

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

In the Matter of: )  
)  
**ANTHONY PATRICK GILBRETH,** )  
) Commission No. 2015PR00100  
Attorney-Respondent, )  
)  
No. 6289576. )

**ANSWER**

Respondent, ANTHONY PATRICK GILBRETH, by his attorney, William F. Moran, III, for his answer to the allegations as set forth in the Complaint filed in the above-referenced cause by the Administrator of the Attorney Registration and Disciplinary Commission, JEROME LARKIN, states as follows:

**PROFESSIONAL BACKGROUND**

1. Respondent has been licensed to practice law in the State of Missouri and before the United States District Court for the Southern District of Illinois, both under his current name.
2. Respondent has no other professional license.

**ALLEGATIONS IN THE COMPLAINT**

**(Misrepresentation and Dishonesty by Failing to Disclose the Death of a Client During Pending Litigation—Randy L. Robison)**

1. Respondent admits the allegations as set forth in Paragraph 1 of the Administrator’s Complaint.
2. Respondent admits the allegations as set forth in Paragraph 2 of the Administrator’s

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Complaint.

3. Respondent admits the allegations as set forth in Paragraph 3 of the Administrator's

Complaint.

4. Respondent admits the allegations as set forth in Paragraph 4 of the Administrator's

Complaint.

5. Respondent denies the allegation as set forth in Paragraph 5 of the Administrator's Complaint. Answering further, Respondent would state that he researched the issue and determined that the claim of Mr. Robison survived his death and remained viable. In fact, the matter could be taken to trial, as the discovery deposition of Mr. Robison had been taken before his death, and would be admissible at trial pursuant to the provisions of Supreme Court Rule 212(a)(5) and the Dead-Man's Act, 735 ILCS 5/8-201(b). As a result, the estate of Mr. Robison could and eventually was substituted in as an appropriate party plaintiff in Case No. 2008 L 601, pursuant to Section 2-1008(b) of the Illinois Code of Civil Procedure, 735 ILCS 5/2-1008(b). In this regard, Mr. Robison did not have a surviving spouse, so Respondent met with Matthew Robison, decedent's son. Matthew eventually agreed to serve as the petitioner in a probate proceeding to be filed by the Crowder & Scoggins law firm in St. Louis County, Missouri, where his father resided at the time of his death. On July 9, 2013, Attorney Kathie Blackman Dudley of Crowder & Scoggins filed a Petition for Letters of Administration on behalf of Matthew Robison in St. Louis County. The Clerk of the Court docketed the matter as *In re the Estate of Randy L. Robison, Deceased*, No. 13SL-PR01909. On August 27, 2013, the Probate Court issued Letters of Administration to Matthew. As requested, independent administration of the estate was granted by the Court, so Matthew could proceed with his duties as the personal representative of the estate, including the prosecution of Case No. 2008

L 601, without adjudication, order or direction of the Probate Court. On December 30, 2013, Respondent filed a Motion to Substitute Plaintiff in Case No. 2008 L 601, requesting that Matthew Robison be substituted as the party plaintiff in that case, as the lawful representative of his father's estate. On January 21, 2014, the Circuit Court entered an order granting Matthew's motion and substituted him into the case as the party plaintiff. As a result, while the estate was not filed immediately following the death of Mr. Robison, Respondent did eventually have "authority to act on behalf of a party in Case No. 2008 L 601," as alleged in Paragraph 5 of the Administrator's Complaint.

6. Respondent admits the allegations as set forth in Paragraph 6 of the Administrator's Complaint.

7. Respondent admits the allegations as set forth in Paragraph 7 of the Administrator's Complaint. Answering further, Respondent would state that effective January 1, 2010, Rule 1.6(a) of the Illinois Rules of Professional Conduct was amended to provide,

A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b) or required by paragraph (c).

The previous iteration of Rule 1.6(a) provided,

Except when required under Rule 1.6(b) or permitted under Rule 1.6(c), a lawyer shall not, during or after termination of the professional relationship with the client, use or reveal a confidence or secret of the client known to the lawyer unless the client consents after disclosure.

Respondent researched the issue and discussed the matter with his partners at Crowder & Scoggins, prior to July 1, 2013. Respondent concluded that the death of his client, Mr. Robison, was "information relating to the representation of a client" which he had a duty to preserve under the

“new” version of Rule 1.6(a). While his interpretation of the “new” Rule was eventually rejected by the Appellate Court, Respondent believed in good faith on July 1, 2013, that he was precluded from disclosing the death of Mr. Robison to defense counsel and the Circuit Court.

8. Respondent denies the allegation as set forth in Paragraph 8 of the Administrator’s Complaint. Answering further, Respondent would restate and reallege all of the additional affirmative matter as set forth above.

9. Respondent denies the allegation as set forth in Paragraph 9 of the Administrator’s Complaint. Answering further, Respondent would restate and reallege all of the additional affirmative matter as set forth above.

10. Respondent admits the allegations as set forth in Paragraph 10 of the Administrator’s Complaint.

11. Respondent admits the allegation as set forth in the first sentence of Paragraph 11 of the Administrator’s Complaint. Respondent does not have personal knowledge concerning what Mr. Smith knew or did not know at the time he offered to settle the case for \$110,000, as alleged in the second sentence of Paragraph 11, so he will neither admit nor deny the allegation that Mr. Smith did not know that Mr. Robison had previously passed away and demand strict proof thereof.

12. Respondent admits the allegation as set forth in Paragraph 12 of the Administrator’s Complaint. Answering further, Respondent would restate and reallege all of the additional affirmative matter as set forth above.

13. Respondent denies the allegation as set forth in Paragraph 13 of the Administrator’s Complaint. Answering further, Respondent would restate and reallege all of the additional affirmative matter as set forth above.

14. Respondent admits the allegations as set forth in Paragraph 14 of the Administrator's Complaint.

15. Respondent denies the allegations as set forth in Paragraph 15 of the Administrator's Complaint. Answering further, Respondent would state that he sought and received the approval of Matthew Robison, as the lawful representative of his father's estate, to settle the case for the stated amount.

16. Respondent denies the allegation as set forth in Paragraph 16 of the Administrator's Complaint.

17. Respondent admits the allegation as set forth in Paragraph 17 of the Administrator's Complaint.

18. Respondent admits the allegations as set forth in Paragraph 18 of the Administrator's Complaint.

19. Respondent admits the allegation as set forth in Paragraph 19 of the Administrator's Complaint.

20. Respondent admits the allegations as set forth in Paragraph 20 of the Administrator's Complaint.

21. Respondent admits the allegations as set forth in Paragraph 21 of the Administrator's Complaint. Answering further, Respondent would state that the Circuit Court apparently agreed with his theory that the death of Mr. Robison did not need to be disclosed pursuant to the "new" version of Rule 1.6(a), effective on January 1, 2010.

22. Respondent admits the allegations as set forth in Paragraph 22 of the Administrator's Complaint.


23. Respondent admits the allegations as set forth in Paragraph 23 of the Administrator's Complaint.

24. Respondent denies the allegations of misconduct as set forth in Subsections (a), (b) and (c) of Paragraph 24 of the Administrator's Complaint.

WHEREFORE, Respondent, ANTHONY PATRICK GILBRETH, would request that an evidentiary hearing be conducted on the Complaint filed in this cause by the Administrator of the Attorney Registration and Disciplinary Commission, JEROME LARKIN, and his Answer; that subsequent to the hearing, the Hearing Board make such findings of fact and conclusions of law which are supported by the record; and thereafter, that the Hearing Board recommend an appropriate disposition of the Administrator's Complaint.

Respectfully submitted,

ANTHONY PATRICK GILBRETH, Respondent

By:   
His attorney

**COUNSEL FOR RESPONDENT:**

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