

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

In the Matter of:

WANEMOND SMITH,

Attorney-Respondent,

No. 6227154.

Commission No. 2024PR00024

**NOTICE OF FILING**

To: Rory P. Quinn ([rquinn@iadc.org](mailto:rquinn@iadc.org)) ([ardceservice@iadc.org](mailto:ardceservice@iadc.org))  
Attorney Registration & Disciplinary Commission  
130 East Randolph Drive, #1500  
Chicago, Illinois 60601-6219

PLEASE TAKE NOTICE that on **November 26, 2024**, we e-filed with the Clerk of the Attorney Registration & Disciplinary Commission: **ANSWER TO COMPLAINT**, a copy of which is served upon you herewith.

By: /s/ Kathrynne Hayes

Kathrynne Hayes ([khayes@cb-law.com](mailto:khayes@cb-law.com))  
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**CERTIFICATE OF SERVICE**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109], the undersigned certifies that they served the foregoing document(s) by causing copies to be delivered to the above stated SERVICE LIST by **email** on **November 26, 2024**.

/s/ Monica Nunez

FILED  
11/26/2024 9:54 AM  
ARDC Clerk

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**ANSWER TO COMPLAINT**

COMES the Respondent, Wanemond Smith (“Respondent”), by his attorney, Kathryne Hayes, and for his Answer to Complaint, states as follows:

**COMMISSION RULE 231 STATEMENT**

Respondent was licensed to practice law in the State of Illinois on May 2, 1995. On November 16, 2021, Respondent was suspended by the Illinois Supreme Court for three years and until further order of the Court. *In re Smith*, M.R. 030971, 2020PR00089. Respondent holds no other professional licenses.

**ALLEGATIONS COMMON TO ALL COUNTS**

1. On November 16, 2021, Respondent was suspended by the Illinois Supreme Court for three years and until further order of the Court. *In re Smith*, M.R. 030971, 2020PR00089.

**ANSWER: Admitted.**

2. At no time from November 16, 2021 to May 1, 2024, the date of filing of this complaint was Respondent authorized to practice law in the State of Illinois.

**ANSWER: Admitted.**

**COUNT I**  
***(Alleged False Statements – Tolbert Matter)***

3. On February 9, 2021, Respondent agreed to represent Paula Tolbert (“Tolbert”) in securing a release of claim to a land trust. Respondent and Tolbert agreed that Respondent would accept a flat fee of \$1,500 for the representation.

**ANSWER: Admitted that Respondent agreed to counsel Tolbert in relation to a post-judgment matter. Any remaining allegations are denied.**

4. On or about July 8, 2021, Respondent agreed to represent Tolbert in a landlord tenant dispute then pending against her. The matter was docketed in the Circuit Court of Cook County as Shenika Hunt v. Paula Tolbert, case number 2016M1100461. Respondent and Tolbert agreed that Respondent would accept a flat fee of \$2,000 as his fee.

**ANSWER: Denied as alleged. 2016M1100461 was not a pending landlord-tenant dispute and was pending in the tax and miscellaneous remedies section. Any remaining allegations are denied.**

5. On August 19, 2021, Respondent appeared on behalf of Tolbert on case number 2016M1100461. Respondent did not file an appearance. The case was continued to August 19, 2021. From August 19, 2021 to December 10, 2022, Respondent did not file any pleadings on Tolbert’s behalf.

**ANSWER: Respondent cannot recall whether he appeared on behalf of Tolbert on case number 2016-M1-100461 on August 19, 2021, and therefore can neither admit nor deny the allegation. Respondent admits that he did not file an appearance. The allegation that the case was continued to August 19, 2021 appears to be incomplete and cannot be admitted or denied. Respondent admits that from August 19, 2021 to December 10, 2022, Respondent did not file pleadings on Tolbert’s behalf. Any remaining allegations are denied.**

6. At no time did Respondent inform Tolbert or the court that he was suspended on November 16, 2021.

**ANSWER: Denied as alleged. Respondent orally informed Tolbert that he was not practicing law and recommended other attorneys. Respondent admits that he did not inform the court that Respondent was suspended. Respondent further states that Respondent did not have an appearance to allow Respondent to address the court. Respondent states that he had no appearance to withdraw.**

7. On December 9, 2021, Respondent was contacted by opposing counsel, Neal Kitterlin (“Kitterlin”). Kitterlin informed Respondent that he would not be able to attend the December 10, 2022 court status date. Respondent indicated he was also not available and could not appear. Respondent asked Kitterlin to submit a continuance order. Kitterlin had a colleague cover the matter, and the matter was continued to January 11, 2022.

**ANSWER: Admitted.**

8. On or about December 9, 2021, Respondent spoke to Tolbert. Respondent informed Tolbert that he would not be in court on December 9, 2021 because he was sick.

**ANSWER: Denied as alleged. Respondent states that it is likely that he informed Respondent he was sick, however Respondent had already informed Tolbert that he could not appear in court because he could not practice law. On information and belief, it is further denied that the case was before the court on December 9, 2021.**

9. Respondent’s statement that he could not attend court because he was sick was false or misleading because the reason that Respondent could not attend court was because he was suspended from the practice of law.

**ANSWER: Denied that Respondent made the statement as alleged. Any remaining allegations are denied.**

10. Respondent knew his statement that he could not attend court because he was sick was false or misleading because Respondent knew he had consented to discipline of a suspension for three years and until further order of the Court, and he knew that the reason he could not attend court was because he was suspended from the practice of law.

**ANSWER: Denied Respondent made the statement as alleged. Any remaining allegations are denied.**

11. On January 7, 2022, Respondent contacted Kitterlin and informed him he would be unable to attend court on January 11, 2022. On or about January 11, 2022, Kitterlin learned of Smith's suspension.

**ANSWER: The first sentence of paragraph 11 is admitted. Respondent states on information and belief that he informed Kitterlin he was suspended before January 11, 2022. Any remaining allegations are denied.**

12. At no time from November 16, 2021 to January 11, 2022, did Respondent inform Kitterlin that he was suspended from the practice of law.

**ANSWER: Denied on information and belief.**

13. On March 9, 2022, case number 2016M1100461 was continued to March 22, 2022. Prior to the March 22, 2022 court date, Respondent called Tolbert and informed her "Oh I thought I had told you I can't represent you. I'm having a little problem but I will be ok real soon."

**ANSWER: Admitted that Respondent confirmed that he could not represent Tolbert. Remaining allegations are denied as alleged.**

14. Respondent's statement that he would be "ok real soon" was false or misleading because Respondent was suspended from practicing law for three years and until further order of the Court.

**ANSWER: Denied that Respondent made the statement as alleged, or it is taken out of context. Any remaining allegations are denied.**

15. Respondent knew his statement that he would be "ok real soon" was false or misleading because Respondent knew he had consented to discipline of three years and until further order of the Court.

**ANSWER: Denied that Respondent made the statement as alleged, or it is taken out of context. Any remaining allegations are denied.**

16. Prior to March 22, 2022, Tolbert asked Respondent what efforts he had made to secure the release of claim for the land trust. Respondent claimed he had spoken with Debbie DerKacy ("DerKacy") from Chicago Trust Company about the matter.

**ANSWER: Respondent admits that a conversation occurred during which time Respondent stated that he called Chicago Trust Company; denied as to the summary alleged in paragraph 16.**

17. Respondent's statement that he had spoken to DerKacy was false because Respondent had not spoken with DerKacy about Tolbert's matter.

**ANSWER: Denied.**

18. Respondent knew his statement that he had spoken to DerKacy was false because Respondent knew he had not spoken with DerKacy about Tolbert's matter.

**ANSWER: Denied that the statement was false. Respondent states that he spoke with DerKacy and another individual from Chicago Trust Company.**

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

- a. conduct involving dishonesty, fraud, deceit or misrepresentation, by conduct including falsely holding himself out as an attorney authorized to practice law to Kitterlin and falsely stating to Tolbert that he could not attend court because he was sick, had spoken to DerKacy, and would soon be practicing law, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

**ANSWER: Denied.**

## **COUNT II**

***(Alleged Practicing Law While Suspended, False Statements and Failure to Return Unearned Fees – Torrence Matter)***

20. Prior to November 16, 2022, Respondent and Willie Torrence, Jr. (“Torrence”) agreed that Respondent would represent Torrence in filing a petition for a dissolution of marriage. Torrence and Respondent agreed that Respondent would accept a flat fee of \$2,500 to represent Torrence in the matter.

**ANSWER: Admitted that Respondent agreed to prepare certain documents for Torrence. Any remaining allegations are denied.**

21. On November 17, 2022, Respondent drafted a petition for dissolution of marriage on behalf of Torrence and sent the petition to Torrence via e-mail. Respondent did not sign the petition and drafted it to appear as though Torrence was filing the petition pro se.

**ANSWER: Denied as alleged. The email which is the subject of paragraph 21 is not attached as required by 735 ILCS 5/2-606.**

22. On November 23, 2022, Torrence paid Respondent \$500 as partial payment of the agreed-upon fee.

**ANSWER: Admitted.**

23. On December 14, 2022, Respondent spoke to Torrence on the telephone. During that conversation, Respondent asked for the remainder of his fee. Additionally, Respondent told Torrence that he had rewritten a portion of the petition, and Respondent then sent it back to the Torrence to sign.

**ANSWER: Denied as alleged. The document which is the subject of paragraph 23 is not attached as required by 735 ILCS 5/2-606.**

24. On December 23, 2022, Torrence paid Respondent a second \$500 as partial payment of the agreed-upon fee.

**ANSWER: Admitted.**

25. On January 24, 2023, Torrence paid Respondent \$1,500, the balance of the agreed-upon fee.

**ANSWER: Admitted.**

26. On February 3, 2023, Respondent talked to Torrence on the telephone and discussed his matter including discovery procedures and how to proceed with the case. When Torrence asked Respondent about his status as a suspended attorney, Respondent told Torrence “that’s why I’m appealing because I am not that person.”

**ANSWER: Admitted that Respondent spoke with Torrence. Respondent may have referred to or intended to refer to the reinstatement process; any reference to “not that person” is taken out of context. Any remaining allegations are denied.**

27. Respondent’s statement’s that he was appealing his prior disciplinary matter and that he was not the attorney that was the subject of the suspension were false.



**ANSWER: Admitted that it would not be accurate for Respondent to state that he was “appealing” discipline on consent; denied that Respondent made such a statement. Any remaining allegations are denied.**

28. Respondent knew his statement that he was appealing his prior disciplinary matter and that he was not the attorney was false because Respondent knew he had consented to discipline of a suspension for three years and until further order of the Court and did not file an appeal from that consent petition.

**ANSWER: Denied that the statements were made as alleged. Any remaining allegations are denied.**

29. On February 6, 2023, Respondent called Torrence and told him that he had filed the case under Torrence’s name. Respondent had not made that filing or any filing on Torrence’s behalf. Additionally, Respondent advised Torrence that he would file a substitution of counsel or an additional counsel. Torrence again raised the issue of Respondent’s disciplinary status and requested a refund of the fees paid.

**ANSWER: Denied as alleged.**

30. Respondent’s statement that he had filed Torrence’s matter was false because at no time had Respondent filed Torrence’s matter.

**ANSWER: Admitted that the matter was not accepted for filing. Any remaining allegations are denied.**

31. Respondent knew his statements that he had filed Torrence’s matter were false because Respondent knew he had not filed Torrence’s matter.

**ANSWER: Denied as alleged.**

32. As of April 29, 2024, the date a complaint was voted in this matter, Respondent had not returned any of the \$2,500 fee to Torrence.

**ANSWER: Admitted.**

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

- a. failure to promptly refund to Torrence upon discharge any portion of the \$2,500 fee paid in advance that had not been earned, in violation in violation of Rule 1.16(e) of the Illinois Rules of Professional Conduct (2010);
- b. practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, by representing Torrence in his dissolution case and holding himself out as an attorney to Torrence while he was suspended by the Supreme Court, in violation of Rule 5.5(a) of the Illinois Rules of Professional Conduct (2010); and
- c. conduct involving dishonesty, fraud, deceit or misrepresentation, by stating to Torrence that he was not suspended by the Supreme Court and that he had filed Torrence's matter, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

**ANSWER: Denied.**

### **COUNT III**

#### ***(Practicing Law While Suspended and False Statements – Gibson Matter)***

34. On December 26, 2022, Respondent and Linnette Gibson ("Gibson") agreed that Respondent would represent Gibson in seeking a petition for guardianship of her mother. Respondent and Gibson agreed that Respondent would accept a flat fee of \$2,500 to represent her in the matter, and Gibson would pre-pay expenses totaling \$1,188.

**ANSWER: Denied.**

35. On the same day, Respondent directed Gibson to send \$1,388 to attorney Jeffrey Burt (“Burt”) as the “appointed attorney.” Respondent and Gibson called Burt, who agreed to represent Gibson in opening the guardianship estate. Burt was unaware that Smith would also be representing Gibson. Additionally, Respondent directed Gibson to send the remaining \$3,688 to Joshua Jones (“Jones”), who Respondent claimed does a lot of “running getting papers signed.”

**ANSWER: Denied as alleged.**

36. On December 27, 2022, Gibson paid Burt \$1,388 using the payment application Zelle. On the same day, Gibson paid Jones \$2,300 using Zelle.

**ANSWER: Admitted on information and belief.**

37. On December 28, 2022, Respondent called Gibson and requested an additional \$2,250 for a surety bond. Gibson requested to see some work done on the matter. Respondent sent Gibson text messages with what appeared to be a copy of the guardianship petition. Respondent drafted the petition and included Burt’s name, address, and attorney number.

**ANSWER: Paragraph 37 is admitted with the exception of the amount requested for an additional surety bond; Respondent states he does not recall the amount requested for an additional surety bond.**

38. At no time did Respondent inform Burt he was also representing Gibson in seeking the guardianship petition.

**ANSWER: Denied as alleged. Respondent was not representing Gibson. Any remaining allegations are denied.**

39. At no time did Burt give Respondent permission to use his name, attorney number, or address in drafting the guardianship petition.

**ANSWER: Admitted.**

40. On December 30, 2022, Gibson learned that Jones is Respondent's son and Respondent was not authorized to practice law.

**ANSWER: Denied as alleged.**

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

- a. practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, by representing Gibson in seeking a petition for guardianship and holding himself out as an attorney to Gibson while he was suspended by the Supreme Court, in violation of Rule 5.5(a) of the Illinois Rules of Professional Conduct (2010); and
- b. conduct involving dishonesty, fraud, deceit or misrepresentation, by holding himself out as an attorney to Gibson while he was suspended by the Supreme Court, claiming Jones was an assistant when he was actually Respondent's son, and drafting the guardianship petition to include Burt's name, address, and attorney number without authority in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

**ANSWER: Denied.**

WHEREFORE, Respondent respectfully requests that the Complaint be dismissed.

/s/ Kathryn Hayes

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