

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

In the Matter of:

STEPHEN ERHARD EBERHARDT,

Attorney-Respondent,

No. 6181963.

Comm. No. 2022PR00079

ANSWER

NOW COMES Respondent, Stephen E. Eberhardt, by and through his attorney, James A. Doppke, Jr., Robinson, Stewart, Montgomery & Doppke, LLC, denying any allegations made against Respondent within the prefatory paragraph of the Administrator’s Complaint, and for his answer to the Administrator’s Complaint in this matter, states as follows:

(Alleged Vexatious Litigation and Other Efforts to Burden the Village of Tinley Park)

A. Background

1. Respondent has been involved in politics in the Village of Tinley Park (hereinafter sometimes referred to as “the Village”), which is located in the southwest suburbs of Chicago, since at least 2009. Prior to that, he was a police officer in the Village. In 2013, Respondent was an unsuccessful candidate to become the Village’s President. In 2017, Respondent unsuccessfully sought employment in a non-legal position with the Village. After he was denied employment by the Village, Respondent told then-Village Attorney Patrick Connelly that he would make sure the Village spent every dollar that Respondent would have received in payment as an employee

on legal fees responding to requests for review and litigation that Respondent would pursue in retaliation for not being hired by the Village.

ANSWER: Respondent admits the allegations contained in the first sentence of paragraph 1. Respondent denies the allegations contained in the second sentence of paragraph 1, and further answering, states that he was appointed to a position with the Village's EMA agency in 2011. Further answering, Respondent states that former Mayor of Tinley Park, Jacob Vandenberg, appointed him to the position of Interim EMA/911 Coordinator in 2017. Respondent further states that, upon information and belief, that appointment was blocked by Mayor Vandenberg's political adversaries. Respondent denies the allegations contained in the third sentence of paragraph 1.

2. Since 2014, Respondent has filed at least 26 lawsuits in both state and federal courts against the Village, its elected officials, its staff or volunteers, Village residents, and attorneys employed by the Village. In several of those cases, Respondent was the only plaintiff in the lawsuit. During that same time, Respondent also: filed approximately 150 requests that the Village respond to requests for records under the Freedom of Information Act ("FOIA"), including substantially similar requests submitted within short periods of time; filed requests that the Illinois Attorney General's staff review the Village's denial of certain FOIA requests; filed at least 10 ethics complaints with the Village, all of which were dismissed following review by independent counsel retained by the Village; and filed multiple requests that the Administrator investigate attorneys involved with the Village, all of which were closed by the Administrator's staff following an investigation of Respondent's allegations. As of the date this complaint was

filed, the Village had spent hundreds of thousands of dollars responding to those lawsuits, FOIA requests and ethics complaints.

ANSWER: Respondent admits the allegations contained in the first and second sentences of paragraph 2. Further answering, Respondent states that he has also represented several other individuals in connection with their claims against the Village. Respondent admits the allegations contained in the third sentence of paragraph 2 through and including the word "Act." Respondent neither admits nor denies the allegations contained in the phrase "including substantially similar requests submitted within short periods of time," which phrase is insufficiently specific to inform Respondent of which requests the Administrator considers "substantially similar" to one another or what the Administrator considers to be a "short period [] of time." Respondent admits the allegations contained in the phrase "filed requests that the Illinois Attorney General's staff review the Village's denial of certain FOIA requests," and, further answering, states that the Illinois Attorney General, in several cases, found that the Village had improperly withheld certain documents pursuant to Respondent's FOIA requests, and directed that those documents be produced. Respondent admits the allegations contained in the phrase "filed at least 10 ethics complaints with the Village," and he denies the allegations contained in the phrase "all of which were dismissed following review by independent counsel retained by the Village." Further answering, Respondent denies that any ethics complaint, or the totality of the ethics complaints, was improper, or that any impropriety can be inferred from the dismissal of any of the ethics complaints. Respondent admits the allegations contained in the phrase "and filed multiple requests that the Administrator investigate attorneys involved with the Village, all

of which were closed by the Administrator's staff following an investigation of Respondent's allegations," but he denies that any such request, or the totality of the requests, was improper, or that any impropriety can be inferred from the closure of any of the investigations. Respondent has insufficient knowledge upon which to base an admission or denial of the allegations contained in the fourth sentence of paragraph 2, and he therefore neither admits nor denies those allegations.

3. On September 28, 2018, the Hon. John Ehrlich of the Circuit Court of Cook County entered a memorandum opinion and order in a case against the Village and other defendants in which Respondent was the named plaintiff. In that case (*Eberhardt v. Moylan et. al.*, docket number 17 L 11231), Judge Ehrlich concluded that the purpose of certain of Respondent's filings in the case had been "to evade [the] court's 15-page limit applicable to all filings so he could rehash arguments made in response to the defendants' motions to dismiss or to make arguments he had omitted." Judge Ehrlich also noted that "[Respondent's] subscription to the-more-I-write-the-more-I-antagonize-my-opponent school of litigation indicates that he does not care about wasting the scarcest of judicial resources — time." Although Judge Ehrlich denied the defendants' requests that he sanction Respondent, he also warned that "[s]hould [Respondent] continue his frequent-flier status in the state and federal courts without appreciating the need for substantive legal support for his claims, he runs that very real risk that this or other courts may not deny similar motions for sanctions next time."

ANSWER: Respondent admits the allegations contained in the first sentence of paragraph 3. Respondent admits that the text quoted within the second sentence of paragraph 3

is contained in Judge Ehrlich's September 28, 2018 order, but he denies all remaining allegations contained in the second sentence of paragraph 3. Respondent admits that the text quoted within the third sentence of paragraph 3 is contained in Judge Ehrlich's September 28, 2018 order, but he denies all remaining allegations contained in the third sentence of paragraph 3. Respondent admits the allegations contained in the fourth sentence of paragraph 3. Further answering, Respondent denies that paragraph 3 contains the full text of Judge Ehrlich's September 28, 2018 order, and particularly states that it omits Judge Ehrlich's determination that "Eberhardt's claims [were] not so frivolous as to trigger the imposition of sanctions."

4. After Judge Ehrlich entered the September 28, 2018 order described in paragraph three, above, Respondent continued to file lawsuits and to take other action against the Village, asserting claims of defamation, tortious interference with prospective economic advantage, intentional infliction of emotional distress, and invasion of privacy. Other complaints sought declaratory and injunctive relief related to Respondent's FOIA requests or to the Village's policies concerning the time allotted for comment at meetings of the Village Board, the scheduling of those meetings, or the adoption of rules relating to those meetings.

ANSWER: Respondent admits the allegations contained in paragraph 4, except to the extent that paragraph 4 contains any allegation that any filing or claim referred to in paragraph 4 was improper, which allegation is denied. Further answering, Respondent states that he was not the sole plaintiff in each and every lawsuit he filed against the Village, and that in several cases he represented other individuals in connection with their claims against the Village.

B. Filing of Allegedly Frivolous and Allegedly Bad-Faith Allegations Against Counsel for the Village

5. In 2020, Respondent filed two *pro se* lawsuits in federal court against the Village and others. In the first of those lawsuits, docketed as *Eberhardt v. Village of Tinley Park, et al.*, case number 1:20-cv-01171 in the United States District Court for the Northern District of Illinois (hereinafter sometimes referred to as “the first 2020 federal lawsuit”), Respondent filed a 19-count, 102-page complaint against 11 defendants, attaching 384 pages of exhibits. Two of those counts purported to assert claims against attorney Patrick J. Walsh based on the Village’s appointment of Walsh’s law firm as counsel for the Village. Respondent asserted that the appointment of Walsh’s law firm violated the Illinois Open Meetings Act. When those allegations were dismissed by the Hon. Charles Norgle, Respondent filed an amended complaint that asserted similar claims against Walsh based on the theory that the appointment of his law firm amounted to official misconduct by the officials who made the appointment. Respondent sought declaratory and injunctive relief, the disgorgement of any fees paid to Walsh’s firm, and an award of \$250,000 in punitive damages.

ANSWER: Respondent admits the allegations contained in paragraph 5, except any allegations to the effect that Respondent’s only cause of action in the original complaint was based on the Open Meetings Act, or that Respondent’s only cause of action in the amended complaint was based on assertions of official misconduct, which allegations Respondent denies. Further answering, Respondent denies any allegation contained in paragraph 5 to the effect that any filing or claim referred to in paragraph 5 was improper.

6. On August 5, 2020, after the dismissal of Respondent's original complaint but prior to Respondent's filing of an amended complaint, Walsh wrote to Respondent to, among other things, inform him that the Village's Purchasing Ordinance, number 2017-O-012, authorized Tinley Park's Village Manager to engage the services of attorneys to represent the Village in matters not exceeding \$20,000 without prior approval from the Village Board.

ANSWER: Respondent admits the allegations contained in paragraph 6, except any allegation to the effect that ordinance number 2017-O-012 authorized Tinley Park's Village Manager to engage the services of attorneys to represent the Village in matters not exceeding \$20,000 without prior approval from the Village Board, which allegation Respondent denies.

7. Respondent also filed a second *pro se* lawsuit in the federal district court in Chicago against the Village and six of its officials, which was docketed as case number 1:20-cv-03269, *Eberhardt v. Village of Tinley Park, et al.* Respondent initially filed a 110-page complaint containing 675 paragraphs and 25 counts alleging that the defendants had improperly limited his ability to participate in meetings of the Village Board. On October 14, 2020, the Hon. Gary Feinerman entered an order that granted the defendants' motion and dismissed the complaint without prejudice for failing to state a short and plain statement of Respondent's claims, finding that the complaint's "tangled mix of factual and legal assertions is so lengthy, repetitive, and jumbled as to make it impossible for [d]efendants or the court to ascertain which facts are relevant to which claims and to which defendant(s)." Respondent then filed a 66-page, 19-count amended complaint that Judge Feinerman dismissed on November 9, 2020 after concluding that it was materially identical to and duplicative of the first 2020 federal lawsuit.

ANSWER: Respondent admits the allegations contained in paragraph 7, including the allegation that the text quoted within the second sentence of paragraph 7 is contained in Judge Feinerman's October 14, 2020 order, except to the extent that paragraph 7 contains any allegation that any filing or claim referred to in paragraph 7 was improper, which allegation is denied. Further answering, Respondent denies that paragraph 7 contains the full text of any order entered by Judge Feinerman.

8. Respondent continued to file claims against the Village throughout 2020 and after. In a complaint he filed in the Law Division of the Circuit Court of Cook County on May 10, 2021 (*Eberhardt v. Glotz, et al.*, docket number 2021L065042), Respondent sought \$500,000 from three Village officials and Mr. Walsh based on issues previously raised in the first 2020 federal lawsuit, including the Village's responses to Respondent's FOIA requests, its limiting the time available for public comment at meetings of the Village Board, and the appointment of Mr. Walsh as counsel for the Village. The complaint also sought to assert claims relating to the defendants' having allegedly requested that the Administrator investigate Respondent's campaign of litigation against the Village, notwithstanding the existence of Supreme Court Rule 775, which confers civil immunity on individuals who communicate such requests to the ARDC. On August 2, 2021, Respondent filed a 105-page complaint containing 21 counts, 632 numbered paragraphs and an additional 500 pages of exhibits in the Chancery Division of the Circuit Court of Cook County (*Eberhardt v. Village of Tinley Park, et al.*, docket number 2021CH03867), seeking declaratory and injunctive relief, fees and costs and millions of dollars in punitive damages based on many of the same issues, including purported FOIA violations, the Village's allegedly

improper allotment of time for public comment at Board meetings, and the appointment of Mr. Walsh's law firm as counsel for the Village. On September 9, 2021, Respondent filed a seven-count, 40 page amended complaint in the *Eberhardt v. Village of Tinley Park, et al.* chancery lawsuit, again asserting similar claims (including claims based on a federal statute) and containing requests for declaratory and injunctive relief, fees and costs and millions of dollars in punitive damages.

ANSWER: Respondent admits the allegations contained in the first sentence of paragraph 8, except to the extent that paragraph 8 contains any allegation that any filing or claim referred to in paragraph 8 was improper, which allegation Respondent denies. Respondent admits the allegations contained in the second sentence of paragraph 8, except any allegations to the effect that Respondent sought relief in case number 2021L065042 based on the Freedom of Information Act, which allegations Respondent denies. Further answering the second sentence of paragraph 8, Respondent states that the claims he filed and pursued in case number 2021L065042 had previously been dismissed by Judge Norgle only on the ground that the federal court lacked jurisdiction to adjudicate them, and that state court would be the appropriate forum for those claims. Respondent admits the allegations contained in the third sentence of paragraph 8, except to the extent that the third sentence of paragraph 8 contains any allegation to the effect that Supreme Court Rule 775 conferred any immunity upon the defendants named in case number 2021L065042, which allegation Respondent denies. Respondent admits the allegations contained in the fourth sentence of paragraph 8, except any allegations to the effect that case number 2021CH3867 sought relief relating to the appointment of Mr. Walsh's law firm as counsel for the

Village, which allegations Respondent denies. Respondent denies the allegations contained in the fifth sentence of paragraph 8 to the extent that they refer to case number 2021CH3867, and further answering, states that he has not yet filed an amended complaint in case number 2021CH3867, though he was granted leave to do so by order dated October 14, 2022.

9. On September 2, 2021, Judge Norgle dismissed all of Respondent's claims in the first 2020 federal lawsuit. As to Respondent's claims involving the appointment of Walsh's law firm as counsel for the Village, Judge Norgle concluded that those claims lacked supplemental jurisdiction and that Respondent did not have standing to assert them. Judge Norgle also invited the defendants to move for sanctions against Respondent, describing him as "a person who stimulates or provokes others by irritating criticism and seemingly a perpetual thorn in the sides of several current and former officials of the Village of Tinley Park, Illinois and various personal and political allies of those officials."

ANSWER: Respondent admits the allegations contained in the first and second sentences of paragraph 9. Respondent denies the allegations contained in the third sentence of paragraph 9 through and including the word "Respondent." Respondent admits the remaining allegation contained in the third sentence of paragraph 9 to the effect that the quoted words appear in Judge Norgle's 28-page Memorandum Opinion and Order, and he denies all remaining allegations contained in paragraph 9. Further answering, Respondent has filed a motion to reconsider Judge Norgle's findings, contending, *inter alia*, that Judge Norgle relied on matters incorrectly reported by, or misstated by, Walsh.

10. On August 18, 2022, Judge Norgle entered an order granting attorney Walsh's motion for sanctions against Respondent under Rule 11 of the Federal Rules of Civil Procedure, which requires attorneys and unrepresented persons to certify that filings are not being presented for any improper purpose, that the legal contentions asserted in the filings are not frivolous, and that factual contentions have or are likely to have evidentiary support. In assessing \$26,951.22 in sanctions against Respondent, Judge Norgle concluded that Respondent's "frivolous claims against Walsh were brought with inadequate investigation to the relevant law or facts" and that Respondent "lacked good faith, bringing his claims for the improper purpose of being a nuisance to the Village and its officials." Judge Norgle also noted that Respondent:

...did not conduct a reasonable inquiry into the law prior to filing his complaint and amended complaint where he neglected to cite a purchasing ordinance that negated his claims and where he failed to allege basic facts establishing this Court's subject matter jurisdiction, including his standing to pursue his claims against Walsh. Or worse, he did conduct a reasonable inquiry and proceeded with his baseless claims anyway. Either way, the legal theories he asserted were not objectively warranted by existing law or a good faith argument for its extension. Rather, it is clear from his history with the Village and his actions in this case that his pleadings evince an intent to harass the Village and were not submitted in good faith.

Judge Norgle also concluded that "[Respondent's] actions speak for themselves, and they scream bad faith."

ANSWER: Respondent admits the allegations contained in the first sentence of paragraph 10, except that he denies that paragraph 10 contains the full text of Rule 11 of the Federal Rules of Civil Procedure, and he denies any allegation contained in paragraph 10 to the effect that he violated that rule. Respondent admits the remaining allegations contained in

paragraph 10 to the effect that Judge Norgle assessed \$26,951.22 in sanctions, and to the effect that the words quoted in paragraph 10 are contained in Judge Norgle's August 18, 2022 Memorandum Opinion and Order. Respondent denies all remaining allegations contained in paragraph 10. Further answering, Respondent denies that paragraph 10 contains the full text of Judge Norgle's August 18, 2022 order.

11. Respondent's claims against at least attorney Patrick Walsh in the first 2020 federal lawsuit were frivolous, in that they were not adequately investigated, were made in bad faith, and did not include a good-faith argument for the extension, modification or reversal of existing law.

ANSWER: Respondent denies the allegations contained in paragraph 11.

12. Respondent's actions in filing of the various lawsuits, FOIA requests, ethics complaints and other materials described in paragraphs two through 10, above, were motivated by his desire to embarrass, delay or burden the Village of Tinley Park, its officials and others involved or associated with the Village.

ANSWER: Respondent denies the allegations contained in paragraph 12.

13. At the time this complaint was filed, the Village's request for sanctions in the first 2020 federal lawsuit was pending.

ANSWER: Respondent admits the allegations contained in paragraph 13, and further answering, states that the Village waited until September 2, 2022 – one year after the dismissal of case number 2020 CV 1171 – to file its motion for sanctions.

C. Alleged Conclusions of Misconduct

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

- a. brought a proceeding (the first 2020 federal lawsuit) and asserted or controverted issues therein, including his claims against Patrick Walsh and others based on the Village's retention of Mr. Walsh's law firm, where there was no basis for doing so that was not frivolous, in violation of Rule 3.1 of the Illinois Rules of Professional Conduct; and
- b. in representing a client, either other individuals or himself, using means that had no substantial purpose other than to embarrass, delay or burden the Village of Tinley Park and others, by conduct including filing multiple duplicative lawsuits and taking other action to cause the Village to incur substantial legal fees, or otherwise antagonize or provoke those entities, in violation of Rule 4.4(a) of the Illinois Rules of Professional Conduct.

ANSWER: The allegations contained in paragraph 14 constitute legal conclusions, and therefore, no answer is required.

RESPONDENT'S DISCLOSURE PURSUANT TO COMMISSION RULE 231

1. Respondent was admitted to practice law in the State of Illinois on May 3, 1982.
2. Respondent holds no other professional licenses other than his license to practice law.

Respectfully submitted,

/s/ James A. Doppke, Jr.

BY: James A. Doppke, Jr.

Counsel for Respondent

James A. Doppke, Jr.
Robinson, Stewart, Montgomery, & Doppke LLC
33 North Dearborn Street, Suite 1420
Chicago, IL 60602
(312) 676-9878
jdoppke@rsmdlaw.com

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

In the Matter of:

STEPHEN ERHARD EBERHARDT,

Attorney-Respondent,

No. 6181963.

Comm. No. 2022PR00079

AFFIDAVIT PURSUANT TO 735 ILCS 5/2-610(b)

Stephen Erhard Eberhardt, an attorney, under penalties as provided by law pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/1-109, on oath deposes and states:

1. That he is the Respondent in this matter.
2. That this answer contains certain statements of insufficient knowledge on which to base a belief as to the truth or falsity of the allegations contained in the complaint.
3. That those allegations of insufficient knowledge are true and correct.

/s/ Stephen Erhard Eberhardt

BY: Stephen Erhard Eberhardt

Respondent

CERTIFICATION

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

/s/ Stephen Erhard Eberhardt

BY: Stephen Erhard Eberhardt

Respondent

James A. Doppke, Jr.
Robinson, Stewart, Montgomery, & Doppke LLC
33 North Dearborn Street, Suite 1420
Chicago, IL 60602
(312) 676-9878
jdoppke@rsmdlaw.com

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

In the Matter of:

STEPHEN ERHARD EBERHARDT,

Attorney-Respondent,

No. 6181963.

Comm. No. 2022PR00079

NOTICE OF FILING

TO: Scott Renfroe ARDC eService
srenfroe@iadc.org ARDCeService@iadc.org

PLEASE TAKE NOTICE that on October 21, 2022, I filed the attached Answer with the Clerk of the Attorney Registration and Disciplinary Commission in Chicago, Illinois, a copy of which is hereby served upon you.

/s/ James A. Doppke, Jr.

BY: James A. Doppke, Jr.

Counsel for Respondent

PROOF OF SERVICE

The undersigned attorney hereby certifies that he served the above Notice of Filing and attached Answer to the addresses listed above by emailing them to the email addresses listed above on October 21, 2022, before 11:59 p.m.

/s/ James A. Doppke, Jr.

BY: James A. Doppke, Jr.

Counsel for Respondent

James A. Doppke, Jr.
Robinson, Stewart, Montgomery & Doppke LLC
33 North Dearborn Street, Suite 1420
Chicago, IL 60602
(312) 676-9878
jdoppke@rsmdlaw.com

FILED
10/21/2022 2:41 PM
ARDC Clerk