

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

In the Matter of:

DAVID LOUIS BARTELSMEYER,

Attorney-Respondent,

No. 6209596

Commission No. 2022PR00021

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, David B. Collins, pursuant to Supreme Court Rule 753(b), complains of Respondent, David Louis Bartelsmeyer, who was licensed to practice law in Illinois on November 5, 1992, and alleges that Respondent has engaged in the following conduct, which subjects him to discipline pursuant to Supreme Court Rule 770:

COUNT I
(Conversion of \$11,123.25)

1. Attorneys' Title Guaranty Fund, Inc. ("ATG") is an Illinois entity engaged in the business of issuing title insurance policies through attorneys who act as the company's agents in Illinois and elsewhere, while also providing underwriting services, settlement statements, and closing officers for real estate transactions.

2. Prior to February 2020, ATG employed Respondent as one of its attorney agents. As an attorney agent of ATG, Respondent prepared and issued title insurance policies on ATG's behalf. Upon receipt of the premium payment for the policy, Respondent was then obligated to send the payment to ATG.

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3. At all times alleged in this complaint, Respondent maintained an IOLTA account at the Bank of Herrin, ending in numbers 6466, entitled “Craig & Bartlesmeyer PC Client Trust Policies” (“Herrin account 6466”). Upon receipt of premium payments received for ATG title policies, Respondent would deposit those funds into Herrin account 6466.

4. Herrin account 6466’s balance on December 15, 2017 was \$349.44.

5. Between December 15, 2017 and April 26, 2019, Respondent received premium payments that were due to be forwarded to ATG for title policies totaling \$36,899.90.

6. Between December 15, 2017 and April 26, 2019, Respondent made 144 deposits into Herrin account 6466, totaling \$36,899.90.

7. Between December 15, 2017 and June 21, 2019, Respondent made seven payments to ATG, totaling \$25,776.65, for premium payments which were due to ATG.

8. Herrin account 6466’s balance on June 21, 2019 was \$12,542.89, of which \$11,123.25 were funds belonging to ATG which Respondent was holding for ATG.

9. Between July 24, 2019 and August 5, 2019, Respondent arranged for two transfers, totaling \$11,413.56, to be made from Herrin account 6466 to his creditors to satisfy Respondent’s personal obligations as follows:

Date	Withdrawal Amount and Use
July 24, 2019	\$6,413.56-Health Care Services
August 5, 2019	\$5,000.00—Citi Card On-line payment

10. Respondent did not have authority from ATG to use its funds for his own business or personal purposes.

11. At the time that Respondent made the two unauthorized transactions listed in paragraph 9, above, and then used the funds for his own personal purposes, he knew that the funds

he was transferring belonged to others and he had no right to use those funds. By using the funds, without authority, for his own personal uses, Respondent converted those funds.

12. Respondent has not repaid the \$11,123.25 to ATG.

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

- a. failure to hold the property of third parties that is in his possession in connection with a representation separate from his own property, by converting \$11,123.25 in policy premiums acquired as an attorney agent of ATG and belonging to ATG, using those funds for personal purposes in violation of Rule 1.15(a) of the Illinois Rules of Professional Conduct (2010); and
- b. conduct involving dishonesty, fraud, deceit or misrepresentation, by using \$11,123.25 of policy premiums acquired as an attorney agent of ATG and belonging to ATG, and using those funds for his own use, without authority, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(Creating and using false documents)

14. The Administrator repeats and realleges Paragraphs 1-3 as if fully set forth herein.

15. On January 30, 2020, ATG employees, Ryan Murphy and Vimal Patel (“ATG representatives”), met with Respondent at his office to conduct an onsite consultation regarding Respondent’s relationship with ATG.

16. At the January 30, 2020 meeting, Respondent was asked to produce bank statements for Herrin account 6466 from July 2019 through December 31, 2019 (“bank statements”).

17. On January 31, 2020, ATG representatives met again with Respondent at his office. Respondent provided the ATG representatives with the requested bank statements.

18. On or before January 31, 2020, Respondent, or someone at Respondent's direction, altered the bank statements by adding non-existent deposits, eliminating withdrawals and increasing ending balances, the purpose of which was to mislead ATG.

19. After the January 31, 2020 meeting, ATG requested bank statements for Herrin account 6466 directly from the Bank of Herrin.

20. On February 14, 2020, ATG received the requested bank statements directly from the Bank of Herrin.

21. ATG compared the bank statements provided by Respondent with the bank statement provided by the Bank of Herrin. Among ATG's findings were:

- a. the word "Client" was misspelled as "Clinet" on the bank statements provided to ATG by Respondent;
- b. some of the bank statements provided by Respondent had deposits that were not present on the statements provided by the bank;
- c. some of the bank statements provided by the bank had withdrawals that were not present on the bank statements provided by Respondent; and
- d. the ending balances on the bank statements provided by Respondent did not match the ending balances on the bank statements obtained from the bank.

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

- a. conduct involving dishonesty, fraud, deceit or misrepresentation by conduct including altering, or directing the alteration of, bank records and providing those altered bank records to ATG, in an effort to conceal his failure to

furnish ATG with its money, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010); and

- b. committing a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects, by conduct including the commission of the criminal offense of forgery, (720 ILCS 5/17-3) in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010).

COUNT III

(Failure to respond to lawful demands for information from the ARDC)

23. On February 20, 2020, the Administrator received a letter from ATG employees Christine M. Sparks, Deborah F. Feinen, August R. Butera, and Henry L. Shulruff, reporting their knowledge of conduct by Respondent that may involve dishonesty, fraud, deceit or misrepresentation (“letter”).

24. On February 21, 2020, the Administrator initiated a confidential investigation based upon the letter.

25. On May 25, 2021, Respondent gave a sworn statement as part of the confidential investigation.

26. During the sworn statement, Respondent agreed to provide copies of various documents to the Administrator by June 11, 2021, for use in the Administrator’s confidential investigation.

27. Respondent did not provide the documents by June 11, 2021.

28. On June 18, 2021, the Administrator sent a letter to Respondent containing a subpoena that required him to appear at the Commission’s office on July 9, 2021, with the requested documents.

29. Respondent received the letter and subpoena on June 21, 2021.

30. Respondent did not appear at the Commission's office on July 9, 2021, as required by the subpoena.

31. At no time has Respondent provided the requested documents to the Administrator.

32. On January 3, 2022, the Administrator sent a letter to Respondent containing a subpoena that required him to appear for a remote supplemental sworn statement on February 1, 2022 at 9:00 a.m. as part of the confidential investigation.

33. Respondent received the letter and subpoena on or about January 8, 2022.

34. Respondent did not appear for the February 1, 2022 supplemental sworn statement, as required by the subpoena.

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

- a. knowingly failing to respond to a lawful demand for information from a disciplinary authority, by conduct including failing to provide the documents Respondent agreed to produce during his May 25, 2021 sworn statement by June 11, 2021; failing to appear and produce those documents on July 9, 2021, as required by subpoena; and failing to appear for a remote supplemental sworn statement on February 1, 2022, as required by subpoena, in violation of Rule 8.1(b) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator requests that this matter be assigned to a panel of the hearing board, that a hearing be held, and that the panel make findings of fact, conclusions of fact and law, and recommendation for such discipline as is warranted.

Respectfully submitted,
Jerome Larkin, Administrator
Attorney Registration Disciplinary Commission

By: /s/ David B. Collins
David B. Collins

David B. Collins
Counsel for the Administrator
Attorney Registration and Disciplinary Commission
3161 West White Oaks Drive, Suite 301
Springfield, IL 62704
Telephone: 217-546-3523
Email: ARDCeService@iadc.org
Email: dcollins@iadc.org
MAINLIB_#1426897_v1