In re Soon Mo Ahn
Attorney-Respondent

Commission No. 2020PR00045

Synopsis of Hearing Board Report and Recommendation
(September 2021)

The Administrator filed a two-count Complaint against Respondent. Count I alleged that he failed to withdraw from representation after being discharged, continued to hold himself out as his former client's attorney, filed pleadings with no basis in law or fact, and acted dishonestly for the purpose of collecting his fees. Respondent was charged with failing to withdraw from employment when discharged by a client, bringing or defending a proceeding without a basis in law and fact for doing so, engaging in dishonest conduct, and engaging in conduct prejudicial to the administration of justice.

Count II alleged that Respondent drafted estate documents for a client naming himself as attorney in fact and executor of the client's will and, after the client's death, used information relating to the representation to the disadvantage of the former client. The allegations further stated that he filed pleadings when he was not qualified to act as counsel and drafted and signed a quitclaim deed on behalf of both a grantor and grantee. Respondent was charged with engaging in a conflict of interest, using information of a former client to the disadvantage of the former client, engaging in dishonest conduct and engaging in conduct prejudicial to the administration of justice.

The Hearing Board found that all charges were proved by clear and convincing evidence. After considering the misconduct, as well as the mitigating and aggravating factors, the Hearing Board recommended Respondent be suspended for one year and until further order of the Court.

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

In the Matter of: **SOON MO AHN,** Attorney-Respondent, No. 6206480.	Commission No. 2020PR00045

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

Count I of the Administrator's Complaint charged Respondent with failing to withdraw from representing a client after he was discharged, filing pleadings with no basis in law or fact, and dishonestly extracting fees from a mentally incapacitated client. Count II charged that he engaged in a representation when he had a conflict of interest, used confidential information of one client to benefit another client and acted dishonestly in handling a property conveyance.

We found the charges were proved and recommend Respondent be suspended for one year and until further order of the Court.

INTRODUCTION

The hearing in this matter was held on May 21, 2021 by video conference before a panel consisting of Carl E. Poli, Anne L. Fredd and Michael J. Friduss. Chi (Michael) Zhang, Matthew D. Lango and Brenda Alvarez appeared on behalf of the Administrator of the Attorney Registration and Disciplinary Commission ("ARDC").[1] Respondent appeared pro se.

PLEADINGS AND MISCONDUCT ALLEGED

On June 12, 2020, the Administrator filed a two-count Complaint against Respondent charging him with 1) failing to withdraw from employment when the lawyer was discharged by the client in violation of Rule 1.16(a)(3) (Count I); 2) bringing or defending a proceeding with a basis in law and fact that is frivolous in violation of Rule 3.1 (Count I); 3) engaging in a conflict of interest by representing a client where there is a significant risk that the representation of the client will be materially limited by his own personal interest in violation of Rule 1.7(a)(2) (Count II); 4) using information relating to the representation of a former client to the disadvantage of the former client in violation of Rule 1.9(c) (Count II); 5) conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) (Counts I and II); and 6) conduct that is prejudicial to the administration of justice in violation of Rule 8.4(d) (Counts I and II).

On August 12, 2020 Respondent filed an answer in which he admitted some of the allegations, denied others, and denied all charges of misconduct.

EVIDENCE

The Administrator called Rebecca Han, David Yavitz, Howard Cohen, Ian Broomfield and Respondent as witnesses, and was granted leave to substitute the deposition transcript of Michelle Samonte as her actual testimony. Administrator's exhibits 1-33 and Respondent's exhibits 1-3, 4 (except Han deposition transcript), and 5-7 were admitted into evidence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In attorney disciplinary proceedings the Administrator has the burden of proving the charges of misconduct by clear and convincing evidence. In re Winthrop, 219 Ill. 2d 526, 542 (2006). Clear and convincing evidence constitutes a high level of certainty, which is greater than

a preponderance of the evidence but less than proof beyond a reasonable doubt. People v. Williams, 143 Ill. 2d 477 (1991).

I. Respondent is charged with failing to withdraw from representing a mentally incapacitated client after being discharged by the client's attorney-in-fact, asserting frivolous claims after being discharged, acting dishonestly in collecting fees, and engaging in conduct prejudicial to the administration of justice. (Rules 1.16(a), 3.1, 8.4(c) and 8.4(d)).

A. Summary

We find all charges were proved by clear and convincing evidence.

B. Admitted Facts and Evidence Considered

Respondent's Representation of Anna Han

In June 2017, Respondent met with, and agreed to represent, 67-year-old Anna Han ("Anna"), who was seeking a divorce from her husband Matthew. At Respondent's suggestion and with Anna's agreement, Respondent prepared a Durable Power of Attorney ("power of attorney") for Anna which appointed her two eldest daughters as co-attorneys-in-fact, and her youngest daughter Rebecca Han as successor attorney-in-fact. The power of attorney, which was to take effect at such time as Anna's attending physician determined she was incapacitated to manage her day-to-day affairs, allowed the attorney-in-fact to prosecute or defend any legal actions to which Anna was a party, to employ attorneys to render services for and to her estate, and to employ and discharge professionals for her physical, mental and/or emotional welfare. Anna signed the document on June 28, 2017. (Ans. at par. 1, 3; Adm. Ex. 1).

On July 6, 2017, Respondent filed a petition for dissolution of marriage on Anna's behalf. Rebecca Han testified she and her father met with Respondent, at Respondent's request, and received a summons from him. After Rebecca informed Respondent that her mother had an undiagnosed mental illness and pleaded with him not to go forward until her mother was evaluated,

she recalled Respondent telling them not to respond to the summons and he would try to help them. Rebecca decided to hire an attorney. (Ans. at par. 5; Tr. 54-56).

Respondent acknowledged learning from Rebecca and Matthew that Anna had memory issues. He then met with Anna again to determine her mental capacity and concluded, based on his own observations, that she was "completely ok." (Tr. 193-96).

Anna Han Diagnosis

In August 2017, after Anna threatened to kill Matthew, she was admitted to a hospital psychiatric facility for two weeks. She was then transferred to another hospital before being admitted to Niles Nursing and Rehabilitation Center ("Niles Center"). (Tr. 58-60).

On October 1, 2017 Dr. Anne Moore, a clinical psychologist at Niles Center, conducted an evaluation of Anna and concluded, in a report, that Anna's memory was "profoundly impaired" and she "lacks insight into her condition." On October 9, 2017 Anna was seen by Dr. Taras Didenko, a physician specializing in psychiatry, who prepared a report describing Anna as "unpredictable;" "overly paranoid" with a "history of depression;" "totally incapacitated of making any decisions;" and "confused and delusionally preoccupied." Rebecca testified that Anna had exhibited symptoms of psychosis for many years. (Ans. at par. 8, 9; Tr. 63-68, 99).

Termination of Respondent's Representation of Anna Han

Howard Cohen, an attorney, testified he met with Rebecca in the fall of 2017 to discuss Anna's condition and response to the divorce petition and in late October 2017, he was retained by Rebecca. He recalled receiving the power of attorney, and the doctors' reports. (Tr. 140-44).

On November 3, 2017, Rebecca formally accepted the position of Anna's attorney-in-fact after her older sisters resigned from serving in that capacity. Rebecca provided a copy of the power of attorney to the Niles Center and advised its personnel she was Anna's attorney-in-fact. Michelle Samonte, the director of rehabilitation services at the Niles Center, testified the Center viewed the

power of attorney as valid and binding because the criteria for it to take effect had been met. Cohen shared that opinion and also concluded the power of attorney gave Rebecca authority to discharge Respondent. (Tr. 69-71, 91, 103, 147-49, 154, 159, 162-63; Adm. Exs. 4, 5; Resp. Ex. 5).

Rebecca testified she decided to discharge Respondent because she believed he was taking advantage of Anna's mental incapacity and she did not trust him after he advised defaulting on the divorce petition. She discussed the matter with Cohen and on November 7, 2017, Cohen messengered a letter to Respondent's registered business address advising that Cohen represented Rebecca; Rebecca had assumed the role of Anna's attorney-in-fact pursuant to Dr. Didenko's determination that Anna was incapable of making rational decisions; a copy of the signed report was enclosed; Rebecca was discharging Respondent from representing Anna; and Respondent should withdraw his appearance in the divorce action within seven days. On November 8, 2017, Cohen filed a motion to substitute Counsel. He testified he would have notified Respondent of that filing. (Ans. at par. 14; Tr. 72-73, 90, 144-46, 154-56, 201; Adm. Ex. 6, Resp. Ex. 3).

Respondent acknowledged that at no time after November 7, 2017 did Anna or any of her representatives authorize him to perform work on her behalf. (Ans. at par. 30, as amended; Tr. 13).

Respondent's Removal of Anna Han From Niles Center

Samonte testified that in early November 2017, Respondent made two unsuccessful attempts to take Anna from the Niles Center. When he appeared on November 1, 2017, Samonte advised him of documentation by a doctor that Anna lacked decision-making skills due to delusional thinking and dementia. On November 9, 2017, she again reminded Respondent that Anna was not capable of making decisions. Samonte understood Respondent intended to take Anna to the social security office and he wanted to be paid attorney fees. (Tr. 23-28; Resp. Ex. 5).

On November 13, 2017, Respondent accompanied Anna from the Niles Center pursuant to the facility's sign-out policy, using a pass dated November 9, 2017. Samonte testified that neither she nor any other staff met with Respondent on November 13. After leaving the facility, Respondent took Anna to various places, including a local bank where she withdrew cash for herself. Prior to returning to the facility, Respondent received a check from Anna in the amount of $3,500 for attorney's fees, even though she owed him only $3,100. Respondent testified he gave her a credit for the extra $400, which was subsequently used for additional services provided to her. (Ans. at par. 16; Tr. 196-201; Adm. Exs. 8, 9; Resp. Ex. 5).

Respondent denied seeing Cohen's November 7, 2017 letter prior to taking Anna from the Niles Center. He testified his registered business address at that time was a mail box at another attorney's firm from which he did not regularly collect his mail, and he primarily communicated by email or telephone. He acknowledged that mail from courts, clients, attorneys, and the ARDC was sent to his business address. Respondent presented the deposition transcript of Barbara Wright, an employee of the law office where he received mail, who testified she or someone in the office would notify Respondent when his mail began to accumulate and call him if something appeared urgent. She confirmed that he had no set procedure for collecting mail. (Tr. 202-204; Resp. Ex. 6).

Events After November 13, 2017 Relating to the Divorce Proceedings

Michelle Samonte testified that Anna came to her on November 15, 2017, and stated she no longer wanted to work with Respondent or proceed with a divorce. Samonte believed Anna had the capacity to make the statement at that time. When Anna requested assistance in conveying her intent to Respondent, Samonte contacted him and advised him that he would receive a certified letter canceling his services. Samonte testified Anna voluntarily signed such a letter in her presence, and it was sent to Respondent by certified mail. (Adm. Ex. 7; Resp Ex. 5).

On December 6, 2017 Cohen and Respondent corresponded by email regarding Anna's power of attorney. In one email, Respondent mentioned that he seldom works at the office and that was why he "failed to get your letter dated November 7 much too late." (Resp. Ex. 3).

Between December 18, 2017 and January 4, 2018, Respondent took the following actions in the divorce proceeding, purportedly acting as Anna's attorney and identifying himself as such:

> On December 18, 2017 he served on Matthew Han's attorney, David Yavitz, an emergency motion objecting to subpoenas Yavitz had caused to be issued to the bank from which Anna withdrew funds on November 13, 2017;
>
> On December 21, 2017, he filed a response to Cohen's motion to substitute counsel in which he challenged Dr. Didenko's conclusions, the power of attorney, and Rebecca's authority as attorney-in-fact. Respondent acknowledged his disagreement with Dr. Didenko's analysis was based on his own observations of, and interactions with, Anna.
>
> On December 22, 2017 he caused a subpoena to be issued to the Niles Center seeking Anna's medical records;
>
> On January 4, 2018 he filed a motion to disqualify Yavitz in the divorce matter, arguing that Yavitz would be a necessary witness to uncovering Matthew's plot to take control of Anna's assets by making it appear she is incapacitated.

(Ans. at par. 18, 20; Tr. 111-12, 116-17, 204-209; Adm. Exs. 10, 12; Resp Ex. 2).

On January 19, 2018, Yavitz filed a motion seeking Rule 137 sanctions against Respondent for raising false and ungrounded claims after he was terminated by Anna's attorney-in-fact. On January 31, 2018, Respondent, again identifying himself as counsel for Anna, moved to dismiss Yavitz' motion and asked the court to instead sanction Yavitz. Respondent's motion accused Yavitz of asserting unsupportable allegations and filing the motion for sanctions to either harass Respondent or drive up his own fees. (Ans. at par. 23-24; Tr. 117-18; Adm. Exs. 12, 13).

On April 4, 2018, Judge Naomi Schuster entered an order allowing Cohen to appear for Anna and directing the withdrawal of Respondent's appearance. Cohen recalled Judge Schuster concluding that Rebecca had authority to engage and discharge attorneys pursuant to a valid power

of attorney. On June 18, 2018, Judge Schuster denied Respondent's motion for sanctions, finding it had no basis in law or fact, and granted Yavitz' motion for sanctions. Judgment was entered against Respondent for $3,000. (Ans. at par. 27, 29; Tr. 118-19, 148; Adm. Ex. 14).

Respondent filed for Chapter 7 bankruptcy on June 1, 2018. He acknowledged having had financial difficulties prior to that time. (Ans. at par. 59; Tr. 217).

C. Analysis and Conclusions

1. Rule 1.16(a)(3) – Failure to Withdraw From Representation After Discharge

Rule 1.16(a)(3) requires that a lawyer withdraw from representing a client if he has been discharged. We find this charge was proved.

In June 2017 Anna Han signed a power of attorney which was to take effect upon her physician's determination that she was unable to manage her day-to-day affairs. That precipitating fact occurred in October 2017, when Anna was evaluated by Dr. Didenko. On November 3, 2017 Rebecca Han became Anna's attorney-in-fact and by letter of November 7, 2017, Howard Cohen, at Rebecca's behest, advised Respondent of his discharge.

Respondent presented some evidence as to a delay in his receipt of Cohen's letter. Whether or not he promptly received the letter, it is clear that he was aware of his discharge no later than December 6, 2017 because he referenced Cohen's letter, as well as the power of attorney, in an email to Cohen on that date. He also admitted that at no time after November 7, 2017, did Anna or any of her representatives authorize him to perform work on Ann's behalf.

Rather than withdrawing after learning that his services were terminated, Respondent continued to identify himself as Anna's attorney and file numerous pleadings on her behalf. He claimed he could do so because Anna was capable of making her own decisions and therefore Rebecca did not have authority to discharge him. His conclusion was based on his own lay observations of Anna, was not supported by any medical authority, and was contrary to

overwhelming information provided to him. Respondent also asserted, as an affirmative defense, that the power of attorney by its terms did not give Rebecca legal authority to hire or fire an attorney on Anna's behalf. We find the document gave broad powers to the attorney-in-fact regarding Anna's property (which would be at issue in the divorce) and her medical care, including the power to discharge an attorney. We also heard testimony that the presiding judge in the divorce proceeding determined the power of attorney was valid.

We find that Rebecca, as attorney-in-fact for Anna, was empowered to discharge Respondent. By failing to withdraw after being discharged and continuing to identify himself as Anna's attorney in numerous pleadings, Respondent violated Rule 1.16(a)(3).

2. Rule 3.1 – Asserting Issues that are Frivolous

Rule 3.1 provides that a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous.

The evidence showed that Respondent submitted court filings challenging Rebecca's authority under the power of attorney as well as the opinions of medical and psychological professionals relating to Anna's incapacitation, all without offering medical authority to support a contrary position. He also asserted a plot by Matthew Han, with assistance by attorney Yavitz, to deprive Anna of her assets by portraying her as mentally disabled. The filings occurred after Respondent was discharged and instructed to withdraw from the case, which prompted a motion by Yavitz to sanction Respondent for submitting unauthorized and baseless filings. In response, Respondent requested sanctions against Yavitz for bringing a motion for an improper purpose and without conducting a reasonable investigation. The presiding judge denied Respondent's request for sanctions against Yavitz, finding it had no basis in law or fact, but granted Yavitz' motion.

We conclude that Respondent violated Rule 3.1 by continuing to file pleadings in Anna's divorce matter when he was not authorized to do so, submitting filings that contained

unsubstantiated claims regarding Anna's mental capacity, and bringing a motion for sanctions against Yavitz that was without basis and appeared to be largely retaliatory.

3. Rule 8.4(c) – Dishonesty, Fraud, Deceit or Misrepresentation

The Administrator charged that Respondent engaged in dishonest conduct by removing Anna from the Niles Center on November 13, 2017, for the purpose of obtaining fees when he knew of her mental incapacity and his discharge as her attorney.

Respondent denied any dishonesty and stated at the time in question he had not received attorney Cohen's November 7, 2019 letter discharging him and enclosing Dr. Didenko's report. Respondent's testimony that he received mail at another attorney's office, but did not regularly retrieve it, was supported by the deposition testimony of an employee in that office and by Respondent's December 6, 2017 email to Cohen referencing his late receipt of Cohen's letter.

Even if Respondent did not receive Cohen's letter prior to November 13, 2017, we consider other facts surrounding his actions on that date, as knowledge and intent can be inferred from conduct and surrounding circumstances. See In re Stern, 124 Ill. 2d 310 (1988). Further, we need not be naive in evaluating the evidence, including circumstantial evidence. See In re Field, 2018PR00015, M.R. 30536 (Jan. 21, 2021) (Hearing Bd. at 7).

The circumstances we consider, as established by credible evidence, are as follows: by November 13, 2017 Respondent was well-apprised of Anna's mental limitations and memory problems from sources other than Cohen; despite that knowledge, he accompanied Anna from the Niles facility without meeting with any staff that day and using an earlier dated pass; he had made two previous attempts to take Anna outside the facility; the director of the facility understood he was attempting to collect fees from Anna; after leaving the center with Anna, he did, in fact, receive a check from her for $3,500, which was more than the amount she owed him for fees; he acknowledged having financial difficulties which led to his filing bankruptcy seven months later.

We conclude from the foregoing that Respondent knowingly took advantage of a vulnerable person who was not able to make appropriate decisions for her own welfare. By acting to benefit himself at Anna's expense, he acted dishonestly in violation of Rule 8.4(c).

4. Rule 8.4(d) – Conduct Prejudicial to the Administration of Justice

Respondent participated in a litigation matter when he was not authorized to do so, which then triggered a motion for sanctions from his opposing counsel. Further, he filed motions that had no legitimate basis. As a result of his actions and filings, he caused counsel and the court to needlessly expend time and resources to address those matters. We find that his conduct, which undermined the judicial process and furthered no interest of his client, violated Rule 8.4(d).

II. Respondent is charged with representing a client in an estate matter when his own interests were adverse to the client, using information of a former client to the client's disadvantage, acting dishonestly in handling a property transfer, and causing prejudice to the administration of justice, in violation of Rules 1.7(a)(2), 1.9(c), 8.4(c) and 8.4(d).

A. Summary

We find all charges were proved by clear and convincing evidence.

B. Admitted Facts and Evidence Considered

In 2012, Respondent represented Kay Shin (f/k/a Kay Lee) in connection with Shin's acquisition of an interest in a massage parlor owned and operated by Donald Broomfield, who was married to Julia Broomfield ("Julia"). Respondent then became friends with Shin and Broomfield. Shortly after the transaction, Shin began a romantic relationship with Broomfield and in June of 2013, Broomfield leased an apartment where they resided together on weekdays. Thereafter, Broomfield's health began to deteriorate. (Ans. at par. 33-35; Tr. 209-10).

In March 2014, Respondent prepared a durable power of attorney and a will for Broomfield. The power of attorney appointed Respondent as Broomfield's attorney-in-fact, and the will nominated Respondent as the executor of Broomfield's will. Broomfield executed both

documents on March 23, 2014. Respondent had also represented Broomfield with respect to traffic violations and collection matters. (Ans. at par. 36-37, Tr. 212-13; Adm. Exs. 15, 16, 30).

In February 2015, Shin sold her interest in the massage parlor and became Broomfield's full-time caregiver. On July 6, 2015, Broomfield signed a letter drafted by Respondent promising to purchase a house for Shin, of Shin's choosing, in the price range of $150,000 as an apparent gesture of gratitude for her continued care. In September 2015, Broomfield purchased a condominium for approximately $140,000 by making a down payment of $40,000 and financing the remainder with a mortgage. Title to the condominium was conveyed in Broomfield's name. (Ans. at par. 40-42).

Broomfield died in December of 2016. At the time of his death, the mortgage on the condominium had not been paid off. (Ans. at par. 45-46).

Following Broomfield's death, Respondent contacted Broomfield's son Ian, a resident of Oregon. Respondent identified himself to Ian as the executor of Broomfield's estate, informed Ian of Broomfield's relationship with Shin and the promise made to her, and suggested that Ian take money out of the estate for Shin in order to save Ian's mother, Julia, from embarrassment. In a December 22, 2016 letter to Ian, Respondent asked to be included in the notice to creditors when the estate was probated. Ian testified he had a copy of his father's recorded will which did not mention Respondent, and he had not been aware of another will or his father's affair. (Ans. at par. 48; Tr. 175-84; Adm. Ex. 18).

Shortly after Broomfield's death, Respondent met with Shin to discuss the possibility of filing a claim against Broomfield's estate based on Broomfield's July 6, 2015 letter. Thereafter, he agreed to represent Shin in a claim to recover the remaining amount owed on the condominium mortgage. On March 21, 2017, he filed a complaint for breach of promise on behalf of Shin against

Ian and Julia individually. Respondent had not previously disclosed his intent to represent Shin in her claim; had not explained the significance or consequences of his representation to estate representatives; and had not sought the representatives' consent to represent Shin in a claim against the estate. Ian testified that after being served with the lawsuit, he informed his mother of Broomfield's affair, which was traumatic for everyone. (Ans. at par. 47, 50; Tr. 182, 186-87, Adm. Ex. 20).

On May 9, 2017, Respondent filed an amended complaint on behalf of Shin against Julia and/or Ian Broomfield, "as personal representative of the Broomfield estate" alleging breach of contract and seeking in excess of $140,000, plus attorney's fees. On August 1, 2017, Judge Susan Boles dismissed the amended complaint, finding it was filed in the incorrect division and had not pled a cause of action personal to either defendant. (Ans. at par. 51, 52; Adm. Exs. 21, 22).

On October 17, 2017, Respondent, on behalf of Shin, filed a motion to appoint a special representative of the Broomfield estate. After that motion was granted and Julia was appointed as special representative of the estate, Respondent filed a second amended complaint for breach of contract on behalf of Shin against Julia Broomfield, as special representative of Donald Broomfield's estate. (Ans. at par. 54, 55: Adm. Exs. 24, 25).

On January 31, 2018, Julia Broomfield's counsel filed a motion to disqualify Respondent based on Respondent's prior representation of Donald Broomfield in various legal matters over the course of several years. The motion also sought sanctions against Respondent, alleging that he had acted in bad faith by filing numerous pleadings against the Broomfield estate without disclosing his prior attorney-client relationship with the decedent. (Ans. at par. 56; Adm. Ex. 26).

On April 17, 2018, the court entered an order granting the motion to disqualify and the motion for sanctions. On May 30, 2018, attorneys' fees and costs in the amount of $3,987.25 were

awarded against Respondent. On July 25, 2018, the court dismissed Shin's case for want of prosecution. (Ans. at par. 57, 58, 60; Tr. 188; Adm. Exs. 27-29).

Sometime on or prior to January 3, 2019, Respondent prepared a quitclaim deed conveying the condominium in question from Broomfield, a deceased person, and Shin (named as "Kay Lee" in the quitclaim deed) to Eunice Park, the daughter of Respondent's current fiancée (and ex-wife), Jung Hee, for the sum of $10.00. At the bottom of the deed, a signature that appears to read "Kay Shin" is written in the space for Kay Lee's signature, and the word "deceased" is typed in the space for Broomfield's signature. Respondent admitted he signed a Grantor/Grantee Affidavit for both the grantor and grantee, and Jung Hee notarized the signatures. Respondent recorded the quitclaim deed on March 29, 2019. (Ans. at par. 61, 62; Tr. 216; Adm. Ex. 32).

C. Analysis and Conclusions

1. Rule 1.7(a)(2) – Concurrent Conflict of Interest

Rule 1.7(a)(2) states that a lawyer shall not represent a client if there is a significant risk that the representation will be materially limited by the lawyer's own personal interest or by his responsibilities to another client or former client. The Administrator alleged that Respondent violated Rule 1.7 by drafting a will and a power of attorney for Broomfield which named Respondent as executor and attorney-in-fact, respectively, and by drafting the July 6, 2015 "letter of promise" for Shin when he had represented both Broomfield and Shin in the past.

We find this charge was proved. With respect to Respondent's preparation of Broomfield's power of attorney and will, we find there was a significant risk that his legal judgment could be compromised by his own interests in being named to positions which could entitle him to a fee, and which would give him control over Broomfield's assets and claims against the estate. Such a conflict is not necessarily fatal to a representation, however, if certain conditions under Rule 1.7(b) are met, such as an attorney's reasonable belief that he could provide competent representation to

the client, and his procurement of the client's informed consent to the representation. We received no evidence that these conditions were met.[2]

With respect to Respondent's drafting of the letter of promise from Broomfield to Shin, the evidence was not clear which of the two he was representing, but he clearly had represented each of them separately and therefore owed duties to refrain from undertaking a representation of one that would be materially limited by his responsibilities to the other. Respondent presented no evidence that he discussed any conflict with either client or obtained their informed consent.

2. Rule 1.9(c) – Using Information of Former Client to Disadvantage of Former Client

Rule 1.9(c) states that a lawyer who has formerly represented a client in a matter shall not use information relating to that representation to the disadvantage of the former client. We find Respondent gained information from his representation of Broomfield relating to Broomfield's relationship with Shin, including Broomfield's purchase and financing of a condominium for her, and then used that information to represent Shin's competing interests against Broomfield's estate. By his own admission, Respondent had not previously disclosed to the estate his intent to represent Shin in her claim; did not explain the significance or the consequences of that representation to estate representatives; and did not seek the representatives' consent to represent Shin in her claim against the estate. By using information to the detriment of a former client, Respondent violated Rule 1.9(c). See In re Michal, 415 Ill. 2d 150 (1953) (attorney breached duty to former client by preparing will and performing other services for client and then, after client's death, representing client's widow in attacking will and using confidential knowledge of client's affairs to do so).

As detailed more fully in the following section, Respondent further acted to the disadvantage of his former client by preparing a quitclaim deed that transferred the condominium Broomfield had purchased for Shin to Respondent's fiancé's daughter.

3. Rule 8.4(c) – Dishonesty, Fraud, Deceit or Misrepresentation

The Administrator charged Respondent with dishonesty in connection with the quitclaim deed he prepared on or before January 3, 2019, conveying the condominium Broomfield purchased for Shin in 2015. The deed identifies the grantors as Donald Broomfield, deceased, and Kay Shin. Eunice Park, the daughter of Respondent's fiancé/ex-wife, is listed as the grantee.

Although we were presented with limited evidence regarding this transfer, as neither Shin nor Park testified, the following circumstances clearly convinced us of Respondent's dishonest intentions: Broomfield, as a deceased person, is listed as a grantor on the deed but no representative signed on behalf of his estate; Respondent signed a grantor/grantee affidavit on behalf of both the grantor and grantee, but did not claim or establish any authority to sign in those capacities; the quitclaim conveyance was made to an individual with whom Respondent has personal ties; the signatures were notarized by Respondent's fiancée, who also is the mother of the grantee. Under the circumstances we conclude that Respondent engaged in dishonest conduct to benefit a relative of his fiancée in violation of Rule 8.4(c). See In re Dine, 2018PR00062 (May 21, 2019) (attorney's dishonest acts with respect to quitclaim conveyance included directing third person to sign on behalf of both grantor and grantee when person had no authority to do so).

4. Rule 8.4(d) – Conduct Prejudicial to the Administration of Justice

The Administrator charged Respondent with violating Rule 8.4(d) by filing pleadings when he was not qualified to act as counsel. We find this charged was proved. Respondent's persistence in pursuing a lawsuit on behalf of Shin, which resulted in a motion to disqualify and sanctions being imposed against him, resulted in needless time spent by Ian Broomfield and his mother, their counsel, and the court, and therefore undermined the administration of justice.

EVIDENCE IN MITIGATION AND AGGRAVATION

Regarding the Han divorce matter, Matthew Han's attorney, David Yavitz, testified that Respondent's conduct cost Matthew and his family needless attorney fees and, but for Respondent's actions, Yavitz and Howard Cohen would have filed a joint stipulation to dismiss the case in early December 2017. Rebecca Han testified she paid Cohen $4,000 and Matthew paid Yavitz between $15,000 and 18,000. Rebecca and Cohen both testified that Respondent's actions caused extreme emotional distress for Han's family members. (Tr. 84-85, 120, 149).

With respect to the Broomfield matter, Ian Broomfield testified his attorney fees and expenses for traveling to Chicago for the case brought by Shin totaled more than $28,000 and additionally, he lost time from work. Further, Respondent's actions complicated Ian's and his mother's grieving process, placed his mother in a vulnerable and fearful position, and caused them much stress over the course of two years. (Tr. 187-189).

Respondent filed for bankruptcy in June 2018. On September 10, 2018 he was given an order of discharge, but most fines and penalties were not discharged. Respondent has not paid the sanctions entered against him in the Han and Broomfield matters. (Tr. 218-20; Adm. Ex. 33).

Prior Discipline

The Administrator reported that Respondent has not been previously disciplined.

RECOMMENDATION

In determining the appropriate discipline, we are mindful that the purpose of these proceedings is not to punish, but to safeguard the public, maintain the integrity of the profession and protect the administration of justice from reproach. In re Edmonds, 2014 IL 117696, ¶ 90. While we strive for consistency and predictability, we recognize that each case is unique and must be decided on its own facts. In re Mulroe, 2011 IL 111378, ¶ 25.

In arriving at our recommendation, we consider those circumstances which may mitigate and/or aggravate the misconduct. In re Gorecki, 208 Ill. 2d 350 (2003). Respondent's lack of prior discipline is a mitigating factor in this case.

In aggravation, we did not perceive Respondent to be remorseful for his actions, nor did he appear to fully understand the nature of his misconduct. In fact, at times he appeared confused and overwhelmed by the proceedings. We also consider the harm or risk of harm caused by his actions. In the Han matter, Respondent's actions delayed the eventual dismissal of the case, caused needless expense to the parties involved, and amplified the emotional distress and turmoil already felt by family members. Further, Respondent took advantage of a particularly vulnerable client for his own financial benefit. Similarly, in the Broomfield matter Respondent's involvement in the Shin lawsuit caused needless proceedings, stress and expense for a grieving family. We note that Respondent's misconduct occurred at a time when he was experiencing financial difficulties, and he has not paid the sanctions imposed in either case. Finally, we consider the fact that Respondent engaged in a pattern of behavior. The misconduct in this case involved two separate client matters and occurred over the course of several years.

The Administrator urged us to recommend a suspension of one year until further order of the Court for the misconduct that occurred. Respondent denied engaging in any wrongdoing.

The following cases provide guidance for our determination. In In re Kubiatowski, 2011PR00012, M.R. 25679 (Jan. 18, 2013) the attorney was suspended for one year until further order of Court for misconduct relating to three elderly and impaired clients, including failing to explain documents he prepared for them and writing checks on one client's account to pay himself fees. In re Bascos, 2013PR00052, M.R. 28539 (March 20, 2017) the attorney was suspended for one year until further order of Court for failing to competently represent an elderly client with

dementia, failing to explain documents to him, and representing the client's caregiver whose interests were adverse to those of the elderly client. The attorneys' actions in Kubiatowski and Bascos resulted in greater financial harm to the clients than in the present case, but the mitigating circumstances in those cases were stronger. We also look to In re Michal, 415 Ill. 2d 150 (1953), where the attorney was suspended for one year for engaging in conflicting loyalties and betraying a confidence in connection with his preparation of a will for a client and his subsequent representation of a person attacking the will.

With respect to Respondent's misconduct in failing to withdraw from representation and continuing to submit court filings when he was not authorized to do so, cases dealing with those issues have generally resulted in lesser sanctions. See In re Ribbeck, 2011PR00120, M.R. 26938 (Nov. 13, 2014) (censure for performing work after discharge, including filing lawsuit without authorization); In re Pasley, 97 CH 9 (April 3, 1998) (reprimand for failing to withdraw after discharge and filing two petitions on behalf of client); In re Hierl, 08 CH 66, M.R. 22958 (March 16, 2009) (suspension of 30 days, on consent, and completion of professionalism course for working on patent applications after being discharged and failing to forward files to new lawyer).

Respondent engaged in serious misconduct and exhibited a disregard for the welfare and interests of his clients, particularly one with impaired mental abilities. Having considered his misconduct and the relevant case law, we conclude that a one-year suspension is within the range of appropriate sanctions. Further, given Respondent's failure to recognize the nature or gravity of his wrongdoing and our uncertainty that he will not engage in similar conduct in the future, we believe the suspension should remain in effect until further order of the court. See In re Houdek,

133 Ill. 2d 323 (1986). Requiring Respondent to demonstrate his fitness in a reinstatement proceeding will assure the greatest protection to the public.

Accordingly, we recommend Respondent Soon Mo Ahn be suspended from the practice law for a period of one year and until further order of the Court.

Respectfully submitted,

Carl E. Poli
Anne L. Fredd
Michael J. Friduss

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Hearing Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on September 29, 2021.

Michelle M. Thome
Michelle M. Thome, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

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[1] Ms. Alvarez appeared pursuant to Supreme Court Rule 711.

[2] Comment 8 to Rule 1.8 (a separate conflict of interest rule), contemplates the situation where an attorney representing a client is named as executor of the client's estate or to another fiduciary position, noting that such appointments will be subject to the general conflict of interest provision in Rule 1.7. See also ABA formal Ethics Op. 02-426 (2002) (lawyer may act as fiduciary under will or trust prepared by lawyer as long as lawyer provides information for client to make informed consent, but lawyer who also serves as fiduciary of the estate ordinarily must not represent a creditor of an estate in a matter adverse to the estate).