In re Michael Anthony Manges
Attorney-Respondent

Commission No. 2022PR00027

Synopsis of Hearing Board Report and Recommendation
(November 2022)

The Administrator charged Respondent with engaging in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Illinois Rule of Professional Conduct 8.4(c), by falsely endorsing checks that should have been paid to his former law firm and taking and using the proceeds of those checks for his own purposes without authorization. The Hearing Board found that the Administrator proved by clear and convincing evidence that Respondent accepted at least 575 checks that were intended for his former law firm; fraudulently endorsed most of those checks; and used the proceeds of the checks, totaling $165,338.83, for his own purposes without authorization. The Hearing Board recommended that Respondent be disbarred for his misconduct.

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

In the Matter of: **MICHAEL ANTHONY MANGES,** Attorney-Respondent, No. 6280536.	Commission No. 2022PR00027

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

The Administrator charged Respondent with engaging in dishonest conduct by falsely endorsing checks that should have been paid to his former law firm and taking and using the proceeds of those checks for his own purposes without authorization. The Hearing Board found the charge was proved and recommended that Respondent be disbarred.

INTRODUCTION

The hearing in this matter was held remotely by videoconference on September 16, 2022, before a Panel of the Hearing Board consisting of Heather A. McPherson, Chair, Michael P. Rohan, and Daniel G. Samo. Scott Renfroe represented the Administrator. James A. Doppke, Jr. represented Respondent.[1]

PLEADINGS AND MISCONDUCT ALLEGED

On April 20, 2022, the Administrator filed a single-count Complaint against Respondent, alleging that Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Illinois Rule of Professional Conduct 8.4(c), by placing the purported signature of the sole owner of his law firm on checks he knew should have been paid to

the firm, and taking and using the proceeds of those checks for his own purposes. Respondent filed an Answer on May 31, 2022, in which he asserted his rights under the Fifth Amendment to the United States Constitution as to the allegations in the Complaint.

EVIDENCE

Because he invoked his Fifth Amendment rights, Respondent did not testify or present any evidence in the matter.[2] The Administrator presented nine exhibits consisting primarily of bank records as well as some documents from Respondent's former law firm. All nine exhibits were admitted into evidence, with no objection from Respondent's counsel. The Administrator also presented the testimony of Enrique Villanueva and Joseph LaZara.

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, 848 N.E.2d (2006). Clear and convincing evidence requires 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, 577 N.E.2d 762 (1991); In re Santilli, 2012PR00029, M.R. 26572 (May 16, 2014) (Hearing Bd. at 3). The Hearing Board determines whether the Administrator has met that burden. In re Edmonds, 2014 IL 117696, ¶ 35. In doing so, the Hearing Board assesses witness credibility, resolves conflicting testimony, makes factual findings, and determines whether the Administrator met the burden of proof. Winthrop, 219 Ill. 2d at 542-43.

Respondent is charged with engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Rule 8.4(c), by falsely endorsing checks that should have been paid to his law firm, and taking and using the proceeds of the checks for his own purposes without authorization.

A. Summary

Respondent engaged in dishonest conduct by accepting from clients, title companies, and others at least 575 checks intended for his former law firm; fraudulently endorsing checks that were made out to the sole owner of the law firm and making them payable to himself; depositing the checks into his personal bank account; and using the proceeds of those checks, totaling $165,338.83, for his own purposes without authorization.

B. Evidence Considered

Respondent began working for Joseph A. LaZara & Associates as an associate attorney in 2005. The LaZara firm is located in Chicago, and concentrates in real estate transactions, estate planning and probate, and business formations. (Tr. 30.) Respondent primarily handled real estate closings and corporate filings. (Tr. 35.)

During the entire time that Respondent was employed by the LaZara firm, the only person in the firm who was permitted to handle firm money was Joseph LaZara, the firm's sole owner. Pursuant to that policy, any fee payments that clients made were supposed to be given to LaZara, along with the file associated with the matter. LaZara would record the fee payment in a ledger and give the file to an administrative assistant to close. LaZara communicated that policy to Respondent both verbally and demonstratively, in that he told him as well as showed him how to handle fee payments. (Tr. 36-38.)

In early September 2021, LaZara asked a paralegal to rebill a client that he believed had not yet paid a bill for a real estate transaction that the firm had handled. After receiving the invoice, the client sent back a canceled check and a statement indicating that the amount was paid. LaZara

looked at the back of the canceled check and saw that the check was made payable to Respondent and endorsed with a signature that looked like LaZara's but was not his signature. LaZara noticed that the check had been deposited into an account that did not belong to him. He recognized the account as the same account, at Parkway Bank, into which Respondent deposited his paychecks. (Tr. 38-39; Adm. Ex. 6.)

A week or two later, LaZara went into Respondent's office, showed the check to Respondent, and asked him to explain it. LaZara testified that Respondent initially did not respond, but, after about a minute, said that he could not explain it. LaZara pressed Respondent, telling Respondent that the signature on the check was not his, asking why the check went into Respondent's account, and saying that nobody else in the office would deposit checks into Respondent's account. According to LaZara, Respondent eventually said that he spends too much money or buys too much stuff or words to that effect. (Tr. 41-42.)

LaZara testified that, before leaving Respondent's office, he told Respondent that Respondent needed to explain the check further to him and that he would wait for Respondent's explanation. When, after almost a week, Respondent gave no further explanation for his actions, LaZara terminated Respondent's employment. Respondent asked LaZara to reconsider and said that it would never happen again, but LaZara declined. Weeks later, when Respondent was picking up his belongings from the office, Respondent told LaZara that he did not have enough money to put a down payment on a house, which LaZara found "ridiculous" and not a plausible explanation for Respondent's conduct. (Tr. 42-44, 61.)

LaZara testified that he reviewed Parkway Bank records dating back to November 2014, which was as far back as the bank's records went at the time they were obtained. (Tr. 47.) He found 575 checks that either were made payable to Respondent when they should not have been, or where

Respondent signed LaZara's name to checks made payable to the firm or LaZara in order to endorse them over to himself. (Tr. 47-48.) LaZara further testified that he did not give Respondent authority to sign his name to any checks, and that no one else in the firm would or could have authorized Respondent to do so. (Tr. 49-50.)

LaZara testified that, for every one of the 575 checks that he reviewed, it was clear that the money was firm money, and therefore that Respondent knew the checks did not belong to him and that the proceeds of the checks belonged to the firm. (Tr. 51, 55.) In explaining why he believed that Respondent knew the proceeds of those checks belonged to the firm, LaZara noted that there were "many, many times, many files where [Respondent] did, in fact, give me the proceeds of the checks. These were checks that he selectively decided not to give me." (Tr. 56.) LaZara explained that, instead of giving him the file and having it closed out appropriately, Respondent would mark the file like it was closed and put it in the batch of closed files. (Tr. 56.)

LaZara further explained that, during the course of the firm's investigation, the firm's attorneys found files on Respondent's computer dating back to 2008 that did not have a paper file or valid file number, which showed he was doing work for clients for which the firm did not receive payment. (Tr. 57-60; Adm. Exs. 7, 8.)

C. Analysis and Conclusions

It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Ill. R. Prof'l Conduct R. 8.4(c). Rule 8.4(c) is broadly construed to encompass any act or omission calculated to deceive. Edmonds, 2014 IL 117696, ¶ 53.

Based upon LaZara's testimony, which we found to be detailed, consistent, and credible, as well as the exhibits that were admitted into evidence, we find that, between at least November 20, 2014 and September 7, 2021, Respondent accepted from clients, title companies, and others at least 575 checks intended for the LaZara firm, in the total amount of $165,338.83.[3]

On the checks that were made payable to Joseph LaZara or the LaZara firm, which was the majority of the 575 checks, Respondent forged LaZara's signature in order to be able to deposit those checks into his account at Parkway Bank.

Based upon the evidence, as well as the reasonable inferences that we have drawn from it, we further find that Respondent knew that the proceeds of those checks belonged to the LaZara firm and not to him personally. At no time did LaZara authorize Respondent to add LaZara's purported signature to the back of any check that had been made payable to LaZara or to the law firm, nor did LaZara or anyone else at the firm authorize Respondent to take the proceeds of those checks and deposit them into his personal bank account and use them for his own purposes.

We further find that Respondent's actions in bypassing the firm's procedures requiring lawyers to open and maintain physical and electronic client files, and to give to LaZara all client payments for legal services provided by the firm, were deliberate and intended to deceive the firm by concealing that Respondent had received payments of fees and taken those payments and used them for his own purposes.

In sum, we find that the evidence clearly and unequivocally establishes that, over at least a seven-year period, Respondent accepted at least 575 checks that were intended for his law firm, forged LaZara's signature on the checks that were made out to LaZara or the firm, deposited the checks into his personal bank account, and used the proceeds of those checks – totaling $165,338.83 – for his own purposes. There is no question that Respondent's actions constitute conduct involving dishonesty, fraud, deceit, or misrepresentation. Consequently, we find that the Administrator proved by clear and convincing evidence that Respondent violated Rule 8.4(c).

EVIDENCE IN MITIGATION AND AGGRAVATION

In mitigation, Respondent repaid $165,338.83 to the firm prior to hearing. (Tr. 64.) He has no prior discipline.

In aggravation, Respondent's misconduct occurred over a span of at least seven years, from November 2014 to September 2021, and involved at least 575 separate instances of misappropriation of firm funds and hundreds of acts of forgery to enable that misappropriation. (Tr. 47-50.) Respondent used the misappropriated funds for his own purposes. (Tr. 41-42, 61.) He engaged in further deceptive acts in order to conceal his conduct. (Tr. 56-60.) LaZara and two other attorneys in the LaZara firm had to conduct an internal investigation into Respondent's misconduct, and, after reporting Respondent's conduct to the ARDC, assisted the ARDC with its investigation. (Tr. 41, 45-47.) Regarding the impact of Respondent's conduct on him personally, LaZara testified: "In retrospect, I look very naïve, but I trusted him. I trusted him really throughout his tenure here because of the way he came to work for me and because I knew his family. I trusted him. And shame on me for doing that." (Tr. 53.) The LaZara firm was required to bring a civil lawsuit against Respondent to recover the funds that he misappropriated. (Tr. 63-64.)

RECOMMENDATION

A. Summary

Having weighed the nature of Respondent's misconduct, the substantial evidence in aggravation, and the minimal evidence in mitigation, the Hearing Board recommends that Respondent be disbarred.

B. Analysis and Conclusions

The purpose of the disciplinary process is not to punish attorneys, but to protect the public, maintain the integrity of the legal profession, and safeguard the administration of justice from

reproach. In re Edmonds, 2014 IL 117696, ¶ 90. In arriving at our recommendation, we consider these purposes as well as the nature of the misconduct and any factors in mitigation and aggravation. In re Gorecki, 208 Ill. 2d 350, 360-61, 802 N.E.2d 1194 (2003). We seek to recommend similar sanctions for similar types of misconduct, but must decide each case on its own unique facts. Edmonds, 2014 IL 117696, ¶ 90.

We find Respondent's misconduct to be egregious. In essence, he stole over $165,000 from his law firm by means that included forging LaZara's name on hundreds of checks, and concealed his misconduct through further deceptive acts.

In mitigation, Respondent has no prior misconduct. In addition, he repaid $165,338.83 to the firm prior to hearing. However, we do not give much weight to that fact, considering that Respondent only paid that amount to settle the lawsuit that the firm brought against him.

The aggravating factors in this matter are numerous, including that Respondent engaged in a pattern of serious and intentional misconduct over a long period of time, actively and deliberately concealed his misconduct, and acted with a selfish motive to benefit himself. Moreover, it is clear that Respondent stopped his misconduct only because he was caught. And even after he was caught, the firm was required to spend staff time and resources to investigate his misconduct because he was not forthcoming about his actions. It also had to bring a lawsuit against him to recover the funds he took. Finally, he violated the trust of his colleagues and especially LaZara.

Given Respondent's egregious misconduct, and taking into account the significant aggravation and minimal mitigation involved in this matter, we find that precedent firmly supports disbarment. See In re Vavrik, 117 Ill. 2d 408, 512 N.E.2d 1226 (1987) (disbarring attorney who embezzled $53,000 from an escrow account by issuing fraudulent checks against the account); In re Edens, 02 DC 1004, M.R. 18166 (Sept. 19, 2002) (allowing voluntary name strike of attorney

who embezzled over $86,000 from a title insurance company's escrow account by issuing fraudulent checks against the account); In re Davis, 2010PR00049, M.R. 23873 (Sept. 20, 2010) (in reciprocal-discipline matter, disbarring attorney who stole at least $25,000 from his employer by submitting fraudulent invoices for services that were never performed); In re Johnson, 2019PR00090, M.R. 30091 (Jan. 17, 2020) (in reciprocal-discipline matter, disbarring attorney who embezzled over $26,000 from his employer by depositing income belonging to his employer into two unauthorized bank accounts that he established to receive the funds).

Accordingly, we recommend that Respondent, Michael Anthony Manges, be disbarred.

Respectfully submitted,

Heather A. McPherson
Michael P. Rohan
Daniel G. Samo

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 November 16, 2022.

/s/ 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] Because Respondent asserted his rights under the Fifth Amendment to the United States Constitution, he did not testify and therefore was not present at hearing.

[2] Respondent is entitled to invoke his Fifth Amendment privilege against self-incrimination in this proceeding. See In re Zisook, 88 Ill. 2d 321, 430 N.E.2d 1037 (1981). We treat his assertion of his Fifth Amendment rights in his Answer as a denial of the allegations, and thus regard this proceeding as a contested matter in which the Administrator must prove the charge against Respondent by clear and convincing evidence. See In re Ellis, 97 CH 63, M.R. 16744 (May 17, 2000) (Hearing Bd. at 10). While we are permitted to draw an adverse inference against

Respondent based upon his assertion of his privilege against self-incrimination, we are not required to do so. See In re Demasi, 08 CH 110, M.R. 23482 (Jan. 21, 2010) (Hearing Bd. at 12); Ellis, 97 CH 63 (Hearing Bd. at 49); In re Rossini, 02 CH 11, M.R. 18699 (May 22, 2003) (Hearing Bd. at 19). We decline to do so here because, as discussed below, we find that the evidence presented by the Administrator is sufficient to support our finding of misconduct without resorting to drawing an adverse inference against Respondent. See Rossini, 02 CH 11 (Hearing Bd. at 19).

[3] There is evidence that Respondent's misconduct goes back as far as 2008. (See, e.g., Adm. Ex. 8.) However, because the bank records that establish the amount of funds misappropriated by Respondent begin in November 2014, we have considered Respondent's conduct only from November 2014 to September 2021 in reaching our findings of misconduct and recommendation as to sanction.