

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

In the Matter of :)	
)	
JANETT S. WINTER-BLACK,)	Commission No. 2024PR00030
)	
Attorney-Respondent)	
)	
No. 3123730)	

NOTICE OF ELECTRONIC FILING

TO: Rachel C. Miller, Attorney Registration and
Disciplinary Commission of the Supreme
Court of Illinois
3161 W. White Oaks Drive, Suite 301
Springfield, IL 62704
Email: rmiller@iadc.org
Email: ARDCeService@iadc.org

On 7/2/24, I shall electronically file with the Clerk of the Illinois Attorney Registration and Disciplinary Commission the foregoing Notice of Filing and the attached Answer to Complaint.

LAW OFFICE OF STACY BERT WALKER

/s/David A. Sorensen

BY: _____
David A. Sorensen

PROOF OF SERVICE

I, Nancy McKenna, a non-attorney on oath, certify that I served a copy of the foregoing Notice of Filing and Answer to Complaint by e-mailing a copy to the above listed party on 7/2/24.

/s/Nancy McKenna

Nancy McKenna

David A. Sorensen
LAW OFFICE OF STACY BERT WALKER
U.S. MAIL: P.O. Box 94743, Chicago, IL 60690-4743
Law Firm Email: ILLitCounsel@cna.com
333 South Wabash Avenue 25th Floor, Chicago, IL 60604
312-822-6789 - Attorney Direct Dial
david.sorensen@cna.com

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ARDC Clerk

BEFORE THE HEARING BOARD
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ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:

JANETT S. WINTER-BLACK,

Attorney-Respondent,

No. 3123730.

Commission No. 2024PR00030

ANSWER TO COMPLAINT

COUNT I

(Misrepresentation in a Probate Matter – Goins Matter)

1. At all times related to this complaint, Respondent was a partner in the Law Offices of Winter-Black & Baker in Mattoon. Respondent concentrated her practice in the areas of domestic relations and real estate transactions. Respondent also practices in the area of wills and trusts.

ANSWER: Admitted. Further answering, Respondent states Wills and Trusts have constituted a very small area of her practice, but she also practices in the area probate of estates.

2. On September 13, 2013, the court appointed Melva Ruth Goins (“Melva”) as guardian of the person and estate of her adopted son Robert Joseph Stephen Goins (“Joey”) in a matter docketed as *In the Matter of the Estate of Robert Joseph Stephen Goins*, 2013P8 (Hardin County Circuit Court). A successor guardian was not named.

ANSWER: Admitted.

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ARDC Clerk

3. On January 31, 2021, Melva passed away in Hardin County, Illinois.

ANSWER: Admitted.

4. On April 6, 2021, Melva's daughter, Rhonda Beck ("Ms. Beck"), called Respondent's office and stated that she wanted to retain an attorney to represent her in probating Melva's estate.

ANSWER: Denied as worded. Further answering, Respondent states Rhonda Beck called Respondent and asked about what was to be done to address issues raised in light of her mother's passing.

5. On April 20, 2021, Respondent and Ms. Beck agreed that Respondent would represent Ms. Beck in opening and administering a probate matter for Melva's estate. They agreed that Ms. Beck would pay Respondent a security retainer of \$3,000, and Respondent would bill Ms. Beck for legal work at a rate of \$250 per hour. Ms. Beck paid Respondent \$3,000 by check, and Respondent deposited the check into her law firm's client trust account.

ANSWER: Admitted.

6. Prior to April 27, 2021, Ms. Beck told Respondent that she had an adopted brother, Joey, and that Melva had removed Joey from a care facility to live with Melva. During that conversation, Respondent provided Ms. Beck a consent for Joey to sign. The consent form represented an agreement that Ms. Beck would be appointed executor of the estate.

ANSWER: Respondent denies as worded the allegations of the first sentence of Paragraph 6. Respondent admits providing Ms. Beck with a consent for Joey to sign at some point, but not during "that conversation" as alleged. Respondent denies as worded the last sentence of Paragraph 6, since Ms. Beck was to be appointed Administrator, not Executor, of the estate.

7. On April 27, 2021, Respondent filed a petition for issuance of letters of administration for Melva's estate ("probate petition"), affidavits of heirship, and oath and bond of representative. The matter was docketed as *In re the Estate of Melva Ruth Goins*, 2021P7 (Hardin County Circuit Court).

ANSWER: Admitted.

8. On April 30, 2021, Judge Tara R. Wallace ("Judge Wallace") declined to enter an order opening the estate. She entered a docket entry stating that Respondent had not filed a proof of service, a waiver, or consents to the petition.

ANSWER: Admitted.

9. On May 6, 2021, Respondent filed a consent to the probate petition signed by Joey.

ANSWER: Admitted.

10. On August 3, 2021, Judge Wallace entered a docket entry which stated that, "[t]his Court finds that the interests of Robert (Joey) Goins are not adequately represented by a personal fiduciary." Judge Wallace appointed attorney Lacie McDonald ("Ms. McDonald") as a guardian *ad litem* for Joey, and she reset the matter for a hearing on September 10, 2021, at 10:00 a.m.

ANSWER: Admitted.

11. On September 10, 2021, Respondent called the Hardin County Circuit Clerk and stated that she would not be able to attend the hearing. Judge Wallace reset the hearing to October 19, 2021.

ANSWER: Admitted.

12. On October 19, 2021, Ms. McDonald filed a motion to strike Joey's consent to the appointment of Ms. Beck as executor of Melva's estate. The motion to strike stated that Joey had been adjudicated a disabled adult and that no order had been entered at that time terminating the

guardianship. The motion also stated, “that on information and belief, Joey Goins cannot read, and at the time of his signing of said consent could not read same, and it was not read to him.”

ANSWER: Respondent admits only that McDonald’s Motion so states, but Respondent does not have sufficient information to admit or deny as to the mental or physical capabilities of Joey Goins, and therefore denies any allegations about Joey’s mental or physical capabilities, if such statements are deemed to require an answer.

13. On October 19, 2021, Respondent appeared for a hearing in 2021P7. During the hearing, Judge Wallace ordered Respondent to file an amended petition, amended proposed order, and amended bond setting forth that Joey was a disabled heir.

ANSWER: Admitted as to the first sentence and admitted that Judge Wallace directed Respondent to file an amended petition, amended proposed Order, and amended bond; denied as to the remainder of Paragraph 13 as worded. The docket entry of Judge Wallace does not indicate the judge stating that Joey was to be identified as a disabled heir, but Respondent did so indicate that status in her Amended Petition.

14. At no time between October 19, 2021, and March 13, 2022, did Respondent file an amended petition, amended proposed order, or amended bond.

ANSWER: Admitted, but Respondent denies and rejects the implication of Paragraph 14. In further answering, Respondent states as follows: the court did not set any deadline for filing amended documents; the main purpose for opening the estate was to sell the real estate, which was very difficult to sell and had no buyers in sight during this time; apart from multiple traditional holidays during this period, Respondent was afflicted with Covid, which limited her ability to work.

15. On March 14, 2022, Respondent filed a bond of legal representative, oath of administrator, and an amended probate petition.

ANSWER: Admitted.

16. On June 28, 2022, Judge Wallace entered an order granting the petition to appoint Ms. Beck as the administrator of the estate and entering the affidavits of heirship. Judge Wallace ordered that the estate be supervised by the court.

ANSWER: Admitted.

17. On February 28, 2023, Respondent filed a motion to list real estate.

ANSWER: Admitted. Further answering, Judge Wallace granted this Motion without objection, as reflected by her docket entry of the same day.

18. On March 27, 2023, Respondent filed a status report with the court, and she stated that “contracts for the sale of the two parcels of real estate held by this Estate have been entered into” and that the closing was anticipated to occur on April 28, 2023.

ANSWER: Admitted. Further answering, Respondent notes those sale contract for real estate specifically stated that any sale required approval of the Court. The realtor's sale contract at the bottom of Page 4 (contract attached as Exhibit to Petition), initialed by all parties to the contract, states "This offer is subject to approval by the Attorney for the estate of Melva Ruth Goins, and is also subject to the approval of the Court of the Second Judicial Circuit, Hardin County, Illinois in the matter of the Estate of Melva Ruth Goins, Deceased, Hardin County case no. 2021-P-7." Respondent did not ask the realtor to make the contract subject to Respondent's approval, but did ask her to make it subject to the Court's approval.

19. On March 28, 2023, the court entered a docket entry advising Respondent to familiarize herself with the statute regarding the petition for sale of real estate in a probate matter

and that “any contract entered into as set forth in status report would be void for failure to comply with the Probate Act.”

ANSWER: Admitted only that said docket entry so reflects such an entry; denied as to any remaining allegations or legal conclusions of Paragraph 19.

20. On March 31, 2023, Respondent filed a petition for the court’s approval of the sale of real estate. In her petition, Respondent stated that the sale of the two parcels of real estate was “anticipated to occur at the Hardin County Abstract Company in Elizabeth Town [*sic*] on or before April 28, 2023.” Respondent also stated that “the heirs at law of Decedent are of adult years and consent to the sale of both of these properties as described herein, either personally or through their representative, said heirs being...Lacie McDonald as Guardian ad Litem [*sic*] of Robert (Joey) Goins, an alleged disabled adult.”

ANSWER: Admitted. Further answering, Respondent is remorseful of the way in which she worded this Petition, and had no thought or intention to deceive the Court or anyone else. Respondent did communicate with Attorney McDonald, who indicated she did not believe she had authority (as a GAL) to consent on behalf of Joey and that Respondent should notice the Motion before the Court at which time Attorney McDonald did not anticipate voicing objection to it. Respondent also corrected this misstatement by filing within fourteen days a Second Amended Petition which removed the prior wording and amended it to state that Joey was to be served with the Second Amended Petition and notice of the hearing.

21. Respondent’s statement that Ms. McDonald consented to the sale of the real estate on behalf of Joey was false, because Ms. McDonald had not consented to the sale of the real estate.

ANSWER: Respondent admits the statement as worded in her original Petition was inaccurate, and Respondent is remorseful of the way in which she worded this Petition, and

had no thought or intention to deceive the Court or anyone else. Respondent did communicate with Attorney McDonald, who indicated she did not believe she had authority to consent (as a GAL) on behalf of Joey and that Respondent should notice the Motion before the Court at which time Attorney McDonald did not anticipate voicing objection to it. Respondent also corrected this misstatement by filing within fourteen days a Second Amended Petition which removed the prior wording and amended it to state that a Summons was to be issued to serve the Second Amended Petition upon Joey with notice of the hearing.

22. Respondent knew at the time she made the statement described in paragraph 20, above, that it was false.

ANSWER: Denied.

23. On April 11, 2023, Judge Wallace entered an order stating that Respondent's representation in her amended petition that all heirs consented to the sale of the real estate, including Ms. McDonald's on behalf of Joey, was false. Judge Wallace specifically found that Respondent set forth a "blatant misrepresentation to the court" and that "the petition is again not in compliance" with the statute on petitioning for sale of real estate.

ANSWER: Respondent admits Judge Wallace made such a docket entry described in Paragraph 23, but Respondent denies having intentionally sought to make any "blatant misrepresentation" to the Court. Respondent admits the statement as worded in her original Petition was inaccurate, and Respondent is remorseful of the way in which she worded this Petition, and had no thought or intention to deceive the Court or anyone else. Respondent did communicate with Attorney McDonald, who indicated she did not believe she had authority to consent (as a GAL) on behalf of Joey and that Respondent should notice the Motion before the Court at which time Attorney McDonald did not anticipate voicing

objection to it. Respondent also corrected this misstatement by filing within fourteen days a Second Amended Petition which removed the prior wording and amended it to state that Joey was to be served with the Second Amended Petition and notice of the hearing through his attorney.

24. On April 28, 2023, the court sent a notice stating that 2021P7 would be set for a status hearing on June 6, 2023, at 9:00 a.m.

ANSWER: Admitted.

25. On May 2, 2023, Respondent contacted the Hardin County Circuit Clerk's office and requested that the status hearing in 2021P7 be rescheduled because the June 6 status date would be after the real estate closing.

ANSWER: Admitted.

26. On May 2, 2023, Judge Wallace entered a docket entry stating:

"The court has contacted atty [sic] Winter-Black by phone and advised that the court date will remain 6/6/23 at 9:00 A.M.; and yet again that her petition for sale of real estate has not been granted, she doesn't have the authority to engage in the sale of real estate on behalf of her client and any sale of real estate would be void. Atty [sic] Winter-Black is further notified to not contact the circuit clerk's office for rescheduling, to file any motion she feels appropriate and notice said motion properly."

ANSWER: Admitted that Paragraph 26 states what the docket entry contains. Further answering, Respondent was not trying to "engage in sale of real estate" as implied by the docket entry: Respondent was simply presenting or attempting to present to the Court the proposals for sale that Respondent's client, the Estate Administrator, had presented to Respondent.

27. Prior to May 11, 2023, Ms. Beck terminated Respondent and hired a new attorney, Thomas Murphy, Jr. ("Mr. Murphy") of the Law Offices of Watson & Murphy in Eldorado.

ANSWER: Denied. Further answering, immediately after Respondent was contacted by Judge Wallace in connection with the judge's 5/2/2023 docket entry, Respondent contacted her client, Rhonda Beck, and discussed the judge's apparent negative perceptions and comments about Respondent. Respondent advised her client that Respondent believed it best to withdraw from the matter, and sought Ms. Beck's consent to seek another attorney to represent her in the case. Rhonda Beck consented and Respondent ultimately connected Ms. Beck with Attorney Murphy a couple of days later, who said that he would take over the case. Respondent then withdrew from the representation in the matter.

28. On May 11, 2023, Mr. Murphy filed his entry of appearance and a consent to substitution of Mr. Murphy for Respondent.

ANSWER: Admitted. Further answering, Respondent notes those documents were prepared by her.

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

- a. failing to provide competent representation to a client, in violation of Rule 1.1 of the Illinois Rules of Professional Conduct (2010), by conduct including failing to file a petition for sale of real estate, as required by the Illinois Probate Act, prior to entering into contracts for sale of real estate in an estate;
- b. failing to act with reasonable diligence and promptness in representation a client, in violation of Rule 1.3 of the Illinois rules of Professional Conduct (2010), by conduct including failing file a proof of service, waiver, or consents to the petition when she filed the petition; by not appropriately amending the documents between October 19, 2021, and March 13, 2022;
- c. making a false statement of fact or law to a tribunal, in violation of Rule 3.3(a)(1) of the Illinois rules of Professional Conduct (2010), by conduct including stating in

the petition for sale of real estate that all heirs had consented to the sale of real estate in a probate matter; and

- d. engaging in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010), by conduct including falsely stating in the petition for the sale of real estate that Ms. McDonald had consented to the sale of the real estate on behalf of Robert Joseph Stephen Goins.

ANSWER: As the allegations of Paragraph 29 call for a legal conclusion, no answer is required. To the extent any answer may be deemed required, all allegations of Paragraph 29 are denied, including subparagraphs (a)-(d). Further answering:

Paragraph 29(a) alleges that Respondent failed to file a Petition for sale of real estate. However the 2/28/23 court docket entry on that date states "Court was presented w/motion for listing of real estate. Zoom could not take place this AM due to no internet. Atty Moore and Atty McDonald were present in Court in person. Motion to list real estate is granted w/o objection. Any sale of real estate -proceeds for same will be held in trust until further Order of the Court." Thereafter, Respondent filed a status report to the Court on 3/27/2023 reporting the details of two anticipated real estate property sales. There is no requirement in 5/20-5 of the probate act that requires court approval of a real estate sale contract before it is signed, just a requirement for its approval before the sale or mortgage takes place. Both Attorney McDonald and Attorney Moore had informed the Court on 2/28/23 that they had agreed to the listing of the properties by Turner Realty of Golconda, at such price as determined to be fair and reasonable by such realtor. Respondent did not participate in finding either of the real estate purchasers, but did prepare the contract for the Village Mayor who was going to buy one property for \$5,000 after the Administrator reported that she had tried unsuccessfully to just give it to the Village as a practice structure

for the Village Fire Department to demolish by fire, due to difficulty finding anyone to buy it. But in regard to both parcels, a Petition was filed with the Court to obtain the judge's approval prior to the sale. The law does not require a draft contract be approved by a court before finding a buyer at a certain amount, just that the court approve the contract before the sale takes place. Paragraph 29(b) stated that Respondent failed to act with reasonable diligence and promptness in violation of Rule 1.3. No deadline date was set by the judge during the period between 10/19/2021 and 3/31/2022, and the Judge did not even review this case, according to the case docket, until 2/25/22 when she set a status hearing for 3/22/2022. Had the judge set a date by which a filing was required, Respondent would have made such a filing. Nonetheless, Respondent filed amended documents with the Court on 3/14/22, well before the court status hearing. Moreover, the main purpose for opening the estate was to sell the real estate, which was very difficult to sell and had no buyers in sight during this time; apart from multiple traditional holidays during this period, Respondent was afflicted with Covid, which limited her ability to work.

Regarding Paragraph 29(c) Respondent admits the statement as worded in her original Petition was inaccurate, and Respondent is remorseful of the way in which she worded this Petition, and had no thought or intention to deceive the Court or anyone else. Respondent did communicate with Attorney McDonald, who indicated she did not believe she had authority to consent on behalf of Joey and that Respondent should notice the Petition before the Court at which time Attorney McDonald did not anticipate voicing objection to it. Respondent also corrected this misstatement by filing within fourteen days a Second Amended Petition which removed the prior wording and amended it to state that Joey was to be served with the Second Amended Petition and notice of the hearing.

Regarding Paragraph 29(d) Respondent admits the statement as worded in her original Petition was inaccurate, and Respondent is remorseful of the way in which she worded this Petition, and had no thought or intention to deceive the Court or anyone else. Respondent did communicate with Attorney McDonald, who indicated she did not believe she had authority to consent (as a GAL) on behalf of Joey and that Respondent should notice the Petition before the Court at which time Attorney McDonald said that she did not anticipate voicing any objection to it. Respondent also corrected this misstatement by filing within fourteen days a Second Amended Petition which removed the prior wording and amended it to state that Joey was to be served with the Second Amended Petition and notice of the hearing. The charge of intentional dishonesty makes no sense on its face in light of the participation of the Guardian ad Litem on behalf of Joey, Attorney McDonald, in all proceedings in this matter, which would require notice, hearing, and participation of all parties, and ample opportunity for all the heirs to advise the Court of their position and the actively involved judge. The judge had ordered supervised administration of the estate, and in fact conducted certain proceedings where she heard from Attorney McDonald (the GAL for Joey) and Attorney Moore (another attorney for Joey) at certain times when Respondent was not present.

Respondent is remorseful for the initial misstatement, and any confusion and/or frustration it may have caused, but no deception was intended or occurred. That same Second Amended Petition filed by Respondent was ultimately approved by the Court, a few weeks after Respondent had withdrawn from the case.

AFFIRMATIVE DEFENSE

Respondent did not act with any dishonest or fraudulent intent, but included a misstatement in a Petition she filed with the Court, for which she is remorseful, but regarding which she neither meant nor possessed any intent to deceive.

Wherefore, Respondent respectfully requests that the Panel dismiss the Complaint, *with prejudice, and for any other relief it deems just*. Furthermore, Respondent submits her Answer to the Complaint and reserves her right to amend her answers as a result of her investigation into the allegations.

RULE 231 DISCLOSURE

Respondent pursuant to Rule 231 of the ARDC states the following regarding her professional background:

- a. Respondent has been admitted to practice law in Illinois (4/26/1979), and before the following federal courts: United States Central District of Illinois (7/3/1979); United States Tax Court (3/27/1986); United States Southern District of Illinois (4/21/2014). The law license of respondent has never been subject to any professional discipline. Respondent has not been admitted to practice before any administrative agency.
- b. Respondent has received a professional license/certificate as a Notary Public in Illinois since at least 4/18/2016, a license that has not been subject to any discipline. Respondent has obtained no other professional licenses or certificates.

LAW OFFICES OF STACY BERT WALKER

BY: /s/ David A. Sorensen

David A. Sorensen
Attorney for Respondent

David A. Sorensen
LAW OFFICE OF STACY BERT WALKER
U.S. MAIL: P.O. Box 94743, Chicago, IL 60690-4743
Law Firm Email: ILLitCounsel@cna.com
333 South Wabash Avenue 25th Floor, Chicago, IL 60604
312-822-6789 - Attorney Direct Dial
david.sorensen@cna.com