

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

In the Matter of:

FRANK B. AVILA,

Attorney-Respondent,

No. 6273730.

Commission No. 2026PR00022

COMPLAINT

Lea S. Gutierrez, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, Stephanie Bogdan pursuant to Supreme Court Rule 753(b), complains of Respondent, Frank B. Avila, who was licensed to practice law in Illinois on May 10, 2001, and alleges that Respondent has engaged in the following conduct that subjects him to discipline pursuant to Supreme Court Rule 770:

COUNT I

(Failure to communicate; Providing financial assistance to a client in connection with pending or contemplated litigation; Dishonesty)

A. *Background*

1. On April 28, 2014, an individual with the initials "B.R." filed a *pro se* malpractice case in the Circuit Court of Cook County against two attorneys who had represented him in a civil matter in federal court stemming from an assault suffered by B.R. while in the Cook County Jail.

2. On October 14, 2014, B.R. filed an amended complaint in response to the defendants' motions to dismiss filed in the circuit court case. On November 25, 2014, the

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Honorable Patrick J. Sherlock issued an order allowing the filing of the amended complaint but also granting the defendants' motions in part and denying them in part. Both defendants later filed motions to reconsider this order.

3. On or around March 17, 2015, B.R. and Respondent agreed that Respondent would represent him in the matters relating to the circuit court malpractice case. B.R. signed an agreement authorizing Respondent to accept 33.3% of any settlement or recovery in the case. On March 18, 2015, Respondent filed his appearance in the malpractice case and, after requesting additional time to file a response to the defendants' motions to reconsider the November 25, 2014 order, was given until May 18, 2015 to respond.

4. Respondent filed a response to defendants' motions on May 18, 2015. Respondent did not electronically file the response, instead submitting it to the Clerk's office of the Circuit Court of Cook County, where it was manually file-stamped. Due to a clerical error by the Clerk's office, Respondent's May 18, 2015 response was not filed in the malpractice case and Judge Sherlock did not receive it.

5. On June 12, 2015, Respondent filed a document entitled "Plaintiff's Motion to Reset the Briefing Schedule, or in the Alternative, for Leave to File Second Amended Complaint within 30 Days." In this motion, Respondent stated that he had filed his May 18, 2015 response "in a timely manner, and thought he had served defendants, but had no proof of service." Respondent also stated that he has been suffering from medical issues and that defendants now have a copy of his May 18, 2015 response and asked for 30 days to file yet another amended complaint.

6. On June 17, 2015, Judge Sherlock dismissed the malpractice case based on defendants' motions to reconsider. Respondent filed a motion to reconsider on July 17, 2015 and attached the May 18, 2015 response.

B. Respondent's Failure to Communicate and Dishonest Statements to B.R.

7. Judge Sherlock ultimately dismissed the malpractice case by way of an order dated September 14, 2015, after denying Respondent's July 17, 2015 motion. In his order, Judge Sherlock acknowledged that the May 18, 2015 response to the defendants' motions appeared to have "slipped through a judicial crack." Respondent learned of the dismissal shortly thereafter, and took no action to either request that Judge Sherlock reconsider the order of dismissal or to appeal that order to the Appellate Court of Illinois.

8. For over nine years, between September 14, 2015 and January 2026, Respondent did not advise B.R. that the malpractice case had been dismissed and continued to advise B.R. that a settlement was coming.

9. Respondent's statements to B.R. concerning the pendency of the malpractice case were false because Judge Sherlock had dismissed the case on September 14, 2015, that the case was no longer pending, and that the defendants were not going to settle a case that had already been resolved in their favor.

10. Respondent knew that his statements to B.R. were false, because he knew that Judge Sherlock had dismissed the case on September 14, 2015, that the case was no longer pending, and that the defendants were not going to settle a case that had already been resolved in their favor.

11. On March 1, 2024, B.R. texted Respondent asking "can you try to just get me 25K from [defendants]." Respondent responded the same day saying that he would "try."

12. Respondent's March 1, 2024 text to B.R. about trying to get \$25,000 in a settlement was false, in that Respondent knew no settlement offers had been made in the case since its dismissal more than eight years earlier, and that there was no prospect of obtaining a settlement because the malpractice case was no longer pending, having been dismissed on September 14, 2015.

13. Respondent knew this statement to B.R. on March 1, 2024 was false, in that Respondent knew no settlement offers had been made in the case since its dismissal more than eight years earlier, and that there was no prospect of obtaining a settlement because the malpractice case was no longer pending, having been dismissed on September 14, 2015.

14. On June 1, 2024, in response to another request by B.R. for an update on the status of the malpractice case B.R. mistakenly believed was still pending, Respondent texted B.R. stating he was "sorry things didn't work out the way we wanted and if [defendants] do offer you money then I will be happy to give it to you."

15. Respondent's June 1, 2024 text to B.R. about conveying a potential settlement offer was false in that in that Respondent knew no settlement offers had been made in the case since its dismissal more than eight years earlier, and that there was no prospect of obtaining a settlement because the malpractice case was no longer pending, having been dismissed on September 14, 2015.

16. Respondent knew his statement on June 1, 2024 was false in that Respondent knew no settlement offers had been made in the case since its dismissal more than eight years earlier, and that there was no prospect of obtaining a settlement because the malpractice case was no longer pending, having been dismissed on September 14, 2015.

17. Respondent finally advised B.R. that his case had been dismissed for over nine

years and that no settlement was forthcoming in a series of text messages sent in or around January 2026.

C. Respondent's Providing Financial Assistance to B.R.

18. At various times beginning in or around 2016 through January 2025, B.R. told Respondent that he was struggling to pay his rent and bills.

19. At various times in or around 2016 through January 2025, Respondent sent B.R. at least \$10,000 to cover B.R.'s bills and expenses. Respondent made these payments to B.R. through Western Union and through an online payment platform known as Cash App.

20. The payments mentioned in paragraph 19 were not an advance on a possible settlement of the malpractice case and were not court costs and expenses of litigation. Rather, these payments were made by Respondent to B.R. for his day-to-day living expenses.

D. Conclusions of Misconduct

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

- a. providing financial assistance to a client in connection with pending or completed litigation that were not court costs or court expenses, by conduct including giving B.R. approximately \$10,000 to \$15,000 to pay rent and other bills in violation of Rule 1.8(e) of the Illinois Rules of Professional Conduct (2010).
- b. failure to keep the client reasonably informed about the status of the matter by conduct including failing to tell B.R. that his case was dismissed on September 14, 2015 in violation of Rule 1.4(a)(3) of the Illinois Rules of Professional Conduct (2010).

- c. conduct involving dishonesty, fraud, deceit, or misrepresentation by continuing to tell B.R. that a settlement in the case was forthcoming when Respondent knew the case had been dismissed in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(Failure to communicate plea offers in a criminal case)

22. On May 4, 2024, an individual with the initials “R.R”, who was then a defendant in a criminal case charging her with domestic battery, a class A misdemeanor, and Respondent agreed that Respondent would represent R.R. on a *pro bono* basis in matters related to the domestic battery charge. Because R.R. was employed as a public-school teacher, she told Respondent that a conviction on the domestic battery charge could potentially jeopardize her teaching license.

23. On November 22, 2024, Respondent appeared in court on behalf of R.R. Prior to the case being called, four different Cook County Assistant State’s Attorneys made an offer to Respondent to resolve the case with a reduced charge of reckless conduct, a reduced charge that could be expunged and would not jeopardize her teaching license. Respondent did not communicate any of those offers to R.R., who would have accepted them to avoid trial and the potential loss of her teaching license.

24. Instead, Respondent announced that he and R.R. were ready for trial. On that date, R.R.’s case proceeded to a bench trial before the Honorable Laura Bertucci Smith. At the conclusion of the case, Judge Smith found R.R. guilty of one count of domestic battery. After the trial, Respondent made a motion for a mistrial, arguing that Judge Smith failed to give R.R. any admonishments prior to the start of trial. By that, Respondent argued that Judge Smith failed to restate that plea offers provided by the Assistant States Attorneys and the possible sentencing ranges for these offers.

25. On December 20, 2024, Respondent and R.R. appeared before Judge Smith and Respondent argued the motion for mistrial. Respondent admitted, on the record, that on November 22, 2024, prior to the trial, he had received plea offers from the Cook County State's Attorney's Office and he had not communicated those offers to R.R. Respondent also admitted that R.R. would have likely taken a plea offer to a reduced charge prior to trial.

26. Respondent withdrew from the case in or around February 2025 and Judge Smith appointed a public defender. Following additional post-trial motions, Judge Smith granted R.R.'s motion for a new trial. Prior to a new trial taking place, R.R. pled guilty to a reduced charge of reckless conduct, an expungable charge which likely would not have affected her license.

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

- a. failing to promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required when Respondent failed to convey multiple plea offers to R.R. prior to her trial in violation of Rule 1.4(a)(1) of the Illinois Rules of Professional Conduct (2010);
- b. failing to reasonably consult with the client about the means by which the client's objectives are to be accomplished when Respondent failed to convey multiple plea offers to a reduced charge to R.R. even though he knew she would have accepted them in violation of Rule 1.4(a)(2) of the Illinois Rules of Professional Conduct (2010);
- c. failing to keep the client reasonably informed about the status of the matter when Respondent failed to convey multiple plea offers to R.R. made to him prior to her trial in violation of Rule 1.4(a)(3) of the Illinois Rules of Professional Conduct (2010).

COUNT III
(Commingling of Client Funds – BMO Harris Client Trust Account)

28. At all times related to this complaint, Respondent was a sole practitioner who owned and operated a law firm known as the Avila Law Group. The Avila Law Group handled matters in several areas of law including employment and criminal matters.

29. At all times alleged in this complaint, Respondent maintained and was the sole signatory on an IOLTA client trust account at BMO Harris Bank ending in the four digits 7656 (“BMO client trust account”). The account was entitled “Lawyers Trust Account” and was used by Respondent as a depository of funds belonging, presently or potentially, to the firm’s clients, to third parties, or to the firm.

30. From September 2013 through July 2014, Respondent maintained and was the sole signatory on an operating account at BMO Harris Bank ending in the four digits 7789. The operating account was entitled “Avila Law Group” and was used by Respondent for business purposes. BMO Harris Bank closed this account on July 14, 2014 due to Respondent’s failure to maintain sufficient funds in the account.

31. From at least June 30, 2023 through August 29, 2025, Respondent received a monthly direct deposit of benefits from the United States Department of Veterans Affairs (“VA Benefits”) into his BMO Harris Client Trust Account. These monthly VA Benefits ranged from \$2,486.39 to \$2,630.96.

32. The funds described in paragraph 31, above, belong to Respondent and not to any of his clients.

33. Between October 1, 2023 through September 2, 2025, Respondent made the following payments for his own business or personal purposes unrelated to any client matter by way of cashier’s checks drawn on his BMO Client Trust Account:

Check Date	Payee	Check Number	Amount	Purpose of Payment
10/31/23	Respondent's Accountant	70320198	\$2,570	Personal accounting
10/31/23	Former Client	70320196	\$150	Driver
10/31/23	Mentalist/Entertainer	70320195	\$2,250.00	Jury consulting
10/31/23	Respondent's daughter's school	70320194	\$5,000	Tuition
11/1/23	Former client	70320205	\$5,000	Assistance with rent
11/14/23	Respondent's son	70387145	\$3,000	Office Work
01/03/24	Respondent's landlord	70321838	\$2,200	Rent
01/03/24	Respondent's wife		\$500	Personal
07/02/24	Respondent's landlord	70546893	\$1,200	Rent
07/02/24	Respondent's wife	70546890	\$2000	Personal
07/02/24	Union League Club	70546892	\$4000	Membership dues
07/17/24	Union League Club	70696550	\$1000	Membership dues
07/16/24	Village of Norridge	70696549	\$500	Respondent's water bill
07/17/24	Respondent's son	70334244	\$3000	Office work
12/10/24	Respondent's son	70831288	\$2000	Office work
12/10/24	Union League Club	70831283	\$1778.17	Membership dues
12/10/24	Union League Club	70831282	\$4,158.89	Membership dues
12/10/24	Respondent's daughter's school	70831281	\$7000	Tuition
1/31/25	Union League Club	70831463	\$1,498.44	Membership dues
5/21/25	Law Firm	71039480	\$10,000	Retainer for Respondent
5/21/25	Respondent's landlord	71039478	\$2,000	Rent
5/21/25	Respondent's landlord	71039479	\$4,200	Rent
6/20/25	Union League Club	71218605	\$1,500	Membership Dues
6/28/25	Respondent's daughter's school	71218640	\$6,000	Tuition
8/30/25	Respondent's wife	71218874	\$2000	personal

34. The funds described in paragraph 33, above, represented \$74,505 in payments toward Respondent's personal expenses.

35. By reason of the conduct that occurred before July 1, 2023, Respondent engaged in the following misconduct:

- a. failing to hold property of clients or third persons that is in the lawyer's possession in connection with a representation separate from the lawyer's own property by conduct by receiving monthly direct deposits of Respondent's personal VA benefits, as described in paragraph 31 in violation of Rule 1.15(a) of the Illinois Rules of Professional Conduct (2010).

36. By reason of the conduct that occurred after July 1, 2023, Respondent engaged in the following misconduct:

- a. failing to hold funds or property of clients or third persons that is in the lawyer's possession in connection with a representation separate from the lawyer's own funds or property, by conduct including: (1) receiving monthly direct deposits of Respondent's personal VA benefits, as described in paragraph 31; (2) by making payments to Respondent's personal expenses as described in paragraph 33 in violation of Rule 1.15(b) of the Illinois Rules of Professional Conduct (2010).

COUNT IV

(Failure to Keep Required Client Trust Account Records)

37. The Administrator realleges and incorporates paragraphs 28 through 36 above.

38. Effective September 1, 2011, and prior to July 1, 2023, Rule 1.15(a)(1) through (7) of the Illinois Rules of Professional Conduct (2010) required Respondent to prepare and maintain records relating to his client trust accounts.

39. Effective July 1, 2023, Rule 1.15A(b)(1) through (7) of the Illinois Rules of Professional Conduct (2010) required Respondent to prepare and maintain records relating to his client trust accounts.

40. At no time from June 2023 to August 2025 did Respondent prepare and maintain receipt and disbursement journals for his client trust accounts, pursuant to Rule 1.15(a)(1) or Rule 1.15A(b)(1).

41. At no time from June 2023 to August 2025 did Respondent prepare and maintain contemporaneous client ledger records for each separate trust client or beneficiary, pursuant to Rule 1.15(a)(2) or Rule 1.15A(b)(2).

42. At no time from June 2023 to August 2025 did Respondent prepare and maintain three-way reconciliation reports of his client trust accounts on at least a quarterly basis, pursuant to Rules 1.15(a)(7) or Rule 1.15A(b)(7).

43. By reason of the conduct described above that occurred before July 1, 2023, Respondent has engaged in the following misconduct:

- a. failing to prepare and maintain complete records of a client trust account, by conduct including failing to prepare and maintain receipt and disbursement journals, contemporaneous client ledger records, and, on at least a quarterly basis, three-way reconciliation reports, in violation of Rule 1.15(a) of the Illinois Rules of Professional Conduct (2010).

44. By reason of the conduct described above that occurred on or after July 1, 2023, Respondent has engaged in the following misconduct:

- a. failing to prepare and maintain complete records of a client trust account, by conduct including failing to prepare and maintain receipt and disbursement journals, contemporaneous client ledger records, and, on at least a quarterly basis, three-way reconciliation reports, in violation of Rule 1.15A(b) of the Illinois Rules of Professional Conduct (2010).

COUNT V

(Failure to Cooperate with a Disciplinary Investigation)

45. The Administrator realleges and incorporates paragraphs one through 44 above.

46. On August 7, 2024, the Administrator received a letter from BMO Harris Bank relating to Respondent's BMO client trust account. The letter indicated that this account had been overdrawn by \$8.97 on August 1, 2024. After reviewing the correspondence, the Administrator docketed investigation number 2024IN02809.

47. On August 14, 2024, counsel for the Administrator sent Respondent a letter pursuant to Commission Rule 53, requesting that Respondent submit a response to the Administrator within 14 days explaining the facts and circumstances surrounding the account shortage reflected on the overdraft notice. Specifically, the Administrator requested copies of all available records related to activity in the BMO client trust account from March 1, 2024, through August 14, 2024, including monthly bank statements, on-line activity reports, checks presented against the account, checkbook register entries, receipt and disbursement journal entries and client ledger journal entries.

48. On August 21, 2024, Respondent replied to the Administrator's letter via a brief email stating that no check was bounced and Respondent was not aware that interest from the IOLTA account would go to the State of Illinois. Respondent did not provide any of the requested documentation at that time.

49. On February 28, 2025, counsel for the Administrator sent Respondent another letter requesting documents related to the BMO client trust account from June 1, 2023 to the present. Specifically, the Administrator requested receipts and disbursement journals, client ledgers, and reconciliation reports as required under Rule 1.15A(b) of the Illinois Rules of Professional

Conduct (2010), and a copy of the settlement or closing statements in connection with the receipt, maintenance and distribution of any client funds Respondent has been responsible for since June 2023.

50. Between March 2, 2025 and April 29, 2025, Respondent asked for five extensions of time within which to comply with the Administrator's February 28, 2025 request for documents related to the BMO client trust account from June 1, 2023 to through February 28, 2025.

51. On April 29, 2025, Respondent provided a narrative response again stating that this overdraft was in error and that no client funds were affected. Respondent did not provide the documents requested on February 28, 2025.

52. On June 23, 2025, Respondent and counsel for the Administrator agreed to conduct a sworn statement via Microsoft TEAMS on July 2, 2025 at 12:00 pm.

53. On July 2, 2025, counsel for the Administrator appeared for the sworn statement with a court reporter on Microsoft TEAMS at 12:00 pm.

54. At 12:15 pm, Respondent had not appeared and the court reporter was permitted to leave. Respondent did not email or call counsel for the Administrator to indicate he would be running late or not appearing.

55. At 1:00 pm, Respondent emailed counsel for the Administrator and left several voicemails indicating that he had been in court and could not get into the meeting.

56. On July 3, 2025, the Administrator served Respondent by email with a subpoena requiring Respondent's presence at a sworn statement on July 16, 2025 and a subpoena rider ("July subpoena rider") requiring the production of: receipts and disbursement journals, client ledgers, and reconciliation reports as required under Rule 1.15(a) (prior to July 2023) and Rule 1.15A(b) of the Illinois Rules of Professional Conduct (2010), a copy of the settlement or closing statements

in connection with the receipt, maintenance and distribution of any client funds Respondent has been responsible for since June 2023, and documentation regarding withdrawals and disbursements made by cashier's check. The return date for these documents was July 16, 2025.

57. On July 16, 2025, Respondent appeared for a sworn statement via Microsoft TEAMS. Respondent claimed at that time that he had not received the July subpoena rider and did not have the documents. Counsel for the Administrator re-sent the July subpoena rider to Respondent and Respondent stated that he would provide the documents requested.

58. On August 4, 2025, counsel for the Administrator emailed Respondent and again requested the documents specified in the July subpoena rider. Counsel asked for these documents by close of business on August 8, 2025.

59. On August 8, 2025, Respondent did not provide any documents.

60. On August 11, 2025, Respondent emailed counsel for the Administrator and claimed that he had "dropped off a thumb drive" with some documents responsive to the July subpoena rider but not all. Respondent did not indicate where he had dropped off the thumb drive and the Administrator never received a thumb drive from Respondent.

61. As of August 12, 2025, Respondent had not produced any documents responsive to the July subpoena rider but Respondent did appear for a second sworn statement on that date.

62. On August 13, 2025, counsel for the Administrator emailed Respondent a link to a secure file sharing website where Respondent could upload the contents of the purported thumb drive and any other documents responsive to the July subpoena rider and requested that this be uploaded by close of business on August 18, 2025.

63. On August 18, 2025, Respondent emailed counsel for the Administrator asking for an extension to provide the contents of the purported thumb drive and any other documents

responsive to the July subpoena rider until September 2, 2025. This extension was granted.

64. On August 28, 2025, Respondent emailed counsel for the Administrator and advised her that he would need until September 9, 2025 to provide the contents of the purported thumb drive and any other documents responsive to the July subpoena rider because he was on trial. Counsel for the Administrator denied that request and stated that Respondent must provide these documents by September 5, 2025.

65. At no time did Respondent provide the contents of the thumb drive or any other documents responsive to the July subpoena rider on September 5, 2025.

66. On September 9, 2025, Respondent emailed a document entitled “Draft Avila Bank Summary” to counsel for the Administrator. This document consisted of an incomplete list of transactions from the BMO Harris client trust account from January 2023 through December 2024. Respondent indicated in the body of the email that these records were incomplete and that he needed an extension because his accountant has some of his records.

67. At no time after sending this email, did Respondent provide the documents requested in the July 3, 2025 subpoena rider.

68. On October 24, 2025, the Administrator issued another subpoena via email to Respondent for documents. The subpoena rider from October 24, 2025 (“October subpoena rider”) stated that Respondent needed to provide receipts and disbursement journals, client ledgers, and reconciliation reports as required under Rule 1.15A(b) of the Illinois Rules of Professional Conduct (2010) for the time period of January 2025 to the present along with documentation regarding 10 specific and named transactions from the BMO Harris client trust account. The return date was listed as November 14, 2025 and a letter attached to the October subpoena rider indicated that Respondent would not receive any additional extensions.

69. On November 11, 2025, Respondent emailed counsel for the Administrator asking for an extension and indicated that Respondent was seeking counsel. Counsel for the Administrator denied Respondent's request.

70. On November 19, 2025, Respondent emailed counsel for the Administrator the settlement statement for one of the 10 transactions described in the October subpoena rider.

71. On November 23, 2025, Respondent emailed counsel for the Administrator incomplete documentation for three additional transactions of the 10 specified in the October subpoena rider.

72. As of March 20, 2025, the date the Administrator referred the investigation of Respondent's handling of his IOLTA account to the Inquiry Board, Respondent has not produced any additional documents responsive to the October subpoena rider nor has any attorney filed an appearance in this matter on behalf of Respondent.

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

- a. failing to respond to a lawful demand for information from a disciplinary authority, by not responding to the Administrator's multiple requests for documents, pursuant to two of the Administrator's subpoenas requesting Respondent's production of documents in violation of Rule 8.1(b) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator requests that this matter be assigned to a panel of the Hearing Board, that the panel make findings 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/ Stephanie E. Bogdan
Stephanie E. Bogdan

Stephanie E. Bogdan
Counsel for Administrator
130 E. Randolph Drive, Suite 1500
Chicago, Illinois 60601
Telephone: (312) 565-2600
Email: sbogdan@iadc.org
Email: ARDCeService@iadc.org

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