

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

FILED
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ARDC Clerk

In the Matter Of:

GARRETT CHARLES KERR,

Attorney-Respondent,

No. 6300187.

Commission No. 2024PR00043

COMPLAINT

Lea S. Gutierrez, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, Matthew Lango, pursuant to Supreme Court Rule 753(b), complains of Respondent, Garrett Charles Kerr, who was licensed to practice law in Illinois on November 5, 2009, and alleges that Respondent engaged in the following conduct which subjects him to discipline pursuant to Supreme Court Rule 770:

BACKGROUND

1. Between 2009 and 2016, Respondent practiced law in Illinois, working primarily as an associate attorney handling personal injury matters and doing document review on various projects. In or about 2016, Respondent ceased actively practicing law in Illinois and pursued non-legal employment. Respondent last registered to practice law in Illinois in 2020 and was removed from the master roll of attorneys licensed to practice law in Illinois on May 7, 2021.

2. In or about March 2020, Respondent moved to Michigan. In or about July 2020, Respondent applied for an associate attorney position with LeFevre & LeFevre, PLLC ("LeFevre"), a personal injury and general litigation law firm in Saginaw, Michigan. In July 2020, LeFevre hired Respondent with the explicit agreement that he would seek admission to practice

law in Michigan. Until he gained admission to the Michigan Bar, LeFevre and Respondent agreed that Respondent would act as a law clerk and that Respondent would not sign any pleadings, appear in court, sign or offer engagement agreements on behalf of the firm, or offer any legal advice to the firm's clients.

COUNT I

(Dishonesty Regarding Status of Admission to Practice Law in Michigan)

3. From the beginning of his employment with LeFevre in July 2020, and throughout the course of his employment with the firm until July 2021, Respondent repeatedly told the firm's managing partners that he applied for admission to practice law in Michigan. At various times throughout his employment, when asked about the status of his application, Respondent indicated that his application was somehow being delayed. Respondent did not apply for admission to practice law in Michigan until late July 2021.

4. Respondent's statements to the managing partners at LeFevre beginning in July 2020 and continuing through July 2021, that he had applied for admission to practice law in Michigan were false in that he had not applied for admission to practice law in Michigan. Respondent knew those statements were false at the time he made them.

5. Respondent's statements to the managing partners at LeFevre beginning in July 2020 and continuing through July 2021 that his application to practice law in Michigan was somehow delayed were false because Respondent had not applied to practice law in Michigan and thus there was no application to be delayed. Respondent knew those statements were false at the time he made them.

6. In early July 2021, when Respondent had still not been admitted to practice law in Michigan, the LeFevre firm terminated his employment. Following Respondent's termination from the LeFevre firm, attorneys from the firm reviewed Respondent's work and correspondence,

and discovered that he had been holding himself out as authorized to practice law to a number of the firm's clients, as well as making false statements to those clients about the status of their cases.

7. Respondent ultimately applied for admission to practice law in Michigan in late July 2021. Respondent's application to practice law in Michigan was rejected by the Michigan Supreme Court Board of Law Examiners ("Board") on July 29, 2021. A letter from the Board to Respondent states, in pertinent part:

From the information you submitted, you do not meet the BLE Rule 5(A)5(a) and MCL 600.946(3) requirement for practicing 36 months of the previous 60 months in a jurisdiction where admitted. Your employment history indicates that you have not practiced law in Illinois since July 2016 when working as a contract attorney for Axiom Legal. Your experience working remotely as a legal consultant for a Michigan company is not considered the practice of Illinois law and does not meet the rule requirement. Unless you were practicing as In-House Counsel, this raises unauthorized practice of law concerns.

8. As of the date of this complaint, Respondent has not reapplied for nor been admitted to practice law in Michigan.

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

- a. engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including lying about his bar admission status to his employer by stating that he had applied for admission when he had not, and by stating that his application to practice law in Michigan was delayed, in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(Unauthorized Practice of Law and Dishonest Statements to Clients)

10. The Administrator realleges and incorporates paragraphs 1 through 8, above.

11. Respondent has never been admitted to practice law in Michigan. In addition, Respondent did not register to practice law in Illinois in 2021. Due to his failure to register, on

May 7, 2021, Respondent was removed from the master roll of attorneys licensed to practice law in Illinois. Throughout the rest of 2021 and continuing through the time of the filing of this complaint, Respondent has not been in good standing to practice law in any jurisdiction.

12. On or about November 25, 2020, A.H. contacted the LeFevre firm to represent him in a property repossession matter. In his initial contact with the firm, A.H. spoke to Respondent who held himself out as the attorney who would be working on A.H.'s case. In reliance on Respondent's representations, A.H. retained the firm to represent him.

13. Beginning in November 2020 and continuing through 2021, Respondent communicated with A.H. in a manner that indicated that he was the attorney working on his matter. In emails to A.H. on March 29, 2021, and April 7, 2021, Respondent falsely represented to A.H. that he was pursuing legal matters and filing documents on his behalf. Respondent also falsely told A.H. about hearings and about negotiations taking place with governmental entities on his behalf.

14. Respondent's statements to A.H. were false in that no documents had been filed on his behalf with any court and no hearings or negotiations were taking place. Respondent knew that his statements to A.H. were false at the time he made them because Respondent had not filed anything on his behalf and was not negotiating with anyone on his behalf.

15. Later, in May 2021, Respondent met with two other clients of the LeFevre firm, V.B. and S.K., and told them that he was the attorney working on their matters. Respondent, on June 1, 2021, on behalf of the LeFevre firm, accepted a \$1,000 retainer from V.B. and S.K. Respondent represented to V.B. and S.K. that he would file answers on their behalf in their civil lawsuit in which they were defendants that was pending in Michigan state court.

16. In 2021, Respondent did not file any documents with any court on V.B. and S.K.'s behalf, and default judgments were entered against them. Following Respondent's termination from the LeFevre firm, other attorneys from the firm learned of Respondent's actions with regard to V.B. and S.K. and about the default judgments entered against them, which were ultimately set aside.

17. Respondent's actions as described above with regard to the LeFevre firm's clients, A.H., V.B., and S.K. constituted the unauthorized practice of law.

18. On or about April 3, 2023, the Grievance Administrator of the Michigan Attorney Grievance Commission filed a disciplinary complaint against Respondent charging him with making false statements to clients and with the unauthorized practice of law in violation of Michigan Rules of Professional Conduct ("MRPC") 5.5 & 8.1(b)(1) (unauthorized practice of law), 8.4(b) (dishonesty, fraud, deceit, or misrepresentation), 1.1(c) (neglect), 1.2(a) (client's objectives), 1.3 (diligence and promptness), 1.4(a) (client communication), 8.4(a) (violation of Rules of Professional Conduct), and 8.4(c) (conduct prejudicial to the administration of justice). Respondent was also charged with violating Michigan Court Rules ("MCR") 9.104(1) (conduct prejudicial to the administration of justice), 9.104(2) (conduct exposing legal profession to obloquy, contempt, censure, or reproach), 9.104(3) (conduct contrary to justice, ethics, honesty, or good morals), 9.104(4) (conduct violating rules of professional responsibility), and 9.104(7) & 9.113(B)(3) (failing to respond to Request for Investigation).

19. Respondent failed to respond to the complaint of the Michigan Grievance Administrator and on May 4, 2023, a default judgment was entered against him. Subsequently, on January 30, 2024, the Michigan Attorney Disciplinary Board entered an order suspending Respondent from the practice of law in Michigan for one year.

20. By reason of the conduct outlined above, Respondent engaged in the following misconduct:

- a. practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, by conduct including holding himself out to be a Michigan-licensed attorney to at least three clients of the LeFevre Firm, in violation of Rule 5.5(a) of the Illinois Rules of Professional Conduct (2010); and
- b. engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including falsely stating to a firm client that a complaint had been filed, that hearings were held, and that negotiations were taking place with governmental entities, in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator requests that this matter be referred to a panel of the Hearing Board of the Commission, that a hearing be conducted, and that the Hearing Panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Lea S. Gutierrez, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Matthew D. Lango
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