 20, 2018, Respondent filed a supplemental motion to disqualify Judge Brennan. Respondent based these motions, among other things, on Judge Brennan's alleged *ex parte* communications.

ANSWER:

Respondent admits only that he filed a motion to disqualify Judge Brennan on August 6, 2018 and supplemented it on August 20, 2018. Respondent admits that part of it was based on *ex parte* communications as shown by the other side's attorney's billing invoices that billed for the conversations as well as Freedom of Information Act Requests showing phone calls from the other side's attorney to Judge Brennan's chambers or her Law Clerk.

33. The briefing schedule entered by the Court on the motions to disqualify stated that no supplements would be filed without leave of court. On August 30, 2018, Respondent filed a motion for leave to file an amended supplement *instanter*. Because the Court did not rule on whether Respondent had leave to file the amended supplement, Respondent filed another motion to disqualify for *ex parte* communications, containing language verbatim to that included in the amended supplement, on September 6, 2018, in the event that the Court did not accept Respondent's previously filed amended supplement.

ANSWER:

Respondent admits only that the supplements were filed on the dates indicated and containing the language noted therein. Respondent asserts that the supplements again showed ex parte conversations between the trial court and the other side's attorney.

34. On October 3, 2018, Respondent filed another SOJ motion regarding the pending Rule 137 sanction petitions, arguing that the petitions initiated criminal contempt proceedings against him, and that Respondent could not get a fair and impartial trial by the court.

ANSWER:

Respondent admits only that he filed a motion for substitution of judge on October 3, 2017 as, among other things, Respondent was also a target of the sanctions, and the sanction motions sought punitive relief, over a million dollars in legal fees against Respondent. Respondent further asserts that he was also entitled to additional contempt protections and a substitution of judge as Judge Brennan was a material witness and embroiled in the controversy because of the allegations of *ex-parte* conversations with the other side's attorney and that the judge cannot preside over a proceeding in which she has an interest or which must decide her credibility.

35. On November 9, 2018, the trial court denied Respondent's SOJ motion, stating that the parties and the court had not initiated criminal contempt proceedings against him. Among other things, the court found that Respondent was attempting to reframe the petitions for Rule 137 sanction as a matter of criminal contempt to obtain a jury trial, seek discovery and petition once more for an SOJ.

ANSWER:

Respondent admits only that in November 19, 2018, the trial court denied the substitution of judge motion alleging that criminal contempt proceedings were not being sought. However, Respondent further asserts that such a decision was error as the petitions, as well as the subsequent sanctions order, indicated that punitive, criminal contempt sanctions were sought and imposed.

36. On November 9, 2018, the court denied Respondent's motion to disqualify Judge Brennan from further proceedings in the matter, or alternatively, from ruling on the Rule 137 sanction petitions and disclosing in open court what was said at nine purported ex parte communications. The trial court found no basis for recusal because Respondent failed to attach the requisite affidavit to support an SOJ motion; Spiegel had already sought an SOJ, which was denied; the request was made six months after the alleged statements showing bias or prejudice; and Spiegel failed to show the requisite actual prejudice to support a motion to disqualify a judge because the alleged ex parte communications were merely between opposing counsel and the court's coordinator, but not the court's law clerk, about scheduling matters. On December 10, 2018, Respondent filed a motion to reconsider the disqualification ruling.

ANSWER:

Respondent denies the allegations. As noted above, criminal contempt sanctions were sought and imposed. For example, one sanctions motion sought "an amount sufficient to penalize" Respondents while another sought "extra-ordinary and penal repercussions." Likewise, the subsequent sanction orders indicated that they were issued to "punish" Respondent and for alleged "blatant lies" and "deceiv[ing] the court."

37. On November 8, 2018, Respondent filed another SOJ motion, arguing that he was a party to this action because a Rule 137 sanction petition that adds an attorney constituted a new claim filed against a new party. He also argued that he was a party because he filed an appearance on October 3, 2018, in response to Valerie Hall's counterclaim, which named him as a defendant.

ANSWER:

Respondent admits only that on November 8, 2018, Respondent filed a substitution motion as the Rule 137 sanctions petition sought relief against him as well. Respondent further asserts that he was entitled to a substitution as he was named as a counter defendant and had filed an appearance on October 3, 2018.

38. On December 7, 2018, the trial court denied Respondent's SOJ motion, finding that Hall's counterclaim was withdrawn nearly two years prior on December 14, 2016; an attorney whom sanctions were awarded was a nonparty; Rule 137 provides that a sanction proceeding under the rule does not give rise to a separate civil suit; and Respondent's clients had already exercised their SOJ rights and the court had already made several substantive rulings in this matter.

ANSWER:

Respondent admits only that on December 7, 2018 the trial court denied Respondent's substitution of judge motion for various reasons. Respondent further asserts that this was error as a dismissed party is still a party entitled to substitution, as well as the right to appeal. Moreover, Respondent further asserts that, among other things, each party has their own independent right to a substitution of judge and that no substantive rulings have been made with regards to Respondent before substitution was sought.

Sanctions Against Respondent and Spiegel

39. On March 29, 2019, the trial court ruled on the four separate petitions for sanctions. Judge Brennan denied Spiegel's petition for sanctions and granted the Defendants' three petitions for sanctions, totaling $1,061,623. The trial court ordered Spiegel and Respondent jointly and severally to pay: (1) sanctions of $360,964 to Hall; (2) sanctions of $25,000 to her counsel Duane Morris, LLP; and (3) $473,442.08 in attorney's fees and $27,878 for increased insurance costs to the Association. The trial court also ordered Spiegel to pay $174,388.89 to Michael C. Kim.

ANSWER:

Respondent admits only that on March 29, 2019 the trial court ruled on the four separate petitions for sanctions in the amounts and parties against whom they are assessed indicates. Respondent further asserts that the trial court erred as to each petition and the amounts and that the sanctions were retaliation by the trial court for seeking its disqualification based on the ex parte conversations as noted in the other side's attorney's billing records and Daley Center's phone records.

40. In the trial court's order granting Hall and Duane Morris LLP's petition for sanctions, Judge Brennan found the following actions by Respondent required an award of attorney's fees and costs under Rule 137:

- Persisting in the argument that Hall was not an owner and lacked the capacity to serve on the Association's board even after clear proof in the form of a Warranty Deed;
- Filing a fourth amended complaint that asserted 25 claims against

10 defendants, in response to Hall's counsel advising that the various complaints violate Rule 137;

- Filing of the duplicative lawsuit in 2016 L 2564, which was filed entirely to harass, increase costs and delay;
- Despite being admonished by Judge Johnson, Judge Novak, and Judge Flynn, Respondent sought leave to file a 99 count, 223 page and 1,436 paragraph fifth amended complaint, which had been mislabeled as a "first amended complaint" and repleaded previously dismissed claims without substantive modification;
- Filing numerous motions to remove judges for cause, seeking SOJ as a claim of right, when those rights were already exhausted as well as the attendant requests for discovery on the "for cause" matters that were unsupported by fact and law;
- Repeated misstatements of law and evidence; and
- Filing at least 385 separate court filings in the case at the time Judge Brennan entered the sanctions order.

ANSWER:

Respondent admits only that on March 29, 2019 the trial court ruled on the four separate petitions for sanctions in the amounts and parties against whom they are assessed indicates. Respondent further asserts that the trial court erred as to each petition and the amounts and that the sanctions were retaliation by the trial court for seeking its disqualification based on the *ex parte* conversations as noted in the other side's attorney's billing records and Daley Center's phone records. For example, the trial court sanctioned Respondent and his client for a case – brought against them. Similarly, the trial court awarded $170,000 in sanctions against Respondent's client – based on *ex parte* billing records provided to the trial court but never provided to Respondent or his client.

41. Following entry of Judge Brennan's orders of March 29, 2019, Spiegel and Respondent appealed the sanctions awards to the Illinois Appellate Court. That appeal was docketed as case numbers: 1-19-0840, 1-19-0915, 1-19-0916 and 1-19-0917 (consolidated). On December 3, 2020, the Illinois Appellate Court entered an order affirming the judgment of the trial court. Thereafter, the Illinois Appellate Court reconsidered its decision and, on August 12, 2021, issued an order vacating its earlier decision. The Appellate Court found that because petitions for additional sanctions against Respondent and Spiegel were still pending in the Circuit Court at the time the appeal was filed, that the Appellate Court lacked jurisdiction over the matter. The Court remanded the case to the Circuit Court for further proceedings on the sanctions awards.

ANSWER:

Respondent admits only that the March 29, 2019 Orders as well as others were appealed and that after motion practice, four appeals were consolidated as noted above. Respondent admits only that the December 3, 2020 Order was vacated on August 12, 2021 as the appellate court lacked jurisdiction and the appeal was dismissed.

42. As of the date of this complaint, the Spiegel litigation, consolidated as case number 2015 L 10817, remains pending in the Circuit Court of Cook County.

ANSWER:

Respondent admits only that the three consolidated cases of which 15 L 10817 is one have disqualification and other proceedings ongoing in the Circuit Court of Cook County as of today's date.

Respondent's Conduct After Sanctions Award

43. Following entry of the March 29, 2019 sanctions awards by Judge Brennan against Spiegel and Respondent, a number of news outlets and online publications rans stories about the litigation and Judge Brennan's orders awarding sanctions against Spiegel and Respondent totaling more than $1 million.

ANSWER:

Respondent admits only that several publication websites reported on the March 29, 2019 sanction awards.

44. On April 3, 2020, Respondent filed a complaint on behalf of The Law Offices of John Xydakis, P.C. and himself, individually, alleging that the Cook County Recorder's reporting of the sanctions award against Respondent on its website was defamatory. The matter was docketed as Cook County case number 2020 L 003878. On May 24, 2021, Respondent voluntarily dismissed the case with leave to refile.

ANSWER:

Respondent admits only that he filed an April 3, 2020, case against the Cook County Recorder and any reporters noted therein alleging defamation and false light, that the statute of limitations for filing such a complaint in Illinois only one year after the publication date, and that the case was docketed under this number, and was voluntarily dismissed thereafter with leave to refile on May 24, 2021.

45. On April 6, 2020, Respondent filed a complaint on behalf of The Law Offices of John Xydakis, P.C. and himself, individually, alleging that Law360's reporting of the sanctions award against Respondent on its website was defamatory. The matter was docketed as Cook County case number 2020 L 003944. Respondent did not pursue the matter beyond filing the complaint, and on March 23, 2021, the case was dismissed for want of prosecution.

ANSWER:

Respondent admits only that he filed an April 6, 2020, case against the Law 360 and any reporters noted therein alleging defamation and false light, that the statute of limitations for filing such a complaint in Illinois is only one year after the publication date, that it was docketed under this number, and was voluntarily dismissed thereafter with leave to refile on March 23, 2021.

46. On April 7, 2020, Respondent filed a complaint on behalf of The Law Offices of John Xydakis, P.C. and himself, individually, alleging that the American Bar Association's reporting of the sanctions award against Respondent was defamatory. The matter was docketed as Cook County case number 2020 L 003987. Respondent did not pursue the matter beyond filing the complaint, and on March 19, 2021, the case was dismissed for want of prosecution.

ANSWER:

Respondent admits only that he filed an April 7, 2020, case against the ABA and any reporters noted therein alleging defamation and false light, that the statute of limitations for filing such a complaint in Illinois is only one year after the publication date, that it was docketed under this number, and that the case was dismissed for want of prosecution on March 19, 2021.

47. On April 7, 2020, Respondent filed a complaint on behalf of The Law Offices of John Xydakis, P.C. and himself, individually, alleging that the Chicago Daily Law Bulletin's reporting of the sanctions award against Respondent was defamatory. The matter was docketed as Cook County case number 2020 L 003990. The Daily Law Bulletin's article quoted attorneys John Schriver and Eugene Murphy, who Respondent also named as defendants in the case.

ANSWER:

Respondent admits only that he filed an April 7, 2020, case against the Chicago Daily Law Bulletin and any reporters noted therein alleging defamation and false light, that the statute of limitations for filing such a complaint in Illinois is only one year after the publication date, that it was docketed under this number.

48. The Defendants in the case number 2020 L 003990 were served with copies of the complaint, and subsequently filed motions to dismiss. On May 18, 2021, Defendants, John Schriver and Duane Morris, LLP's motion to dismiss was granted, and the case was dismissed with prejudice, in its entirety.

ANSWER:

Respondent admits only that he filed the parties therein were served, and on May 18, 2021, after briefing, defendants' motions to dismiss were granted.

49. On April 8, 2020, Respondent filed a complaint on behalf of The Law Offices of John Xydakis, P.C. and himself, individually, alleging that Patch Media's reporting of the sanctions award against Respondent on its website was defamatory. The matter was docketed as Cook County case number 2020 L 004042. Respondent did not pursue the matter beyond filing the complaint, and on February 23, 2021, the case was dismissed for want of prosecution.

ANSWER:

Respondent admits only that he filed an April 8, 2020 case against Patch Media and any reporters noted therein alleging defamation and false light, that the statute of limitations for filing such a complaint in Illinois is only one year after the publication date, that it was docketed under this number, it was dismissed for want of prosecution on February 23, 2021.

50. On April 10, 2020, Respondent filed a complaint on behalf of The Law Offices of John Xydakis, P.C. and himself, individually, alleging that the Chicago Tribune's reporting of the sanctions award against Respondent was defamatory. The matter was docketed as Cook County case number 2020 L 004105. On March 25, 2021, the case was dismissed for want of prosecution.

ANSWER:

Respondent admits only that he filed an April 10, 2020 case against the Chicago Tribune and any reporters noted therein alleging defamation and false light, that the statute of limitations for filing such a complaint in Illinois is only one year after the publication date, that it was docketed under this number, it was dismissed for want of prosecution on March 25, 2021.

51. On April 21, 2020, Respondent filed a complaint on behalf of The Law Offices of John Xydakis, P.C. and himself, individually, against attorney Diana Silverberg and the law firm Kovitz Shifrin Nesbit, alleging that statements made in a story published on the firm's website that referenced the sanctions awards against Respondent were defamatory. The matter was docketed as Cook County case number 2020 L 004440. On April 12, 2021, Respondent voluntarily dismissed the case.

ANSWER:

Respondent admits only that he filed an April 21 2020 case against Kovitz Shifrin Nesbit and any of its personnel who wrote the story was filed alleging defamation and false light, that the statute of limitations for filing such a complaint in Illinois is only one year after the publication date, that it was docketed under this number, it was voluntarily dismissed on April 12, 2021.

52. On April 30, 2020, Respondent filed a complaint on behalf of The Law Offices of John Xydakis, P.C. and himself, individually, alleging Bloomberg News' reporting of the sanctions award against Respondent was defamatory. The matter was docketed as Cook County case number 2020 L 004785. Respondent did not pursue the matter beyond filing the complaint, and on March 23, 2021, the case was dismissed for want of prosecution.

ANSWER:

Respondent admits only that he filed an April 21 2020 case against Bloomberg News and any of its reporters who wrote the story was filed alleging defamation and false light, that the statute of limitations for filing such a complaint in Illinois is only one year after the publication date, that it was docketed under this number, it was voluntarily dismissed on March 23, 2021.

53. On May 6, 2020, Respondent filed a complaint on behalf of Marshall Spiegel, Chicago Title Trust Co. as Trustee of Trust Number 80023351713, Law Offices of John Xydakis, P.C., and himself, individually, alleging the statements regarding the sanctions award against Spiegel and Respondent made by attorney David Allen in a YouTube video were defamatory. The matter was docketed as Cook County case number 2020 L 004975. On May 21, 2021, Respondent voluntarily dismissed the case with leave to refile.

ANSWER:

Respondent admits only that he filed a Mary 6, 2020 case for these parties against California attorney David Allen and his firm alleging defamation and false light, that the statute of limitations for filing such a complaint in Illinois is only one year after the publication date, that it was docketed under this number, it was voluntarily dismissed on May 21, 2021.

54. All of the lawsuits filed by Respondent in paragraphs 50 through 59 above were frivolous and lacked a basis in fact or law, which Respondent knew at the time he filed them. Respondent filed these lawsuits for no purpose other than to harass, delay, or burden the parties against whom the cases were filed.

ANSWER:

Respondent denies this allegation. Respondent further asserts that the lawsuits had a basis in fact and law and had a legitimate purpose in seeking money damages for their defamatory allegations or allegations that placed him in a false light.

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

a. bringing or defending a proceeding, or asserting or controverting an issue therein, with no basis for doing so that is not frivolous, by conduct including but not limited to, filing previously dismissed claims against multiple defendants without substantive modification to correct the pleading deficiencies in the Spiegel Litigation, in violation of Rule 3.1 of the Illinois Rules of Professional Conduct (2010);

b. making statements of material fact or law to a tribunal which the lawyer knows are false, by conduct including but not limited to persisting in the argument that Valerie Hall was not a condominium unit owner and lacked the capacity to serve on the Association's board after receiving clear proof in a warranty deed, and advancing baseless arguments that the court engaged in improper *ex parte* communications, in violation of Rule 3.3(a)(1) of the Illinois Rules of Professional Conduct (2010);

c. using means in representing a client that have no substantial purpose other than to embarrass, delay, or burden a third person, by filing the lawsuit against the McClintics in 2016 L 2564, in violation of Rule 4.4(a) of the Illinois Rules of Professional Conduct (2010);

d. engaging in conduct that is prejudicial to the administration of justice, by conduct including filing and attempting to maintain frivolous litigation in the Spiegel Litigation, as well as filing multiple and repetitive pleadings, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010);

e. making statement with reckless disregard as to their truth or falsity concerning the integrity of a judge, including but not limited to alleging that Judge Brennan engaged

in unauthorized, *ex parte* communications when he had no basis in fact or law for making such allegations, in violation of Rule 8.2(a) of the Illinois Rules of Professional Conduct (2010).

f. bringing or defending a proceeding, or asserting or controverting an issue therein, with no basis for doing so that is not frivolous, by conduct including filing at least 9 lawsuits against various individuals and organizations alleging defamation and false light for reporting on the sanctions awards of March 29, 2019, in violation of Rule 3.1 of the Illinois Rules of Professional Conduct (2010).

ANSWER:

Respondent denies each and every allegation (including subparts a-f). Respondent further asserts that the lawsuits had a non-frivolous basis in fact and law, did not repeatedly include previously dismissed claims without substantive modification, did not make false statements, had a factual and legal basis for arguing that Valerie Hall was not a unit owner as defined by the declarations, had a factual legal basis for alleging the court engaged in improper *ex parte* communications, Respondent did not use improper means by filing 16 L 2564 against the McClintics, Respondent did not engage in prejudicial conduct, did not maintain frivolous litigation, Respondent did not file multiple and repetitive pleadings pleadings, and Respondent otherwise did not engage in conduct that violated any rules of Professional Conduct.

COUNT II

(*Conduct prejudicial to the administration of justice in the Tressler matter*)

56. On October 31, 2014, Respondent filed a declaratory judgment complaint on behalf of Spiegel against the Village of Wilmette ("Wilmette"), related to an ordinance violation citation Spiegel received that required him to install an upgraded fire alarm system in various rental apartment buildings that he owned. The matter was docketed under Cook County case number 2014 CH 17681, and later consolidated with Cook County case number 2015 CH 5403 before Judge Kathleen M. Pantle.

ANSWER:

Respondent admits only that on October 31, 2014 he filed on behalf of Marshall Spiegel a declaratory judgment action (14 CH 17681) seeking a determination as to whether rental apartment buildings had to install an expensive fire alarm system as then alleged by the Village of Wilmette, and the case was later consolidated with 15 CH 5403 in front of Judge Pantle.

57. During litigation, Respondent added Wilmette's law firm, Tressler, LLP ("Tressler") as a defendant, alleging Tressler violated Spiegel's rights under the equal protection clause of the federal Constitution, and bringing a claim under 43 U.S.C. Section 1983.

ANSWER:

Respondent only admits that Tressler was added as a defendant and various constitutional claims were alleged against it. Respondent asserts that, among other things, the Village of Wilmette was seeking over $273,000 or more in alleged fines for an ordinance violation, even though, amount other things, the Illinois Municipal Code bars a municipality from seeking over $50,000. Respondent asserts that Tressler informed him that "this is what Spiegel" gets for filing a declaratory judgment against Wilmette. Even after Respondent put in the fire alarm system when he did not have to, and Wilmette admitted he did. Wilmette and Tressler refused to dismiss the case against Spiegel. Respondent further asserts that Judge McGrath later granted summary judgment for Spiegel and against Wilmette for constitutional violations.

58. On September 14, 2017, Tressler filed a motion to dismiss the complaint and seek sanctions pursuant to Supreme Court Rule 137. On September 22, 2017, a briefing schedule was set which required Respondent to file a response on or before October 20, 2017, and Tressler to reply by November 3, 2017.

ANSWER:

Respondent only admits that Tressler filed a motion to dismiss and for sanctions and that the briefing dates noted above are correct. Respondent asserts that Tressler's motion for sanctions was later denied.

59. On October 20, 2017, Respondent filed a motion for extension of time, requesting additional time to respond to Tressler's motion to dismiss. The reason given for the requested extension was that Wilmette and Spiegel were set for a pre-trial conference on November 21, 2017 to "resolve this case."

ANSWER:

Respondent only admits that Respondent filed a motion for extension of time and Wilmette and Spiegel were set for a November 21, 2017 settlement conference. Respondent asserts that the reasons for an extension was to see the outcome of any such conference or alternatively to give Respondent more time to respond to that the issues could be fully presented.

60. Respondent did not include in the motion that Tressler had not agreed to participate in a pre-trial conference in order to resolve any of the claims Spiegel had against Tressler, thus, the pre-trial conference could not resolve the case in its entirety.

ANSWER:

Respondent admits that it did the motion did not state that Tressler did not agree to participate in the settlement conference but this was unnecessary. Tressler represented itself and Wilmette at the same time, with the two attorneys working with one another. Tressler could not represent Wilmette at a settlement conference and have an adverse interest to its

own firm. Similarly, it was likely that Wilmette would not settle the case unless the claims against Tressler were pending, as Wilmette's testimony would still be critical in those claims and Wilmette was likely paying Tressler to defend itself. Moreover, Tressler had no claims to settle. Instead, claims were brought against Tressler.

61. The motion for extension of time was scheduled to be heard before the court on October 27, 2017, at 9:30 a.m., despite the notice of motion erroneously showing a presentment date of November 27, 2017.

ANSWER:

Respondent admits only that the motion was to be presented on October 27, 2017 at 9:30 a.m.. Respondent asserts that he noticed that the receiving clerk in Chancery had put the wrong date on the motion when filing it out and stamping it, that Respondent noted this after he received them back, and Respondent corrected it before it was sent to Tressler. Moreover, the Clerk of the Circuit Court of County docket noted the correct October 27, 2017 date for presentment.

62. On October 25, 2017, counsel for Tressler, Stacy Wilkins ("Wilkins"), and Respondent spoke while at the Dirksen Federal Building. Wilkins informed Respondent that she had not received any notice of any motion, had another matter up at 9:30 a.m. that day, but planned to be present to object to Respondent's motion. Wilkins advised Respondent that Tressler was not a party to the pre-trial conference and that the pre-trial conference would not dispose of Spiegel's case against Tressler.

ANSWER:

Respondent admits only that he had a conversation with Tressler's Stacy Wilkins on or about October 25, 2017 at the Dirksen Federal building who claimed that she had not yet received the motion and Tressler was not a party to the pre-trial conference. Respondent denies that Wilkins claimed she had another matter up at 9:30 a.m. that day and that she planned to be present to object to Respondent's motion and that the pretrial conference would not dispose of Spiegel's case against Tressler. Respondent asserts that he told Wilkins the motion was set for October 27, 2017 at 9:30 a.m. and that if she had not received it by the end of the day and her co-counsel did not have it, that Wilkins should contact him and he would e-mail a copy over. Respondent asserts that Wilkins never did so. Respondent asserts that Wilkins never claimed she would be late that morning. Respondent asserts that he told Wilkins that it was unlikely that Wilmette would settle if Tressler did and to talk to her co-counsels about matters.

63. On October 27, 2017, Respondent presented his motion at 9:30 a.m. Wilkins was not present at that time on behalf of Tressler.

ANSWER:

Respondent admits that the motion was presented at 9:30 a.m., or shortly thereafter, on October 27, 2017 and that Wilkins was not present.

64. On October 27, 2017, Respondent knew that Tressler was not participating in the November 21, 2017 pretrial conference.

ANSWER:

Respondent denies this allegation. As noted in the Answer to No. 68 above, Respondent told Wilkins that is was unlikely that Wilmette would settle if Tressler did and to talk to her co-counsels about matters. Moreover, Wilmette was represented by Tressler and Wilkins and her co-counsel were in communication with one another.

65. On October 27, 2017, Respondent knew that Wilkins had not received notice of his motion for extension based on their October 25, 2017, conversation at the Dirksen Federal Building.

ANSWER:

Respondent denies this allegation. As noted in the Answer to No. 68 above, on October 25, 2017, Respondent told Wilkins of the presentment date and time of the motion and also told Wilkins that if she had not received it by the end of the day and her co-counsel did not have it, that Wilkins should contact him and he would e-mail a copy over. Respondent asserts that Wilkins never did so. Moreover, Tressler's co-counsel received notice as well and the Clerk of the Circuit Court of Cook County docket showed the October 27, 2017. Hence, Wilkins knew from these two sources as well.

66. On October 27, 2017, Respondent knew that Wilkins had another matter up at 9:30 a.m., but that Wilkins intended to appear in court to object to Respondent's motion for extension based on their October 25, 2017, conversation at the Dirksen Federal Building.

ANSWER:

Respondent denies that he knew Wilkins had another matter up and intended to appear based on an October 25, 2017 conversation at at the Dirksen Federal building. As noted in Answer No. 68 above, Respondent denies that Wilkins claimed she had another matter up at 9:30 a.m. that day and that she planned to be present to object to Respondent's motion and that the pretrial conference would not dispose of Spiegel's case against Tressler. Respondent asserts that he told Wilkins the motion was set for October 27, 2017 at 9:30 a.m. and that if she had not received it by the end of the day and her co-counsel did not have it, that Wilkins should contact him and he would e-mail a copy over. Respondent asserts that Wilkins never did so. Respondent asserts that Wilkins never claimed she would be late that morning. Respondent asserts that he told Wilkins that it was unlikely that Wilmette would settle if Tressler did and to talk to her co-counsels about matters.

67. On October 27, 2017, Respondent gave the court no indication that Tressler objected to the motion or that Wilkins had informed him she would appear late. Accordingly, the court granted the motion. Respondent drafted an order indicating that the motion was granted and left court.

ANSWER:

Respondent admits only that he drafted an order allowing an extension of time, left court. Respondent asserts that he lacked any need to inform the court of Wilkins being late or objecting to extending time as this was contrary to what transpired before this. AS noted in the Answer to No. 68 above, Respondents denies that Wilkins claimed she had another matter up at 9:30 a.m. that day and that she planned to be present to object to Respondent's motion. Respondent asserts that he told Wilkins the motion was set for October 27, 2017 at 9:30 a.m. and that if she had not received it by the end of the day and her co-counsel did not have it, that

Wilkins should contact him and he would e-mail a copy over. Respondent asserts that Wilkins never did so. Respondent asserts that Wilkins never claimed she would be late that morning. Respondent asserts that he told Wilkins that it was unlikely that Wilmette would settle if Tressler did and to talk to her co-counsels about matters.

68. A few minutes after Respondent left court, Wilkins arrived and asked that the case be recalled. Wilkins informed the court of her objection to the extension of time and indicated she had previously spoken to Respondent and informed him she objected to his motion. The court instructed Wilkins to contact Respondent to have him return to court to resolve the matter. Wilkins called Respondent three times and left a voice message for Respondent, but did not receive a response from Respondent.

ANSWER:

Respondent admits that Wilkins must have appeared in court later that day as an Order was entered ex parte. Respondent lacks knowledge as to what Wilkins and the court said to one another as he was not present. Respondent denies that Wilkins called him three times and left a voice message; hence, Respondent could not respond to such. In fact, Respondent was first notified that Wilkins appeared and had an ex parte Order entered when it was either faxed or e-mailed it to him that day or shortly thereafter.

69. When the court returned from recess, Wilkins asked to be heard on the motion for extension of time. The court reversed its earlier ruling and denied the extension of time.

ANSWER:

Respondent admits only that an ex parte Order was entered that day and it denied the extension of time. Respondent lacks knowledge as to when this was done that morning and what Wilkins said to the court as he was not present.

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

a. Engaging in conduct that is prejudicial to the administration of justice, by conduct including, failing to inform the court that opposing counsel objected to Respondent's motion for extension of time and would be late to the hearing, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010);

b. Failing to inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision in an *ex parte* proceeding, whether or not the facts are adverse, by conduct including, failing to inform the court that opposing counsel objected to Respondent's motion for extension of time and would be late to the hearing, in violation of Rule 3.3(d) of the Illinois Rules of Professional Conduct (2010).

ANSWER:

Respondent denies the allegations (including subparts a-b). As noted in the

Answer to Number 70 above, Respondent denies that Wilkins claimed she had another matter up at 9:30 a.m. that day and that she planned to be present to object to Respondent's motion and that the pretrial conference would not dispose of Spiegel's case against Tressler. Respondent asserts that he told Wilkins the motion was set for October 27, 2017 at 9:30 a.m. and that if she had not received it by the end of the day and her co-counsel did not have it, that Wilkins should contact him and he would e-mail a copy over. Respondent asserts that Wilkins never did so. Respondent asserts that Wilkins never claimed she would be late that morning.

COUNT III
(*Dishonesty in Relation to Spiegel Bankruptcy*)

71. On December 16, 2020, following entry of the sanctions awards described in Count I of this complaint, Marshall Spiegel filed a petition for Chapter 11 bankruptcy in the United States Bankruptcy Court for the Northern District of Illinois. The matter was docketed as *In re: Marshall Spiegel*, and assigned case number 20-21625.

ANSWER:

Respondent admits.

72. At the outset of his bankruptcy, Spiegel filed with the Court a list of unsecured creditors that included, among others, the 1618 Sheridan Road Condo Association as well as the other individuals and attorneys who were the recipients of the sanctions awards against Spiegel described in Count I of this complaint.

ANSWER:

Respondent admits.

73. In December 2020, Respondent was aware that Spiegel filed for Chapter 11 Bankruptcy. As part of Spiegel's bankruptcy, Respondent was aware that Spiegel needed permission of the court and/or the United States Trustee assigned to the matter in order for Spiegel to sell or diminish any assets, to obtain new credit, and to take on new debts.

ANSWER:

Respondent only admits that he was aware that Spiegel filed for Chapter 11 bankruptcy. Respondent denies that he new the specifics of bankruptcy law and whether Spiegel needed permission to do the acts alleged above. Respondent further asserts that many acts by a debtor do not need permission and the 1116 -1122 Greenleaf Building LLC was an asset almost entirely outside the bankruptcy estate and at best, only Spiegel's .1% or similarly membership interest may be part of that estate.

74. On or about January 19, 2021, Spiegel testified at his mandatory creditors meeting, held pursuant to Section 341 of the Bankruptcy Code, that among other things, he owned a .1% membership interest in the entity known as 1116-22 Greenleaf Building, LLC ("Greenleaf, LLC"). He testified that he was a manager of Greenleaf, LLC and that Greenleaf, LLC was the current beneficiary of the land trust that owned an apartment building located at 1116 – 22 Greenleaf in Wilmette (the "Greenleaf Property"). Spiegel further testified that there was no mortgage lien encumbering the Greenleaf property.

ANSWER:

Respondent was not present and has not reviewed any audio or transcript of this meeting. Hence, Respondent cannot admit or deny this allegation but asserts that the Administrator shall still bear the burden to prove it at any hearing.

75. In the most recent version of the Greenleaf Operating Agreement, which was executed on or about March 30, 2018, Marshall Spiegel was listed as the managing member of Greenleaf, LLC, with his son, Matthew Spiegel, as a member with "authority to manage" Greenleaf, LLC.

ANSWER:

Respondent will interpret "most recent version" to mean the Greenleaf Operating Agreement of March 30, 2018 before any changes. Respondent only admits that the provision noted above only comes after the 'Names and Addresses of Members' section 1.7. However, Section 5 is the 'Powers and Duties of Managers' operative section. Section 5.1.1 states that the "members" "shall have the complete power and authority" to operate Greenleaf LLC. Also, Section 5.1.2 vests the authority to manage the company by a 'Majority in Interest of the Members.' According to Schedule 1, Matthew Spiegel had 99.75% of the membership interest and Marshall Spiegel had .025%. Similarly, Section 5.1.3 states, "[t]hird parties dealing with the Company" can "conclusively" rely on Greenleaf LLC's Majority in interest to "manage and operate" it.

76. At all times related to this complaint, Respondent was aware of Spiegel's membership interest in Greenleaf, LLC. For example, in 2015, prior to Spiegel's filing for bankruptcy, Respondent represented Spiegel's interests with respect to the Greenleaf property in the matter described in Count II of this complaint.

ANSWER:

Respondent only admits that he was generally aware that Spiegel had some relationship or interest in Greenleaf LLC.

77. Since Spiegel filed for bankruptcy in December 2020, and continuing through the date of the filing of this amended complaint, Respondent has continued to represent Spiegel in a variety of matters, both related and unrelated to the bankruptcy.

ANSWER:

Respondent only admits that he continued to represent and assist Spiegel in bankruptcy and non-bankruptcy related matters after Spiegel's bankruptcy filing.

78. In December 2020, just prior to his filing for Chapter 11 bankruptcy, Spiegel contacted Dean Giannakopoulos, a mortgage broker with whom he had a prior business relationship. Spiegel informed Giannakopoulos that he was about to file for bankruptcy, but wished to secure a mortgage on the Greenleaf property. At that time, Giannakopoulos informed Spiegel that because of his bankruptcy, the apparent membership structure of the Greenleaf property would have to be changed, as Spiegel's bankruptcy would likely preclude him from being able to obtain a loan.

ANSWER:

Respondent was not present between any alleged contacts between Spiegel and Giannakopoulos. Hence, Respondent cannot admit or deny this allegation but asserts that the Administrator shall still bear the burden to prove it at any hearing. Respondent only admits that Spiegel contacted Giannakopoulos at some point to begin obtaining a line of credit or loan and some changes were requested by the lender and/or mortgage broker relating to Greenleaf LLC.

79. Throughout 2021 and into early 2022, Respondent represented Spiegel in his efforts to obtain a loan against the Greenleaf property, which included communications with Giannakopoulos, as well as other attorneys representing Spiegel with regard to his bankruptcy.

ANSWER:

Respondent admits only that he assisted in representing Spiegel, his son, and Greenleaf LLC to obtain a loan and this included some communication with Giannakopoulos and various attorneys and attorneys representing Spiegel in the bankruptcy case may have been forwarded or cc'd on e-mails. Respondent asserts and reserves all attorney-client and work product privileges.

80. In 2021, Giannakopoulos contacted Ready Capital Commercial on Spiegel's behalf. Ready Capital is a lender authorized to issue Freddie Mac Small Balance Loans, which are loans sponsored by the federal government and used to finance affordable rental properties. In 2021, Giannakopoulos told Respondent, Spiegel, and others what documents would have to be submitted to Ready Capital in order to obtain a loan against the Greenleaf property. This included the Operating Agreement for Greenleaf, LLC, the Articles of Organization, and personal financial statements of the managing members of the LLC.

ANSWER:

Respondent was not present between any alleged contact between Giannakopoulos and Ready Capital. Hence, Respondent cannot admit or deny this allegation but asserts that the Administrator shall still bear the burden to prove it at any hearing. As to those communications with Giannakopoulos, Respondent admits only that Giannakopoulos and/or Ready Capital provided some forms listing various documents that may be provided. Respondent asserts and reserves all attorney-client and work product privileges.

81. At all times related to this complaint, Respondent, Giannakopoulos, and Spiegel knew that individuals and entities in bankruptcy were generally ineligible to receive Freddie Mac loans such as the loan that Spiegel was seeking against the Greenleaf property.

ANSWER:

Respondent denies. The entity seeking to receive a loan was 1116-1122 Greenleaf LLC, not Spiegel. 1116-1122 Greenleaf LLC was not in bankruptcy and nothing precluded it from seeking a Freddie Mac Loan. Moreover, under 8.4 of the Operating Agreement, upon Spiegel's bankruptcy filing, any successor would only receive his economic interest to distributions and is not a fully substituted member. Respondent asserts and reserves all

attorney-client and work product privileges.

82. In late 2021, Respondent, on behalf of Spiegel, engaged in email correspondence with Giannakopoulos and others about the changes that would need to be made to documents related to Greenleaf, LLC in order to obtain a loan. This included removing Marshall Spiegel as managing member of the LLC and substituting his son, Matthew Spiegel, in order to conceal the extent of Marshall Spiegel's membership interest in the LLC, and reducing or purporting to reduce Spiegel's membership interest for no consideration. Respondent agreed to make these changes on Marshall Spiegel's behalf.

ANSWER:

Respondent asserts and reserves all attorney-client and work product privileges. Without waiving the privileges, Respondent admits only that Giannakopoulos and/or the Ready Capital requested that Mathew and Marshall Spiegel make certain changes be made to 1116-1122 Greenleaf documents and they agreed. Respondent asserts that Ready Capital knew of all the changes through its agents. Respondent asserts that any changes were done as requested by all parties, such changes were not material to the transaction, and such changes are customary for companies seeking financing in order to conform to requirements. Respondent denies that Marshall Spiegel was removed as managing member and his son was substituted in to conceal Marshall Spiegel's interest. As noted above, Section 5 is the 'Powers and Duties of Managers' operative section. Section 5.1.1 states that the "members" "shall have the complete power and authority" to operate Greenleaf LLC. Also, Section 5.1.2 vests the authority to manage the company by a 'Majority in Interest of the Members.' According to Schedule 1, Matthew Spiegel had 99.75% of the membership interest and Marshall Spiegel had .025%. Similarly, Section 5.1.3 states, "[t]hird parties dealing with the Company" can "conclusively" rely on Greenleaf LLC's Majority in interest to "manage and operate" it. Moreover, any change in Marshall Spiegel's interest was from .025% to .01%, which was immaterial. Moreover, under 8.4 of the Operating Agreement, upon Spiegel's bankruptcy filing, any successor would only receive his economic interest to distributions and is not a fully substituted member. Respondent asserts and reserves all attorney-client and work product privileges.

83. On December 16, 2021, Respondent sent an email to Giannakopoulos, Spiegel, and others stating, among other things, that "Marshall [Spiegel] absolutely has to be taken off the IL Sec of State Articles of Organization." Respondent further stated that he had attached a redlined version of the Greenleaf Operating Agreement, which Respondent edited.

ANSWER:

Respondent asserts and reserves all attorney-client and work product privileges. Without waiving the privileges, Respondent only admits that an e-mail on December 16, 2021 stating that Marshall Spiegel had to be taken of the Articles of Organization and attaching a revised Operating Agreement as Marshall Spiegel was not the Manager of 1116-1122 Greenleaf LLC. Respondent also asserts that any changes were done as requested by all parties, such changes were not material to the transaction, and such changes are customary for companies seeking financing in order to conform to requirements. As noted above, Section 5 is the 'Powers and Duties of Managers' operative section. Section 5.1.1 states that the "members" "shall have the complete power and authority" to operate Greenleaf LLC. Also, Section 5.1.2 vests the authority to manage the company by a 'Majority in Interest of the Members.'

According to Schedule 1, Matthew Spiegel had 99.75% of the membership interest and Marshall Spiegel had .025%. Similarly, Section 5.1.3 states, "[t]hird parties dealing with the Company" can "conclusively" rely on Greenleaf LLC's Majority in interest to "manage and operate" it. Moreover, any change in Marshall Spiegel's interest was from .025% to .01%, which was immaterial. Moreover, under 8.4 of the Operating Agreement, upon Spiegel's bankruptcy filing, any successor would only receive his economic interest to distributions and is not a fully substituted member.

84. In the redlined version of the Greenleaf Operating Agreement, Respondent made a number of changes, including the following:

a. Listing Matthew Spiegel as the sole manager of Greenleaf, LLC;
b. Indicating that the property itself would be held in the name of Greenleaf, LLC and not in a land trust;
c. Reducing Marshall Spiegel's ownership interest in Greenleaf, LLC to .01 percent;
d. Deleting Marshall Spiegel's title as a manager and all other references to Marshall Spiegel from the Operating Agreement;
e. Removing Marshall Spiegel from the Illinois Secretary of State Articles of Organization; and
f. Changing the Greenleaf, LLC from a Member Managed LLC to a Manager Managed LLC.

ANSWER:

Respondent asserts and reserves all attorney-client and work product privileges. Without waiving the privileges, Respondent only admits that the document speaks for itself and any any changes were done as requested by all parties, such changes were not material to the transaction, and such changes are customary for companies seeking financing in order to conform to requirements.

Moreover, this allegation fails to identify what redlined version is at issue as three versions were sent that day. As such, this response will refer to the one that was attached to the e-mail text stating, "Marshall absolutely has to . . ."

As noted above, Section 5 is the 'Powers and Duties of Managers' operative section. Section 5.1.1 states that the "members" "shall have the complete power and authority" to operate Greenleaf LLC. Also, Section 5.1.2 vests the authority to manage the company by a 'Majority in Interest of the Members.' According to Schedule 1, Matthew Spiegel had 99.75% of the membership interest and Marshall Spiegel had .025%. Similarly, Section 5.1.3 states, "[t]hird parties dealing with the Company" can "conclusively" rely on Greenleaf LLC's Majority in interest to "manage and operate" it. Moreover, any change in Marshall Spiegel's interest was from .025% to .01%, which was immaterial. Moreover, under 8.4 of the Operating Agreement, upon Spiegel's bankruptcy filing, any successor would only receive his economic interest to distributions and is not a fully substituted member. Marshall Spiegel was only named as manager in a provision that asked for the 'Names and Addresses of Members' section 1.7.

Moreover, Respondent denies that Marshall Spiegel removed in the Operating

Agreement and his name appears therein throughout the document. Also, Respondent denies that any changes in the Operating Agreement removed Marshall Spiegel from the Articles of Organization as these are separate documents. Respondent admits that another person changed the Articles of Organization. Respondent denies that Greenleaf LLC was changed from member managed to manager managed as it was always and still is managed by its members as noted in Section 5 of the Operating Agreement.

85. On the redlined version of the Greenleaf Operating Agreement, Respondent kept the original date of March 30, 2018. Respondent also did not indicate that the redlined version of the Greenleaf Operating Agreement was an amended agreement. In or about December 2021, Marshall and Matthew Spiegel signed the new Greenleaf Operating Agreement, which Respondent backdated to March 30, 2018. Shortly thereafter, Giannakopoulos submitted the backdated Operating Agreement to Ready Capital.

ANSWER:

Respondent asserts and reserves all attorney-client and work product privileges. Moreover, this allegation fails to identify what redlined version is at issue as three versions were sent that day. As such, this response will refer to the one that was attached to the e-mail text stating, 'Marshall absolutely has to . . .' as noted above.

Without waiving the privileges, Respondent denies that the redlined version kept the original date as it was struck out in the first instance where it was mentioned and retain in another section. Respondent also denies that it does not indicate it was an amended operating agreement as the title states it is an 'Amended Operating Agreement.' only admits that the document speaks for itself and any any changes were done as requested by all parties, such changes were not material to the transaction, and such changes are customary for companies seeking financing in order to conform to requirements.

As noted above, Section 5 is the 'Powers and Duties of Managers' operative section. Section 5.1.1 states that the "members" "shall have the complete power and authority" to operate Greenleaf LLC. Also, Section 5.1.2 vests the authority to manage the company by a 'Majority in Interest of the Members.' According to Schedule 1, Matthew Spiegel had 99.75% of the membership interest and Marshall Spiegel had .025%. Similarly, Section 5.1.3 states, "[t]hird parties dealing with the Company" can "conclusively" rely on Greenleaf LLC's Majority in interest to "manage and operate" it. Moreover, any change in Marshall Spiegel's interest was from .025% to .01%, which was immaterial. Marshall Spiegel was only named as manager in a provision that asked for the 'Names and Addresses of Members' section 1.7.

Respondent further asserts that any changes were known and requested by Giannakopoulos and Ready Capital. Respondent asserts that Ready Capital knew of all the changes through its agents. Respondent further asserts that any changes to the Operating Agreement were not material and conformed to the parties' intent and they were not material and were known to all parties who agreed to them.

86. When Respondent made the changes to the Greenleaf Operating Agreement described above, he did so dishonestly because it did not accurately reflect the membership interests of Greenleaf and because Respondent knew that any changes to the Greenleaf Operating Agreement that reduced Spiegel's membership interest required the approval of the bankruptcy court and/or the US Trustee. Respondent made the changes to the Greenleaf Operating Agreement for the purpose of deceiving potential lenders into issuing a loan against the Greenleaf property

which Spiegel and Greenleaf, LLC would otherwise be ineligible to receive.

ANSWER:

Respondent asserts and reserves all attorney-client and work product privileges. Moreover, this allegation fails to identify what redlined version is at issue as three versions were sent that day. As such, this response will refer to the one that was attached to the e-mail text stating, 'Marshall absolutely has to . . .' as noted above.

Without waiving the privileges, Respondent denies that the changes did not accurately reflect the membership interests, needed approval of the bankruptcy court and the US trustee and were dishonest. Respondent further denies any changes were to deceive and were material such that a loan was issued based on the changes and would not have been issued otherwise. Respondent asserts that any changes were done as requested by all parties (Marshall Spiegel, Matthew Spiegel, Giannakopoulos on behalf of Marcus & Millchap, Nick Dallas as agent for Ready Capital at closing and agent for the Spiegel and Greenleaf LLC, and Ready Capital) and such changes were not material to the transaction, and such changes are customary for companies seeking financing in order to conform to requirements.

As noted above, Section 5 is the 'Powers and Duties of Managers' operative section. Section 5.1.1 states that the "members" "shall have the complete power and authority" to operate Greenleaf LLC. Also, Section 5.1.2 vests the authority to manage the company by a 'Majority in Interest of the Members.' According to Schedule 1, Matthew Spiegel had 99.75% of the membership interest and Marshall Spiegel had .025%. Similarly, Section 5.1.3 states, "[t]hird parties dealing with the Company" can "conclusively" rely on Greenleaf LLC's Majority in interest to "manage and operate" it. Moreover, any change in Marshall Spiegel's interest was from .025% to .01%, which was immaterial.

Respondent further asserts that any changes conformed to the parties' intent desires and were known to all parties who agreed to them. Respondent denies that a loan would not have issued otherwise as the changes were immaterial and known to all parties and hence were not deceptive.

87. In February 2022, Greenleaf, LLC borrowed approximately $1.8 million from Ready Capital as a licensed provider of Freddie Mac Small Balance Loans, secured by a mortgage on the Greenleaf property. The Operating Agreement submitted to Ready Capital and Freddie Mac to complete the transaction effectuated all of Respondent's changes identified above. However, the Greenleaf Operating Agreement was not identified in any way as having been recently and significantly amended. On the face of the Operating Agreement, as a result of the changes made by Respondent, it appeared to have been executed "as of the date and year first above written" which was March 30, 2018. Neither Respondent, Spiegel, nor Giannakopoulos informed any Freddie Mac representative about Spiegel's bankruptcy.

ANSWER:

Respondent asserts and reserves all attorney-client and work product privileges. Moreover, this allegation fails to identify what redlined version is at issue as three versions were sent that day. As such, this response will refer to the one that was attached to the e-mail text stating, 'Marshall absolutely has to . . .' as noted above.

Without waiving the privileges, Respondent was not a party to all the transactions and hence believes that a loan was obtained but does not know if all the documents with any

changes were submitted to complete the transaction. Respondent further asserts that any documents submitted to Giannakopoulos were presumptively submitted to Ready Capital and Freddie Mac as Giannakopoulos was the agent for both sides and Freddie Mac's counsel or representative was also Ready Capital. As such, Freddie Mac was informed about Spiegel's bankruptcy and the borrower was 1116-1122 Greenleaf LLC in any event. Moreover, all parties knew about the March 30, 2018 date on the Operating Agreement remaining and it was not material, was done as requested by all parties parties (Marshall Spiegel, Matthew Spiegel, Giannakopoulos on behalf of Marcus & Millchap, Nick Dallas as agent for Ready Capital at closing and agent for the Spiegel and Greenleaf LLC, and Ready Capital) and not relied upon as a basis for the loan such that any loan would not have been given otherwise.

Also, as noted above, any changes conformed the Operating Agreement to what was intended and its prior provisions. As noted above, Section 5 is the 'Powers and Duties of Managers' operative section. Section 5.1.1 states that the "members" "shall have the complete power and authority" to operate Greenleaf LLC. Also, Section 5.1.2 vests the authority to manage the company by a 'Majority in Interest of the Members.' According to Schedule 1, Matthew Spiegel had 99.75% of the membership interest and Marshall Spiegel had .025%. Similarly, Section 5.1.3 states, "[t]hird parties dealing with the Company" can "conclusively" rely on Greenleaf LLC's Majority in interest to "manage and operate" it. Moreover, any change in Marshall Spiegel's interest was from .025% to .01%, which was immaterial.

Respondent again asserts that any changes conformed to the parties' intent desires and were known to all parties who agreed to them. Respondent denies that a loan would not have issued otherwise as the changes were immaterial and known to all parties and hence were not deceptive.

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

a. engaging in conduct including assisting a client in conduct that Respondent knew to be criminal or fraudulent by conduct including backdating the revised Greenleaf Operating Agreement to March 30, 2018; reducing or purporting to reduce Marshall Spiegel's membership interest in Greenleaf, LLC without the permission of the bankruptcy court or the US Trustee and for no consideration; and changing the Greenleaf Operating Agreement to allow Greenleaf, LLC to obtain a Freddie Mac loan for which it was not otherwise eligible, in violation of Rule 1.2(d) of the Illinois Rules of Professional Conduct (2010); and

b. engaging in conduct involving fraud, dishonesty, deceit, or misrepresentation by conduct including backdating the revised Greenleaf Operating Agreement to March 30, 2018; reducing or purporting to reduce Marshall Spiegel's membership interest in Greenleaf, LLC without the permission of the bankruptcy court or the US Trustee and for no consideration; and changing the Greenleaf Operating Agreement to allow Greenleaf, LLC to obtain a Freddie Mac loan for which it was not otherwise eligible, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

ANSWER:

Respondent asserts and reserves all attorney-client and work product privileges.

Moreover, this allegation fails to identify what redlined version is at issue as three versions were sent that day. As such, this response will refer to the one that was attached to the e-mail text stating, 'Marshall absolutely has to . . .' as noted above.

Without waiving the privileges, Respondent denies this paragraph including subparts 'a' and 'b.' Respondent denies the changes did not accurately reflect the membership interests, needed approval of the bankruptcy court and the US trustee and were dishonest. Respondent further denies any changes were to deceive and were material such that a loan was issued based on the changes and would not have been issued otherwise. Respondent asserts that any changes were done as requested by all parties (Marshall Spiegel, Matthew Spiegel, Giannakopoulos on behalf of Marcus & Millchap, and Ready Capital) and such changes were not material to the transaction, and such changes are customary for companies seeking financing in order to conform to requirements.

As noted above, Section 5 is the 'Powers and Duties of Managers' operative section. Section 5.1.1 states that the "members" "shall have the complete power and authority" to operate Greenleaf LLC. Also, Section 5.1.2 vests the authority to manage the company by a 'Majority in Interest of the Members.' According to Schedule 1, Matthew Spiegel had 99.75% of the membership interest and Marshall Spiegel had .025%. Similarly, Section 5.1.3 states, "[t]hird parties dealing with the Company" can "conclusively" rely on Greenleaf LLC's Majority in interest to "manage and operate" it. Moreover, any change in Marshall Spiegel's interest was from .025% to .01%, which was immaterial. Section 5 is the 'Powers and Duties of Managers' operative section of 1116-1122 Greenleaf LLC's Operating Agreement. Section 5.1.2 vests the authority to manage the company by a 'Majority in Interest of the Members.' According to Schedule 1, Matthew Spiegel had 99.75% of the membership interest and Marshall Spiegel had .025%. Marshall Spiegel was only named as manager in a provision that asked for the 'Names and Addresses of Members' section 1.7. Respondent further asserts that any changes conformed to the parties' intent desires and were known to all parties who agreed to them. Respondent denies that a loan would not have issued otherwise as the changes were immaterial and known to all parties and hence were not deceptive.

Respondent further asserts that any documents submitted to Giannakopoulos were presumptively submitted to Ready Capital and Freddie Mac as Giannakopoulos was the agent for both sides and Freddie Mac's counsel or representative was also Ready Capital. As such, Freddie Mac was informed about Spiegel's bankruptcy and the borrower was 1116-1122 Greenleaf LLC in any event. Moreover, all parties knew about the March 30, 2018 date on the Operating Agreement remaining and it was not material, was done as requested by all parties (Marshall Spiegel, Matthew Spiegel, Giannakopoulos on behalf of Marcus & Millchap and as agent for Ready Capital, and Ready Capital through its agents) and not relied upon as a basis for the loan such that any loan would not have been given otherwise.

Also, as noted above, any changes conformed the Operating Agreement to what was intended and its prior provisions. Respondent again asserts that any changes conformed to the parties' intent desires and were known to all parties who agreed to them. Respondent denies that a loan would not have issued otherwise as the changes were immaterial and known to all parties and hence were not deceptive.

PROFESSIONAL BACKGROUND

Pursuant to Commission Rule 231, Respondent states that he is licensed to practice law in the State of Illinois, and has been admitted to practice in the Federal District Courts of Colorado, Eastern District of Pennsylvania, Eastern District of Wisconsin, and Northern District of Illinois, as well as the Federal Seventh and Tenth Circuit Court of Appeals. Respondent is not licensed to practice in any administrative agency.

WHEREFORE, Respondent prays that this Honorable Board deny Counts I, II and III of the Administrator's First Amended Complaint, and for any further and equitable relief as may be just.

Respectfully Submitted,
John Xydakis

BY: _____/s/ John Xydakis_____
John Xydakis, Attorney for Respondent

Law Office of John S. Xydakis
ARDC No. 6258004
Suite 121-G33
332 S. Michigan Ave.
Suite 121-G33
Chicago, IL 60604
(312) 488-3497
johnxlaw@gmail.com