In re Karen Linden Boscamp
Attorney-Respondent

Commission No. 2022PR00070

Synopsis of Hearing Board Report and Recommendation
(June 2023)

The Administrator charged Respondent in a three-count First Amended Complaint with misconduct arising from her actions as a co-trustee. Specifically, Respondent was charged with dishonestly using $51,850 in trust assets for her own purposes without authorization, knowingly offering evidence she knew to be false in a guardianship proceeding, and making a false statement under oath to the Administrator, in violation of Rules of Professional Conduct 3.3(a)(3) and 8.4(c). The Hearing Board found that the Administrator proved all of the charged misconduct.

Based on the serious misconduct involving repeated dishonest acts, the minimal mitigation, and significant aggravation including harm to the trust, failure to make restitution, a lack of candor in this proceeding, and failure to take responsibility for her wrongdoing, the Hearing Board recommended that Respondent be disbarred.

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

In the Matter of: **KAREN LINDEN BOSCAMP,** Attorney-Respondent, No. 6209105.	Commission No. 2022PR00070

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

The Administrator charged Respondent with dishonestly using $51,850 from a trust while acting as co-trustee, knowingly offering evidence that she knew to be false by filing an affidavit containing a false statement in a guardianship proceeding, and making a false statement under oath to the Administrator. The Hearing Panel found that the Administrator proved all of the charged miscondcut and recommended that Respondent be disbarred.

INTRODUCTION

The hearing in this matter was held remotely by video conference on March 3, 2023, before a Panel of the Hearing Board consisting of John D. Gutzke, Chair, Kristen E. Hudson, and Chet Epperson. Tammy L. Evans represented the Administrator. Respondent was present and represented herself.

PLEADINGS AND ALLEGED MISCONDUCT

The Administrator charged Respondent in a three-count First Amended Complaint* with engaging in conduct involving dishonesty, fraud, deceit and misrepresentation (Counts I, II, and

III) and knowingly offering evidence she knew to be false (Count II), in violation of Rules 3.3(a)(3) and 8.4(c) of the Illinois Rules of Professional Conduct (2010).

In her Third Amended Answer, Respondent admitted some of the factual allegations but denied all allegations of misconduct.

EVIDENCE

The Administrator presented testimony from three witnesses and Respondent as an adverse witness. The Administrator's Exhibits 1-25 were admitted. (Tr. 12). Respondent testified on her own behalf. Respondent's Exhibits 1-7 were admitted. (Tr. 15-16).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Administrator bears the burden of proving the charges of misconduct by clear and convincing evidence. In re Thomas, 2012 IL 113035, ¶ 56. Clear and convincing evidence constitutes a high level of certainty, which is greater than a preponderance of the evidence but less stringent than proof beyond a reasonable doubt. People v. Williams, 143 Ill. 2d 477, 577 N.E.2d 762 (1991). The Hearing Board assesses witness credibility, resolves conflicting testimony, makes factual findings and determines whether the Administrator met the burden of proof. In re Winthrop, 219 Ill. 2d 526, 542-43, 848 N.E.2d 961 (2006).

I. In Count I, Respondent is charged with engaging in dishonest conduct by knowingly using $51,850 belonging to a trust for her own purposes and without authorization, in violation of Rule 8.4(c).

A. Summary

The Administrator established that Respondent knowingly misused trust funds in the amount of $51, 850 for her own benefit without authorization and thereby engaged in dishonest conduct.

B. Evidence Considered

Respondent has been licensed in Illinois since 1993. She has a solo practice focused on real estate and estate planning. She currently resides in Florida but still has a law practice in Illinois. (Tr. 132-34).

DeSalvo Trust Administration

The allegations in Count I arise from Respondent's conduct as a co-trustee of the Louis J. DeSalvo revocable trust (trust). Louis J. DeSalvo (Louis) was a client of Respondent's. (Ans. at par. 2). In 1997, Respondent drafted a trust for Louis, which named him as the trustee. (Ans. at par. 3). Respondent prepared several amendments and restatements of the trust prior to Louis's death on May 20, 2014. According to the trust terms in effect at the time of his death, Respondent and Geneva Middleton (Jenny), who was Louis's longtime romantic partner, were successor co-trustees.

The trust terms directed the distribution of charitable bequests upon Louis's death to two high schools, a university, and numerous charities and non-profit organizations. The trust terms further directed that Jenny receive $300,000, title to Louis's condominium, and $30,000 per year for the rest of her life. Upon Jenny's death, the remaining trust assets are to be divided equally among the identified schools, charities and non-profit organizations. (Adm. Ex. 2).

After Louis's death, the $30,000 per year to which Jenny was entitled was not distributed to her as a lump sum. Instead, Respondent testified that Louis intended for Jenny to be able to use the trust funds to meet whatever needs she had, even if that amount exceeded $30,000. (Tr. 173-74). When asked to point to the trust terms authorizing Jenny to use more than $30,000 per year, Respondent answered that it was "inferred" in the following provision:

> During the period when JENNY is a co-trustee, JENNY'S decisions and wishes in regards to the trust assets shall control in the event of a disagreement between her and the other co-trustee.

(Tr. 199; Adm. Ex. 2). Respondent also testified that Louis wanted Jenny to have access to his assets but wanted Respondent to make sure Jenny did not give any of his money to her siblings. (Tr. 163).

On or about February 12, 2016, a minivan was purchased with $24,500 from the trust. (Adm. Exs. 3 and 7). Respondent titled the minivan in her name, put it on her insurance policy, and kept it at her home. Respondent testified that Jenny wanted to buy the minivan because she did not drive and wanted Respondent to have a vehicle that she could get in and out of easily when Respondent drove her places. Respondent testified that she put the minivan on her insurance policy because the insurance company would not insure it if it was in the name of the trust. (Tr. 144). Respondent admitted that she drove the minivan to a deposition, without Jenny. (Tr. 146).

In 2016, Respondent received payments from the trust in the amounts of $21,350 and $6,000. The $21,350 payment corresponded to an invoice dated February 18, 2016, for legal services Respondent provided to Jenny, personally. These services included meeting with Jenny for estate planning and real estate tax issues, consulting with Jenny's physician, taking a 7-day trip to Minnesota with Jenny, taking a trip to Indiana to look at real estate, and talking with a contractor who performed work on the basement of Jenny's residence. (Adm. Ex. 5 at 0021). Respondent did not present an invoice for the $6,000 disbursement in the underlying litigation and there is no explanation of this disbursement in the evidence before us.

Respondent admits she owed the trust beneficiaries a duty to ensure that the trust assets were distributed to them and to refrain from using the trust assets for her own purposes. (Ans. at par. 6). She further admits she did not register the trust with the Illinois Attorney General or submit periodic annual written reports regarding the trust assets and the administration of the trust. (Ans. paras. 8, 9). Respondent testified that she did not have to comply with the Charitable Trust Act

until Jenny was no longer the co-trustee. (Tr. 174). She denied that she or Jenny misused or misappropriated funds from the Trust. (Tr. 160). She testified that Jenny chose to use the trust to pay for the minivan and her legal fees and was permitted to do so as the "controlling co-trustee." (Tr. 140, 156-57).

Guardianship Proceeding

On November 14, 2016, the Cook County Public Guardian filed a petition to adjudicate Jenny disabled and appoint a temporary guardian due to alleged financial exploitation by Respondent and the need for someone to manage Jenny's personal care. (Adm. Ex. 3 at 0002). At that time, Jenny was 80 years old. Prior to filing the petition, the Public Guardian had Jenny examined by Dr. Geoffrey Shaw, who determined that she had cognitive deficits that rendered her incapable of making personal or financial decisions. (Adm. Ex. 3 at 0002).

The circuit court appointed attorney Steven Raminiak to serve as Jenny's guardian *ad litem* (GAL). (Tr. 41, 43). After meeting with Jenny at her home, Raminiak observed that she had memory and cognitive difficulties. (Tr. 49). Based on his observations and Dr. Shaw's report, Raminiak filed a report on November 17, 2016, recommending that the court appoint a temporary guardian for Jenny and that either Raminiak or the Public Guardian be granted leave to file a petition seeking an accounting of the trust, a suspension of Respondent's and Jenny's powers as trustees, and their removal as trustees. (Adm. Ex. 3).

The circuit court appointed the Public Guardian as Jenny's temporary guardian. It later appointed Jenny's sister as guardian of her person and Devon Bank as guardian of her estate. The court also ordered Respondent to file an inventory and accounting of the trust.

Raminiak testified that, after reviewing documents including Respondent's billing statements to Jenny, he felt that many of the entries were indicative of attempts at financial exploitation. (Tr. 57). He further testified that Respondent expressed knowledge of Jenny's

cognitive issues in a letter she sent to the Public Guardian on November 20, 2016, in which she referred to "brain tests" that Jenny's doctor was performing to determine whether Jenny had testamentary capacity to make changes to her estate plan. Respondent's letter further stated that Jenny's doctor had taken a "wait and see" approach as to whether Jenny possessed testamentary capacity. (Tr. 68-70; Adm. Ex. 8 at 0041).

Raminiak was also troubled by Respondent's relationship with attorney James Macchitelli, who was present when Raminiak visited Jenny and held himself out as Jenny's attorney. Raminiak learned that Macchitelli was contemporaneously representing Respondent in a foreclosure action. Respondent brought Macchitelli into the guardianship matter, and he seemed to be acting as Respondent's proxy. (Tr. 73). Based on the relationship between Respondent and Macchitelli, Raminiak obtained a temporary restraining order and a preliminary injunction barring Respondent and Macchitelli from communicating with Jenny. (Tr. 45-46, 52; Adm. Ex. 6 at 0003).

Respondent testified that Macchitelli was one of several attorneys she recommended to Jenny. (Tr. 188-89). She further testified that Macchitelli was going to bring financial information to the Court's attention to show that nobody was exploiting Jenny. (Tr. 169). When asked about Macchitelli's representation of her at the same time he was representing Jenny, Respondent testified that she was "pretty much representing [her]self in the foreclosure action in the fall of 2016." (Tr. 201). When questioned about docket entries showing that Macchitelli filed pleadings in the foreclosure action at the same time he was representing Jenny, Respondent answered that she did not have the documents available to review and she assumed that she was the one who filed the documents. (Tr. 203).

Respondent filed an initial inventory and accounting in the guardianship proceeding on April 3, 2017, and a supplemental inventory and accounting on December 13, 2017. (Adm. Exs.

7, 11). She did not list the minivan as a trust asset in her initial inventory. (Tr. 63). The GAL filed objections to Respondent's inventories and accounting. (Adm. Exs. 8, 14).

Judge Barry Goldberg, who was the Deputy Bureau Chief and Bureau Chief of the Illinois Attorney General's Charitable Trust Bureau prior to becoming a judge, entered an appearance on in the guardianship proceeding on behalf of the Attorney General on February 23, 2018. Judge Goldberg testified that Respondent was required under the Charitable Trust Act to register the trust and file written annual reports. Because she failed to do so, the Attorney General sought her removal as trustee and a surcharge for the monies she failed to account for and/or misused. (Tr. 107-114).

On April 23, 2019, the circuit court granted the Attorney General's motion for partial summary judgment and found that Respondent violated the Charitable Trust Act and breached her fiduciary duties as trustee. The court ordered that she be removed as trustee and appointed Devon Bank as successor trustee in her place. (Adm. Ex. 19). A three-day bench trial was held in July 2019, on Respondent's accounting and the issue of disgorgement of funds she received from the trust.

Following the hearing, the circuit court found that the trust had been mismanaged to the detriment of the charitable remaindermen. It did not accept Respondent's explanation as to why she did not object to the purchase of the minivan or why she put the vehicle in her name. In addition, the circuit court found that Respondent's contention that Jenny had discretionary authority to use funds in excess of $30,000 per year was illogical and unsupported and that Respondent's trustee fees and attorney fees were excessive and lacked supporting documentation. On October 23, 2019, the circuit court ordered Respondent to disgorge $104,250 to the trust, which

included but was not limited to the cost of the minivan and the attorney fees at issue in this proceeding. (Adm. Ex. 21).

Respondent appealed the circuit court's judgment, arguing that the court erred in finding that she breached her fiduciary duties as trustee and ordering her to disgorge payments she received from the trust. The appellate court affirmed the circuit court's judgment in all respects. Specifically, it affirmed the findings that Respondent breached her duties as trustee by failing to comply with the Charitable Trust Act and benefitted financially from the use of trust funds, and the expenditures at issue were not permitted by the trust's terms. The appellate court expressly rejected Respondent's position that the trust provisions gave Jenny discretionary authority to use the trust funds however she saw fit. (Adm. Ex. 24).

C. Analysis and Conclusions

Rule 8.4(c) provides that it is misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. Ill. Rs. Prof'l Conduct R. 8.4(c). The prohibition on acting dishonestly applies broadly and need not be related to a representation to constitute a violation of the Rule. See In re Kendall, 2021PR00040, M.R. 031278 (Sept. 21, 2022) (Hearing Bd. at 6) and cases cited therein.

Respondent is charged in Count I with violating Rule 8.4(c) by using $51,850 from the trust for her own benefit and purposes, knowing she was not authorized to do so. Dishonesty includes any conduct, statement or omission that is calculated to deceive, including the suppression of truth and the suggestion of what is false. In re Gerard, 132 Ill. 2d 508, 528, 548 N.E.2d 1051 (1989). There must be an act or circumstance that shows purposeful conduct or reckless indifference to the truth, rather than a mistake. In re Gauza, 08 CH 98, M.R. 26225 (Nov. 20, 2013) (Hearing Bd. at 42).

We find that the Administrator established by clear and convincing evidence that Respondent engaged in dishonest conduct while acting as successor co-trustee by receiving the benefit of the disbursements for the minivan and Jenny's legal fees, knowing they were not authorized by the terms of the trust.

Respondent admits that, as successor co-trustee, she owed the trust beneficiaries the duty to refrain from using the trust assets for her own purposes and to ensure that the trust assets were distributed to them. The evidence established that Respondent knowingly violated these duties.

We reject Respondent's contention that the terms of the trust authorized Jenny or Respondent to make disbursements on Jenny's behalf or for her benefit beyond the $30,000 per year to which she was entitled. Respondent could not point to any provision that expressly bestowed such authority, but testified it was inferred in the provision stating that Jenny's wishes controlled in the event of a disagreement with the other co-trustee. Like the circuit and appellate courts, we find this testimony illogical and unsupported by the trust terms. Given Respondent's experience in estate law and knowledge of the trust documents at issue, her testimony is particularly lacking in credibility. For these reasons, we do not accept Respondent's testimony that she believed she was administering the trust properly. We find that Respondent was aware that the trust terms did not permit Jenny to use trust assets however she saw fit, yet she permitted and participated in disbursing assets beyond the amount Jenny was entitled to receive and which benefitted Respondent.

The evidence that Respondent was aware of Jenny's cognitive impairments further undermines her credibility and assertions that she did not act with dishonest intent. Respondent's testimony that the impairments were medication-related is contradicted by her own statements to the Public Guardian that Jenny's physician was performing "brain tests" and had taken a "wait-

and-see approach" to determining whether Jenny had testamentary capacity. Jenny's cognitive issues are yet another reason why Respondent's testimony that Jenny was the controlling trustee is incredible and implausible.

Respondent's dishonest intent is further established by her failure to register the trust and provide the required annual accounting to the Illinois Attorney General. Again, as an experienced estate law attorney, she was aware of this requirement but did not comply with it. She has provided no legal basis for her explanation that she was not required to register the trust until Jenny was no longer a trustee, and we find none. Rather, we find the failure to register the trust to be evidence of Respondent's knowledge that she and Jenny were not managing the trust in accordance with its terms.

The Administrator proved by clear and convincing evidence that Respondent knowingly and improperly obtained possession of and title to a minivan that was purchased with $24,500 from the trust. We find that not only did Respondent know that the trust terms did not authorize such an expenditure, her testimony that the minivan was purchased for Jenny's benefit was not credible. Given that Respondent had physical possession of the minivan, title to the minivan, paid all of the expenses associated with it, and admittedly drove it on at least one occasion without Jenny, her testimony is not plausible. In our role as triers of fact, we need not accept testimony that is inherently incredible or improbable, nor are we required to be naïve or impractical in evaluating the evidence. In re Peek, 93 SH 357, M.R. 9461 (Dec. 29, 1995).

The Administrator also proved by clear and convincing evidence that Respondent accepted $27,350 from the trust for services she provided to Jenny that were unrelated to the trust. Respondent does not dispute that Jenny paid her from the trust for personal legal expenses but asserts she was entitled to do so. For the reasons set forth above, we reject this argument. We find

that Respondent knew when she accepted these payments that they were not authorized by the terms of the trust.

In summary, the Administrator established by clear and convincing evidence that Respondent knowingly disregarded her duties as co-trustee in order to reap financial benefits in the amount of $51,850. We find that Respondent acted intentionally and dishonestly, thereby violating Rule 8.4(c).

II. Respondent is charged in Count II with knowingly offering evidence she knew to be false and engaging in dishonest conduct by filing an affidavit containing a false statement in the guardianship proceeding.

A. Summary

The Administrator proved by clear and convincing evidence that Respondent knowingly submitted false evidence and engaged in dishonest conduct in the guardianship proceeding by filing an affidavit that falsely stated she did not receive any fees from the trust other than legal fees.

B. Evidence Considered

Count II addresses the following statement Respondent made in an affidavit she attached to the inventory and accounting filed in the guardianship proceeding on April 3, 2017:

> 8. Without all trust paperwork, I cannot provide an accurate accounting. I can state, under oath, that no checks were issued to me or for my benefit beyond the payments for legal fees billed for the roughly 3 ½ years of services, said bills provided to the Cook County Guardian's office at the first hearing in this matter.

(Adm. Ex. 7-0011).

Respondent acknowledges that, contrary to the foregoing statement, she received trustee fees of $10,000 in 2014 and $5,100 in 2015. She denies that she intended to mislead the court. She testified that when she prepared the affidavit, she did not believe she had received trustee fees

and did not have the trust documents in her possession. In her testimony before the circuit court, she clarified that she had received trustee fees. (Tr. 139, 172-73).

C. Analysis and Conclusions

Rule 3.3(a)(3) provides that a lawyer shall not knowingly offer evidence that the lawyer knows to be false. A lawyer's knowledge that evidence is false may be inferred from the circumstances. See Rule 1.0(f). For the following reasons, we find the Administrator proved by clear and convincing evidence that Respondent knowingly offered false evidence to the court and acted dishonestly by doing so.

It is undisputed that Respondent's statement in her affidavit was not true because she had received $15,100 in trustee fees. The question before us is whether the Administrator proved that Respondent knowingly made a false statement to the court or whether, as she asserts, she made a mistake that was not intended to deceive. In making dishonesty findings, motive and intent "are rarely proved by direct evidence, but rather must be inferred from conduct and the surrounding circumstances." In re Edmonds, 2014 IL 117696, ¶ 54.

We find the circumstantial evidence established that Respondent acted knowingly and dishonestly. We did not find Respondent to be a credible witness, generally. Her explanation that she believed she had not received trustee fees and did not have access to the trust documents to inform her that she had received them is not plausible. We find it improbable that Respondent would not remember two substantial payments of $10,000 and $5,100. Moreover, even if Respondent did not have the trust documents in her possession, her own financial records should have informed her of the payments she received. We also consider the improprieties Respondent engaged in in administering the trust, her knowledge that she was the subject of allegations of financial exploitation, and her conduct involving attorney Macchitelli, which appeared to be an effort to protect Respondent's interests rather than Jenny's. All of these circumstances, in

conjunction with our finding that Respondent lacks credibility, lead us to conclude that she knowingly omitted the trustee fees from her inventory and accounting in an effort to conceal the amount of trust assets she had received. Consequently, we find that Respondent knowingly offered evidence she knew to be false, in violation of Rule 3.3(a)(3). This finding necessarily leads us to conclude that Respondent also engaged in dishonest conduct, in violation of Rule 8.4(c).

III. In Count III, Respondent is charged with making a false statement to the Administrator when giving her sworn statement in the investigation of this matter.

A. Summary

The Administrator proved by clear and convincing evidence that Respondent knowingly made a false statement under oath when she stated that she never billed the trust for trustee fees.

B. Evidence Considered

In a sworn statement to the Administrator on February 2, 2021, Respondent was asked the following questions and gave the following answers:

> Q. That was my next question. You were receiving money as the attorney for the trust, correct?
>
> A. Yes.
>
> Q. You were billing for legal fees?
>
> A. Yes.
>
> Q. Did you also bill for trustee fees, like nonlegal time, or no?
>
> A. Not at that time.
>
> Q. Not at that time? Well, no, because you weren't – I mean, after, when you started acting as co-trustee after Mr. DeSalvo's death, did you also bill for nonlegal time?
>
> A. No.
>
> Q. You did not, okay. I'm just asking. I know that trustees can take fees. And I didn't know if that was something in addition to the legal fees.

So you just strictly billed for legal fees associated with your representation of the trust?

A. Yes.

(Adm. Ex. 25 at 0027-28).

Respondent acknowledges now that she paid herself $15, 100 in trustee fees. (Tr. 153-54). She testified that her sworn statement testimony was a mistake because she thought the question was whether she submitted a bill for the trustee fees, not whether she took trustee fees. Respondent acknowledged that she could have testified in the guardianship proceeding that she charged the trust $15,100 in trustee fees, but she stated that "charged is not billed." (Tr. 178). Respondent did not recall the specific bases for the trustee fees she took, but testified that the services she provided included "consolidating everything into the trust," meeting with financial advisors, making decisions, and preparing the tax returns for the trust for the first few years. (193-96).

C. Analysis and Conclusions

Respondent is charged with engaging in dishonest conduct in violation of Rule 8.4(c) by falsely stating under oath that she did not bill for trustee fees when she in fact received trustee fees of $15,100.

We do not find credible Respondent's testimony that she misunderstood Counsel for the Administrator's questions during her sworn statement. In the context of the questioning, we do not see a meaningful difference between "billed," "charged," or "received." The obvious import of the questions was whether Respondent took or received any fees for non-legal services, not whether she created a bill for them. Although Counsel for the Administrator used the word "billed," she also prefaced one of her questions with, "I know that trustees can take fees. And I didn't know if that was something in addition to legal fees." Thus, we find it was clear what the Administrator was asking and, similar to the false statement in her affidavit, Respondent

intentionally made a false statement to the Administrator in an effort to conceal the additional fees she received from the trust. The vague nature of Respondent's testimony in this proceeding as to how she calculated the trustee fees and the absence of any supporting documentation for those fees reinforces this finding. For these reasons, we do not accept Respondent's explanation. We find she intentionally gave false testimony and engaged in dishonest conduct, in violation of Rule 8.4(c).

EVIDENCE IN AGGRAVATION

James Benz , Senior Vice President of Devon Bank, which is the guardian of Jenny's estate, testified that Respondent has not paid the $72,750 judgment she owes to the estate. Consequently, Benz filed an affidavit of judgment creditor in the Circuit Court of Monroe County, Florida and placed a lien on Respondent's real and personal property located in Florida. Since recording the judgment, Devon Bank has not received any payments from Respondent. (Tr. 126-28).

Respondent testified that the attorneys in the guardianship proceeding bullied her, treated her like a criminal, and "concocted breach and malicious intent." (Tr. 167-68, 173). She testified that she had the same feeling of being bullied during her disciplinary hearing because she was accused of being dishonest. (Tr. 231).

Respondent stated that she is remorseful for what Jenny had to go through, but she repeatedly denied doing anything wrong. (Tr. 160, 166, 171, 173).

Currently, Respondent has four open Illinois probate matters. (Tr. 133). She is serving as trustee for a few trusts that she prepared. (Tr. 192).

At the commencement of the disciplinary hearing, Respondent stated she was unaware that her hearing would be proceeding on that day and did not receive any orders indicating the hearing date. (Tr. 6-7). She stated she did not know the video conference invitation was for her hearing

because it used the word "meeting." (Tr. 231-32). She also expressed that she was not anticipating that the disciplinary hearing would address the allegations from the underlying guardianship proceedings. (Tr. 160).

Prior Discipline

Respondent does not have prior discipline.

RECOMMENDATION

A. Summary

Having considered the proven misconduct and the factors in mitigation and aggravation, the Hearing Panel does not have confidence that Respondent is willing or able to comply with the Rules of Professional Conduct and recommends that she be disbarred.

B. Analysis

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, 2014IL117696, ¶ 90. When recommending discipline, we consider 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 consistency in recommending similar sanctions for similar types of misconduct, but must decide each case on its own unique facts. Edmonds, 2014IL117696, ¶ 90.

The Administrator asks us to recommend disbarment. Respondent maintains that she did not act dishonestly and argues that she will not be able to make restitution if she is disbarred. Having found that the Administrator proved the charged misconduct, we determine that a recommendation of disbarment is warranted for the following reasons.

Respondent engaged in egregious misconduct by taking advantage of a vulnerable person and her position as a co-trustee for her own financial benefit. The serious nature of the misconduct and the fact that it involved repeated acts of dishonesty warrants a severe sanction. In re Rotman, 136 Ill. 2d 401, 422, 556 N.E.2d 243 (1990).

There are numerous factors in aggravation. Respondent's conduct was intentional and took place over a period of years. Respondent also caused financial harm to the trust in the amount of at least $51,850, and her conduct necessitated legal action to remove Respondent as trustee and attempt to recover the funds she misused. See In re Owens, 2012PR00135, M.R. 27117 (March 12, 2015) (Review Bd. at 4-5). Respondent has made no effort to make restitution. She has not only shown no remorse and taken no responsibility for her wrongdoing, but portrays herself as the victim. We find Respondent's refusal to accept responsibility especially concerning because she continues to serve as a trustee for other estates. We do not have confidence in her ability to serve in that capacity in an ethical and trustworthy manner, nor do we have confidence that she will comply with the Rules of Professional Conduct in the future. See In re Lewis, 138 Ill. 2d 310, 344-46, 562 N.E.2d 198 (1990).

Respondent's conduct during this hearing is another factor in aggravation. Most concerning is her failure to testify truthfully. Respondent's testimony that her actions were authorized by the trust terms was false. She persisted in this testimony despite knowing that the circuit court and the appellate court determined that her interpretation of the trust terms had no legal basis. She also testified falsely about her representations to the circuit court and the Administrator regarding her trustee fees, and about attorney Macchitelli's representation of her at the time he was representing Jenny. An attorney's false testimony in a disciplinary hearing

"demonstrates a further unfitness to practice law." In re Vavrik, 117 Ill. 2d 408, 415, 512 N.E.2d 1026 (1987).

We are also troubled by Respondent's representations that she was unaware that her disciplinary hearing was taking place on March 3, 2023, and did not receive orders indicating when the hearing would occur. The hearing date was set in a pre-hearing conference on October 24, 2022, which Respondent attended. The hearing date was also noted in orders entered on October 24, 2022, and November 29, 2022, both of which were served upon Respondent at the email address she specified on the record and by regular mail at her registered address. Whether Respondent's professed surprise that her hearing was proceeding was a misrepresentation or the result of her failure to pay attention to the orders entered in this matter, neither inspires confidence in her ability to represent clients in a competent and ethical manner.

We have considered in mitigation that Respondent has no prior discipline and participated in these proceedings. These factors do not impact our recommendation, however, in light of the significant amount of aggravation.

Attorneys who have intentionally misused trust funds have received significant sanctions. The Administrator cites Rotman,136 Ill. 2d 401 (disbarment for taking $15,000 from the estate of a client who had been adjudicated incompetent); In re Haneberg, 00 CH 22, M.R. 19673 (Nov. 17, 2004) (disbarment for taking more than $300,000 from one elderly client and $700,000 from a second elderly client); and In re Helmig, 2013PR00019, M.R. 27163 (March 12, 2015) (suspension for three years and until further order of the court for taking $95,000 from an elderly and mentally incompetent client). We find that Rotman, in particular, is comparable to this case and supports a recommendation of disbarment.

We also find comparable Owens, 2012PR00135. Owens was disbarred for taking $45,100 from a trust while acting as trustee. He claimed he took the funds as fees, but did not perform sufficient services to justify paying himself that amount of fees. Similar to Respondent, Owens refused to take responsibility for his actions, did not make restitution despite the entry of a judgment against him, and had no prior discipline. Although Owens failed to appear for his disciplinary hearing, we find that difference inconsequential given the substantial amount of aggravation in this case.

Having considered the applicable precedent, the nature of the misconduct, the substantial aggravation and minimal mitigation, we determine that a recommendation of disbarment is warranted. We do not make the recommendation of disbarment lightly, but find it necessary in order to protect the public and the integrity of the profession. Accordingly, we recommend that Respondent, Karen Linden Boscamp, be disbarred.

Respectfully submitted,

John D. Gutzke
Kristen E. Hudson
Chet Epperson

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 June 14, 2023.

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

MAINLIB_#1634786_v1

[*] Prior to the commencement of the hearing, the Chair granted the Administrator's oral motion to amend by interlineation certain dollar amounts alleged in Count I of the First Amended Complaint. The dollar amount in paragraph 15 was amended to $27,350, and the dollar amounts in Paragraphs 16 and 17(a) were amended to $51,850.