BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS

IN THE MATTER OF	§	
G. MICHAEL COOPER, III	§	**CAUSE NO. 58355**
STATE BAR CARD NO. 04775600	§	

THIRD AMENDED PETITION FOR RECIPROCAL DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, G. Michael Cooper, III, (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part IX of the Texas Rules of Disciplinary Procedure. Petitioner is also providing Respondent a copy of Section 7 of this Board's Internal Procedural Rules, relating to Reciprocal Discipline Matters.

2. Respondent is a member of the State Bar of Texas and is licensed and authorized to practice law in Texas. Respondent may be served with a true and correct copy of this Second Amended Petition for Reciprocal Discipline at G. Michael Cooper, III, 2250 Eldridge Parkway, Apt. 332, Houston, Texas 77077.

3. Attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein, is a true and correct copy of a set of documents in the Cooper matter consisting of the Administrator's Complaint filed on August 30, 2005; Report and Recommendation of the Hearing Board filed on September 8, 2006; the Administrator's Motion to Approve and Confirm Pursuant to Supreme Court Rule 753(d)(2) filed on October 25, 2006; Supreme Court Order and Mandate entered on January 12, 2007;

Petitioner's Petition for Reconsideration of the January 12, 2007, Order Approving and Confirming the Hearing Board Report and Disbarring G. Michael Cooper, III, filed on April 9, 2007; the Administrator's Objection to Petition for Reconsideration filed on April 13, 2007; and Supreme Court Order entered on April 24, 2007, relating to the matter entitled **In re: G. Michael Cooper, III**, Supreme Court No. M.R. 21194, Commission No. 05 CH 82, (Exhibit 1). Petitioner expects to introduce a certified copy of Exhibit 1 at the time of hearing of this cause.

4. On or about August 30, 2005, the Administrator's Complaint was filed Before the Hearing Board of the Illinois Attorney Registration and Disciplinary Commission in a matter styled, *In the Matter of: G. Michael Cooper III, Attorney-Respondent*, No. 513164, Commission No. 05 CH 82, which set out the allegations against him, including: On September 18, 2001, Respondent and Jeanne Schofield ("Jeanne") agreed that Respondent would represent Jeanne in connection with a partition of real property. On May 24, 2002, Respondent represented Jeanne at the real estate closing for the sale of the property. On or about July 18, 2002, Respondent received a check made payable to "Jeanne Schofield, The Cooper Company Law Firm" in the amount of $97,742.90 in connection with the sale of the property. On July 18, 2002, Respondent deposited the check into his trust account. On or about April 29, 2003, Respondent gave Jeanne two checks in the amount of $25,000 each. The two checks represented a partial distribution of the $97,742.90 due Jeanne. In or about June 2003, after several oral requests for the remaining $47,742.90 in funds from the sale of the property that Respondent still retained, Jeanne sent Respondent a letter demanding the return of her money. Respondent did not comply with the request. As of October 6, 2003, Respondent should have been holding at least $47,742.90 in his trust account on behalf of Jeanne. As of October 6, 2003, Respondent's trust account had a balance of $50.00. At no time did Jeanne authorize Respondent to use any portion of her

funds for his own business or personal purposes. Between November 2004 and January 2005, Respondent returned $1,500 to Jeanne. By reason of the conduct described above, Respondent has engaged in the following misconduct: conversion; conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct; conduct that is prejudicial to the administration of justice in violation of Rule 8.4(a)(5) of the Illinois Rules of Professional Conduct; and conduct which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute in violation of Supreme Court Rule 770.

Further, Respondent was admitted to practice law in the State of Illinois in 1971, and was admitted to practice law in the State of Texas in 1981. At all times alleged in this Complaint, Respondent was a resident of Washington, D.C. Respondent has never been admitted to practice law in Washington, D.C. On or about October 1, 2001, Respondent prepared, signed, and sent a letter regarding the partition of the property. Between October 17, 2001 and April 7, 2003, Respondent drafted, signed, and filed with the Superior Court of the District of Columbia various documents in the case *Schofield v. Schofield.* These documents identified Respondent as Jeanne's attorney. On or about July 6, 2002, Respondent attended a mandatory mediation session in the District of Columbia Superior Court on behalf of Jeanne. On April 30, 2003, Respondent filed a Notice of Appeal in *Schofield v. Schofield.* Between September 2001 and November 2003, Respondent used the name "Cooper, Barnes and Thaxton" on documents provided to Jeanne and others in connection with *Schofield v. Schofield,* notwithstanding the fact that no such law firm existed. During that same time period, Respondent also variously used the names "The Cooper Company Law Firm," "The Cooper Company Professional Legal Services," and "G. Michael Cooper & Associates," notwithstanding the fact that he was not admitted to practice law in Washington, D. C. Respondent was never admitted *pro hac vice* by

the District of Columbia Superior Court to provide legal services in *Schofield v. Schofield*. On October 15, 2004, Respondent entered into a "Consent Agreement" with the District of Columbia Court of Appeals Committee on Unauthorized Practice of Law. In the Consent Agreement, Respondent acknowledged that his conduct constituted the unauthorized practice of law in the District of Columbia. In the Consent Agreement, Respondent further acknowledged that he was indebted to Jeanne in the amount of $47,747.91 and agreed to repay her this amount plus interest. Under the terms of the Consent Agreement, Respondent agreed that he would begin to repay Jeanne the sum of $47,747.91 with seven equal payments in the amount of $500 each on the 1st date of each month commencing November 1, 2004. Respondent further agreed that the balance in the amount of $44,249.91 plus interest would be repaid to Jeanne on or before June 30, 2005. Jeanne received three installments of $500 each from Respondent between November 2004 and January 2005, and Respondent has not made any other payments to Jeanne. By reason of the conduct outlined above, Respondent has engaged in the following misconduct: practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction in violation of Rule 5.5(a) of the Illinois Rules of Professional Conduct; conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct; conduct which is prejudicial to the administration of justice in violation of Rule 8.4(a)(5) of the Illinois Rules of Professional Conduct; and conduct which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute in violation of Illinois Supreme Court Rule 770.

5. On or about September 8, 2006, the Report and Recommendation of the Hearing Board was filed Before the Hearing Board of the Illinois Attorney Registration and Disciplinary Commission in a matter styled, *In the Matter of: G. Michael Cooper III, Attorney-Respondent*, No.

513164, Commission No. 05 CH 82, that states in pertinent part as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

> ... Having considered the two-count Complaint, the failure of Respondent to appear or participate in these proceedings in any manner, the order of March 27, 2006 by which the allegations of the Complaint were deemed admitted, and the evidence submitted by the Administrator and admitted at the hearing, we find by clear and convincing evidence that Respondent engaged in the acts alleged and committed the following misconduct as charged in the complaint.
>
> a. conversion (Count I);
>
> b. practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction in violation of Rule 5.5(a) of the Illinois Rules of Professional Conduct (Count II);
>
> c. conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(a)(4) (Counts I and II);
>
> d. conduct that is prejudicial to the administration of justice in violation of Rule 8.4(a)(5) (Counts I and II); and
>
> e. conduct which tends to defeat the administration ofjustice or which brings the courts or the legal profession into disrepute in violation of Supreme Court Rule 770 (Counts I and II)...

6. On or about October 25, 2006, the Administrator's Motion to Approve and confirm Pursuant to Supreme Court Rule 753(d)(2) was filed in the Supreme Court of Illinois in a matter styled, *M.R.21194 - In re: G. Michael Cooper III*, Disciplinary Commission.

7. On or about January 12, 2007, a Supreme Court Order and Mandate were entered in the Supreme Court of Illinois in a matter styled, *In the Matter of: G. Michael Cooper III, Attorney-Respondent*, No. 513164, Supreme Court M. R. 21194, Commission No. 05 CH 82, that states in pertinent part as follows:

> ...The motion of the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is allowed, and respondent G. Michael Cooper, III is disbarred...

8. Petitioner prays that, pursuant to Rule 9.02, Texas Rules of Disciplinary Procedure,

this Board issue notice to Respondent, containing a copy of this Second Amended Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why the imposition of the identical discipline in this state would be unwarranted. Petitioner further prays that, upon trial of this matter, this Board enter a judgment imposing discipline identical with that imposed by the Supreme Court of Illinois and that Petitioner have such other and further relief to which it may be entitled.

Respectfully submitted,

Linda A. Acevedo
Chief Disciplinary Counsel

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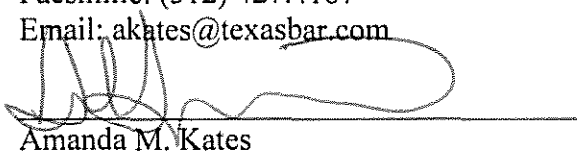


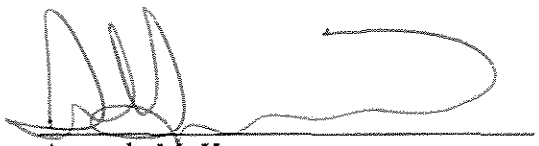
Amanda M. Kates
State Bar Card No. 24075987

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that upon receipt of the Order to Show Cause from the Board of Disciplinary Appeals, I will serve a copy of this Third Amended Petition for Reciprocal Discipline and the Order to Show Cause on G. Michael Cooper, III, by personal service.

G. Michael Cooper, III
250 Eldridge Parkway, Apt. 332
Houston, Texas 77077



Amanda M. Kates

INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through June 21, 2018

Contents

INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through June 21, 2018

I. GENERAL PROVISIONS

Rule 1.01. Definitions

(a) "BODA" is the Board of Disciplinary Appeals.

(b) "Chair" is the member elected by BODA to serve as chair or, in the Chair's absence, the member elected by BODA to serve as vice-chair.

(c) "Classification" is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a "complaint" or an "inquiry."

(d) "BODA Clerk" is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.

(e) "CDC" is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.

(f) "Commission" is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.

(g) "Executive Director" is the executive director of BODA.

(h) "Panel" is any three-member grouping of BODA under TRDP 7.05.

(i) "Party" is a Complainant, a Respondent, or the Commission.

(j) "TDRPC" is the Texas Disciplinary Rules of Professional Conduct.

(k) "TRAP" is the Texas Rules of Appellate Procedure.

(l) "TRCP" is the Texas Rules of Civil Procedure.

(m) "TRDP" is the Texas Rules of Disciplinary Procedure.

(n) "TRE" is the Texas Rules of Evidence.

Rule 1.02. General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 [17.01] applies to the enforcement of a judgment of BODA.

Rule 1.03. Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

Rule 1.04. Appointment of Panels

(a) BODA may consider any matter or motion by panel, except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.

(b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

Rule 1.05. Filing of Pleadings, Motions, and Other Papers

(a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.

(1) Email Address. The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.

(2) Timely Filing. Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

(3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.

(4) Exceptions.

(i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.

(ii) The following documents must not be filed electronically:

a) documents that are filed under seal or subject to a pending motion to seal; and

b) documents to which access is otherwise restricted by court order.

(iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.

(5) Format. An electronically filed document must:

(i) be in text-searchable portable document format (PDF);

(ii) be directly converted to PDF rather than scanned, if possible; and

(iii) not be locked.

(b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).

(c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:

(1) an "/s/" and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

(2) an electronic image or scanned image of the signature.

(d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.

(e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06. Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition must be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent's signature.

Rule 1.07. Hearing Setting and Notice

(a) **Original Petitions.** In any kind of case initiated by the CDC's filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the hearing date must be at least 30 days from the date that the petition is served on the Respondent.

(b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.

(c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.

(d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08. Time to Answer

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

Rule 1.09. Pretrial Procedure

(a) **Motions.**

(1) Generally. To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.

(2) For Extension of Time. All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:

(i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;

(ii) if an appeal has been perfected, the date when the appeal was perfected;

(iii) the original deadline for filing the item in question;

(iv) the length of time requested for the extension;

(v) the number of extensions of time that have been granted previously regarding the item in question; and

(vi) the facts relied on to reasonably explain the need for an extension.

(b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.

(c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.

(d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:

(1) marked;

(2) indexed with the title or description of the item offered as an exhibit; and

(3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

Rule 1.10. Decisions

(a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

(b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:

(1) as required by the TRDP; and

(2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.

(c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11. Board of Disciplinary Appeals Opinions

(a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.

(b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.

(c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12. BODA Work Product and Drafts

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA's adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

Rule 1.13. Record Retention

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

Rule 1.14. Costs of Reproduction of Records

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

Rule 1.15. Publication of These Rules

These rules will be published as part of the TDRPC and TRDP.

II. ETHICAL CONSIDERATIONS

Rule 2.01. Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases

(a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

(b) A current BODA member must not serve as an expert witness on the TDRPC.

(c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02. Confidentiality

(a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.

(b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.

(c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction

Rule 2.03. Disqualification and Recusal of BODA Members

(a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.

(b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.

(c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse himor herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

III. CLASSIFICATION APPEALS

Rule 3.01. Notice of Right to Appeal

(a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.

(b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

Rule 3.02. Record on Appeal

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

IV. APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01. Perfecting Appeal

(a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 [2.20] consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21 [2.20].

(b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21 [2.20].

(1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

(2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

(c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

(d) **Time to File.** In accordance with TRDP 2.24 [2.23], the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.

(e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02. Record on Appeal

(a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.

(b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.

(c) **Responsibility for Filing Record.**

(1) Clerk's Record.

(i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.

(ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

(iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk's record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk's record cannot be timely filed, and give the date by which he or she expects the clerk's record to be filed.

(2) Reporter's Record.

(i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:

a) a notice of appeal has been filed;

b) a party has requested that all or part of the reporter's record be prepared; and

c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.

(ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

(d) **Preparation of Clerk's Record.**

(1) To prepare the clerk's record, the evidentiary panel clerk must:

(i) gather the documents designated by the parties' written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);

(ii) start each document on a new page;

(iii) include the date of filing on each document;

(iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;

(v) number the pages of the clerk's record in the manner required by (d)(2);

(vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and

(vii) certify the clerk's record.

(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.

(3) The table of contents must:

(i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;

(ii) be double-spaced;

(iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;

(iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and

(v) if the record consists of multiple volumes, indicate the page on which each volume begins.

(e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:

(1) file each computer file in text-searchable Portable Document Format (PDF);

(2) create electronic bookmarks to mark the first page of each document in the clerk's record;

(3) limit the size of each computer file to 100 MB or less, if possible; and

(4) directly convert, rather than scan, the record to PDF, if possible.

(f) **Preparation of the Reporter's Record.**

(1) The appellant, at or before the time prescribed for

perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.

(2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.

(3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.

(4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise

(6[1]) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.

(g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.

(h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

(i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

[1] So in original.

Rule 4.03. Time to File Record

(a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.

(b) **If No Record Filed.**

(1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.

(2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

(i) the appellant failed to request a reporter's record; or

(ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

(c) **Extension of Time to File the Reporter's Record.** When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

(d) **Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

Rule 4.04. Copies of the Record

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

Rule 4.05. Requisites of Briefs

(a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.

(b) **Appellee's Filing Date.** Appellee's brief must be filed

within 30 days after the appellant's brief is filed.

(c) **Contents.** Briefs must contain:

(1) a complete list of the names and addresses of all parties to the final decision and their counsel;

(2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;

(3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;

(4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;

(5) a statement, without argument, of the basis of BODA's jurisdiction;

(6) a statement of the issues presented for review or points of error on which the appeal is predicated;

(7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;

(8) the argument and authorities;

(9) conclusion and prayer for relief;

(10) a certificate of service; and

(11) an appendix of record excerpts pertinent to the issues presented for review.

(d) **Length of Briefs; Contents Included and Excluded.** In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

(e) **Amendment or Supplementation.** BODA has discretion to grant leave to amend or supplement briefs.

(f) **Failure of the Appellant to File a Brief.** If the appellant fails to timely file a brief, BODA may:

(1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;

(2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or

(3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06. Oral Argument

(a) **Request.** A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

(b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:

(1) the appeal is frivolous;

(2) the dispositive issue or issues have been authoritatively decided;

(3) the facts and legal arguments are adequately presented in the briefs and record; or

(4) the decisional process would not be significantly aided by oral argument.

(c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07. Decision and Judgment

(a) **Decision.** BODA may do any of the following:

(1) affirm in whole or in part the decision of the evidentiary panel;

(2) modify the panel's findings and affirm the findings as modified;

(3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or

(4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:

(i) the panel that entered the findings; or

(ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.

(b) Mandate. In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08. Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27 [2.26]. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09. Involuntary Dismissal

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

(a) for want of jurisdiction;

(b) for want of prosecution; or

(c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

V. PETITIONS TO REVOKE PROBATION

Rule 5.01. Initiation and Service

(a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02. Hearing

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

VI. COMPULSORY DISCIPLINE

Rule 6.01. Initiation of Proceeding

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

Rule 6.02. Interlocutory Suspension

(a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA must suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

(b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

(1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.

(2) If the criminal sentence is not fully probated:

(i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or

(ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.

(c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02. Order to Show Cause

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

Rule 7.03. Attorney's Response

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

VIII. DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01. Appointment of District Disability Committee

(a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

(b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

(c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.

(d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.

(e) Should any member of the District Disability Committee become unable to serve, the BODA Chair must appoint a substitute member.

Rule 8.02. Petition and Answer

(a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service must comply with Rule 1.06.

(b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.

(c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03. Discovery

(a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

(b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) Motion. The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) Report. The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

(c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04. Ability to Compel Attendance

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

Rule 8.05. Respondent's Right to Counsel

(a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.

(b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06. Hearing

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

Rule 8.07. Notice of Decision

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

Rule 8.08. Confidentiality

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

IX. DISABILITY REINSTATEMENTS

Rule 9.01. Petition for Reinstatement

(a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.

(b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

(c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

Rule 9.02. Discovery

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

Rule 9.03. Physical or Mental Examinations

(a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.

(b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

(d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.

(e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04. Judgment

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

X. APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01. Appeals to the Supreme Court

(a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.

(b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.

(c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
of the
SUPREME COURT OF ILLINOIS
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CERTIFICATION

I, Kenneth G. Jablonski, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certify that the following are true and correct copies of:

The Administrator's Complaint filed on August 30, 2005;

Report and Recommendation of the Hearing Board filed on September 8, 2006;

The Administrator's Motion to Approve and Confirm Pursuant to Supreme Court Rule 753(d)(2) filed on October 25, 2006;

Supreme Court Order and Mandate entered on January 12, 2007;

Petitioner's Petition for Reconsideration of the January 12, 2007 Order Approving and Confirming the Hearing Board Report and Disbarring G. Michael Cooper, III filed on April 9, 2007; and

The Administrator's Objection to Petition for Reconsideration filed on April 13, 2007; and

Supreme Court Order entered on April 24, 2007, relating to the matter entitled **In re: G. Michael Cooper, III**, Supreme Court No. M.R.21194, Commission No. 05 CH 82.

Kenneth G. Jablonski, Clerk
Attorney Registration and
Disciplinary Commission

Subscribed and sworn to before me
this 29th day of September, 2016.

Notary Public

"OFFICIAL SEAL"
CYNTHIA CERINO
Notary Public, State of Illinois
My Commission Expires 07/17/2019

Exhibit
1

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

In the Matter of:

G. MICHAEL COOPER III,

Attorney-Respondent,

No. 513164.

Commission No. 05 CH 82

COMPLAINT

Mary Robinson, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, Marita C. Sullivan, pursuant to Supreme Court Rule 753(b), complains of Respondent, G. Michael Cooper III, who was licensed to practice law in the State of Illinois on November 15, 1971, and alleges that Respondent has engaged in the following conduct which tends to defeat the administration of justice or bring the courts or the legal profession into disrepute:

COUNT I
(Conversion of $47,692 in Funds Belonging to Jeanne Schofield)

1. On September 18, 2001, Respondent and Jeanne Schofield ("Jeanne") agreed that Respondent would represent Jeanne in connection with a partition of real property located at 5010 Illinois Avenue, NW, Washington D.C. In August 2001, William Bentley had conveyed the Illinois Avenue property to Jeanne and her former sister-in-law, Anita Schofield ("Anita"), and legal and factual disputes existed over the division of real and personal property located there.

2. During their September 18, 2001 meeting, Respondent presented Jeanne with a written agreement that Jeanne signed. Under the terms of the agreement, Jeanne agreed to pay

Respondent $225 an hour for his services, with $1125, representing the first 5 hours, paid in advance.

3. On or about September 18, 2001, September 25, 2001, and October 23, 2001, Jeanne paid Respondent funds totaling $1,125 towards his legal fees.

4. On October 11, 2001, Anita filed a complaint against Jeanne in the Civil Division of the Superior Court of the District of Columbia in connection with the Illinois Avenue property. The Clerk of the Court docketed the matter as *Anita L. Schofield v. Jeanne M. Schofield*, number 01-7574.

5. On May 23, 2002, Anita and Jeanne agreed to sell the Illinois Avenue property for $212,000. On that date, Respondent drafted and filed a praecipe with the Clerk of the Superior Court of the District of Columbia. The praecipe provided that the proceeds from the sale of the Illinois Avenue property would be paid into the Registry of the Superior Court until final resolution of the issues in *Schofield v. Schofield.*

6. On May 24, 2002, Respondent represented Jeanne at the real estate closing for the sale of the Illinois Avenue property.

7. On or about May 24, 2002, Federal Title and Escrow Company issued check number 009425 made payable to "Clerk of The Superior Court, Civil Action 7574-01" in the amount of $96,542.90, as well as check number 009426 made payable to "Clerk of The Superior Court, Civil Action 7574-01" in the amount of $98,942.91. Check number 009425 and check number 009426 together represented the net proceeds from the sale of the Illinois Avenue property.

8. Shortly after the May 24, 2002 closing for the Illinois Avenue property, Respondent requested that Federal Title and Escrow Company re-issue the checks identified in

Paragraph 7 above, and make one of the checks payable to himself instead. In accordance with Respondent's request, Federal Title and Escrow Company voided the checks identified in Paragraph 7 above.

9. On or about July 18, 2002, in accordance with Respondent's request, Respondent received Federal Title and Escrow Company check number 011676 made payable to "Jeanne Schofield, The Cooper Company Law Firm" in the amount of $97,742.90 in connection with the sale of the Illinois Avenue property.

10. On July 18, 2002, Respondent deposited check number 011676 into his account number 0019 2157 9936 held at Bank of America and entitled "The Cooper Company Law Firm IOLTA" ("trust account").

11. On March 5, 2003, the Honorable Melvin R. Wright entered his "Findings of Fact and Conclusions of Law" in *Schofield v. Schofield.* In his decision, Judge Wright held, *inter alia*, that the net proceeds of $195,485.81 from the sale of the Illinois Avenue property were to be distributed equally between Jeanne and Anita, with Anita receiving $97,742.90 and Jeanne receiving $97,742.91.

12. On or about April 29, 2003, Respondent gave Jeanne two Bank of America cashier's checks in the amount of $25,000 each. The checks were numbered 002283 and 002284, respectively, and were purchased by "The Cooper Company Law Firm" with funds from Respondent's trust account. The two checks represented a partial distribution of the $97,742.90 due Jeanne.

13. In or about June 2003, after several oral requests for the remaining $47,742.90 in funds from the sale of the Illinois Avenue property that Respondent still retained, Jeanne sent

Respondent a letter demanding the return of her money. Respondent did not comply with Jeanne's request, and did not return Jeanne's money to her.

14. As of October 6, 2003, Respondent should have been holding at least $47,742.90 in his trust account on behalf of Jeanne.

15. As of October 6, 2003, Respondent's trust account had a balance of $50.00.

16. As of October 6, 2003, Respondent had used at least $47,692.90 of the funds belonging to Jeanne for his own business or personal purposes.

17. At no time did Jeanne authorize Respondent to use any portion of her funds for his own business or personal purposes.

18. Between November 2004 and January 2005, Respondent returned $1,500 to Jeanne.

19. As of August 24, 2005, the date the members of Panel C voted to file a complaint against Respondent, he had not returned to Jeanne $46,242.90 in funds belonging to her.

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

a) conversion;

b) conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct;

c) conduct that is prejudicial to the administration of justice in violation of Rule 8.4(a)(5) of the Illinois Rules of Professional Conduct; and

d) conduct which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute in violation of Supreme Court Rule 770.

COUNT II
(Unauthorized Practice of Law in Washington, D.C.)

21. The Administrator repeats and realleges Paragraphs 1 through 19 of Count I above.

22. Respondent was admitted to practice law in the State of Illinois in 1971, and was admitted to practice law in the State of Texas in 1981.

23. At all times alleged in this Complaint, Respondent was a resident of Washington, D. C.

24. Respondent has never been admitted to practice law in Washington, D.C.

25. On or about October 1, 2001, Respondent prepared, signed, and sent a letter to Anita informing her that he represented Jeanne in a partition suit for the sale of residential property, and notifying Anita to cease and desist from all non-court ordered actions regarding residency of the home on Illinois Avenue.

26. Between October 17, 2001 and April 7, 2003, Respondent drafted, signed, and filed with the Superior Court of the District of Columbia various documents in the case *Schofield v. Schofield.* These documents identified Respondent as Jeanne's attorney.

27. On or about July 6, 2002, Respondent attended a mandatory mediation session in the District of Columbia Superior Court on behalf of Jeanne.

28. On April 30, 2003, Respondent filed a Notice of Appeal in *Schofield v. Schofield.*

29. Between September 2001 and November 2003, Respondent used the name "Cooper, Barnes and Thaxton" on documents provided to Jeanne and others in connection with *Schofield v. Schofield*, notwithstanding the fact that no such law firm existed. During that same time period, Respondent also variously used the names "The Cooper Company Law Firm," "The

Cooper Company Professional Legal Services," and "G. Michael Coooper & Associates," notwithstanding the fact that he was not admitted to practice law in Washington, D. C.

30. Respondent was never admitted *pro hac vice* by the District of Columbia Superior Court to provide legal services in *Schofield v. Schofield.*

31. In March 2004, the District of Columbia Court of Appeals Committee on Unauthorized Practice of Law initiated formal proceedings against Respondent for his representation of Jeanne in connection with the Illinois Avenue property, and issued a "Notice of Formal Proceedings" against Respondent.

32. On October 15, 2004, Respondent entered into a "Consent Agreement" with the District of Columbia Court of Appeals Committee on Unauthorized Practice of Law. In the Consent Agreement, Respondent acknowledged that his conduct as described in the "Notice of Formal Proceedings" constituted the unauthorized practice of law in the District of Columbia in violation of District of Columbia Court of Appeals Rules.

33. In the Consent Agreement, Respondent further acknowledged that he was indebted to Jeanne in the amount of $47,747.91 and agreed to repay her this amount plus interest. Under the terms of the Consent Agreement, Respondent agreed that he would begin to repay Jeanne the sum of $47,747.91 with seven equal payments in the amount of $500 each on the 1st date of each month commencing November 1, 2004. Respondent further agreed that the balance in the amount of $44,249.91 plus interest would be repaid to Jeanne on or before June 30, 2005.

34. Jeanne received three installments of $500 each from Respondent between November 2004 and January 2005, and Respondent has not made any other payments to Jeanne.

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

a. practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction in violation of Rule 5.5(a) of the Illinois Rules of Professional Conduct;

b. conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct;

c. conduct which is prejudicial to the administration of justice in violation of Rule 8.4(a)(5) of the Illinois Rules of Professional Conduct; and

d. conduct which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute in violation of Illinois Supreme Court Rule 770.

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

Respectfully Submitted,

Mary Robinson, Administrator
Attorney Registration and
Disciplinary Commission

By: Marita C. Sullivan
Marita C. Sullivan

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In re G. Michael Cooper, III

Commission No. 05 CH 82

Synopsis of Hearing Board Report and Recommendation

Default Proceeding

NATURE OF THE CASE: 1) conversion; 2) practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; 3) conduct involving dishonesty, fraud, deceit or misrepresentation; 4) conduct prejudicial to the administration of justice; and 5) conduct which tends to defeat the administration of justice or which brings the courts or the legal profession into disrepute.

RULES DISCUSSED: Rules 5.5(a), 8.4(a)(4), 8.4(a)(5) of the Illinois Rules of Professional Conduct and Supreme Court Rule 770.

RECOMMENDATION: Disbarment.

DATE OF OPINION: September 8, 2006.

HEARING PANEL: Champ W. Davis, Jr., Patrick M. Blanchard, Matthew Bonds.

ADMINISTRATOR'S COUNSEL: Marita C. Sullivan.

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

In the Matter of:

G. MICHAEL COOPER III,

Attorney-Respondent,

No. 513164.

Commission No. 05 CH 82

REPORT AND RECOMMENDATION OF THE HEARING BOARD

DEFAULT PROCEEDING

The hearing in this matter was held on June 28, 2006 at the offices of the Attorney Registration and Disciplinary Commission ("ARDC") in Chicago, Illinois before a hearing panel consisting of Champ W. Davis, Jr., Chair, Patrick M. Blanchard and Matthew Bonds. Marita C. Sullivan represented the Administrator of the Attorney Registration and Disciplinary Commission. Respondent G. Michael Cooper, III did not appear at hearing and was not represented by counsel.

PLEADINGS AND PRE-HEARING PROCEEDINGS

On August 30, 2005, the Administrator filed a two-count Complaint alleging that Respondent converted $47,692 from a client, engaged in dishonest conduct, and practiced law in a jurisdiction without proper authorization.

On January 30, 2006 an ARDC investigator, who had been assigned to effectuate service of process on Respondent, filed an affidavit detailing the methods he employed to locate Respondent. After determining that Respondent's last known registered address was in Washington D.C., the investigator caused the Complaint and other documents to be mailed to the District of Columbia's Office of Bar Counsel for service upon Respondent. The process server

was not able to serve Respondent and voice messages left at Respondent's Washington D.C. telephone number were not returned.

After checking Respondent's credit report and Illinois Secretary of State's office for any additional addresses, the ARDC investigator concluded that Respondent resides out of the state and on due inquiry cannot be found. Pursuant to Commission Rule 214(b) the investigator caused a copy of the Complaint, Notice of Complaint, Order assigning chairperson, and Rules of the Supreme Court of Illinois to be mailed to Respondent's last known address in Washington D.C., via regular and certified mail, postage prepaid, with return receipt requested.

Respondent did not file any response to the Complaint and on March 27, 2006 the hearing panel Chair entered an order deeming the allegations of the Complaint admitted. Copies of orders entered by the Chair, including the order setting the matter for hearing, were mailed to Respondent at his Washington D.C. address.

THE EVIDENCE

At the hearing on June 28, 2006, the Administrator presented two witnesses, who testified by telephone from Washington D.C., and submitted eight exhibits. That evidence, along with the admitted allegations, established the following facts.

Count I

Jeanne Schofield ("Jeanne"), a resident of Washington D.C, testified she retained Respondent on September 18, 2001, to represent her in connection with the partition of real property located at 5010 Illinois Avenue, NW, Washington D.C.. The property had been conveyed to both Jeanne and her former sister-in-law, Anita Schofield ("Anita"). During the September 18, 2001 meeting, Jeanne signed a written agreement to pay Respondent $225 an hour for his services, with $1125 being paid in advance. (Tr. 20-25).

On October 11, 2001, Anita filed a complaint against Jeanne in the Superior Court of the District of Columbia in connection with the Illinois Avenue property. On May 23, 2002, Anita and Jeanne agreed to sell the property for $212,000. On that same date Respondent drafted and filed a praecipe which provided that the proceeds from the sale would be paid into the Registry of the Superior Court until final resolution of the issues in the pending litigation. (Tr. 25).

On May 24, 2002, Respondent represented Jeanne at the real estate closing for the sale of the property. On or about that date, the Federal Title and Escrow Company issued two checks, for $96,542.90 and $98,942.91, made payable to the Clerk of the Superior Court. The checks represented the net proceeds from the sale of the Illinois Avenue property. (Tr. 26)

Shortly after the closing, Respondent requested that the title company re-issue the checks and make one of the checks payable to himself. In accordance with that request, the title company voided the previously written checks. On July 18, 2002, Respondent received a check from the title company made payable to "Jeanne Schofield, The Cooper Company Law Firm" in the amount of $97,742.90. Respondent deposited the check into his account number 001921579936 at Bank of America entitled "The Cooper Company Law Firm IOLTA" ("trust account"). Jeanne testified Respondent told her the money would stay in the account pending a final decision in the case. (Tr. 27-28; Adm. Ex. 4, 5).

On March 5, 2003 Judge Melvin R. Wright held that the net proceeds of $195,485.81 from the sale of the Illinois Avenue property were to be distributed equally between Jeanne and Anita, with Anita receiving $97,742.90 and Jeanne receiving $97,742.91. Jeanne stated she was not satisfied with the order and was advised by Respondent to appeal the decision. (Tr. 29-30, 45).

On or about April 29, 2003, Respondent gave Jeanne two Bank of America cashier's checks in the amount of $25,000 each. The two checks, which represented a partial distribution

of the money due Jeanne, were purchased by "The Cooper Company Law Firm" with funds from Respondent's trust account. Jeanne understood from Respondent that the remainder of the funds had to stay in the account during the appeal. (Tr. 30-31, 46; Adm. Ex. 6).

In or about June 2003, Jeanne made several oral requests for the remainder of her funds. During a meeting with Respondent in mid-June, she was told that she could not have her funds because they had been invested. When she objected and inquired about the nature of the investments, Respondent advised her that it was "none of her concern." Jeanne testified she was very upset because she wanted to use the funds to make a down-payment on another home. At or about that same time, Jeanne told Respondent she no longer wanted him to represent her and instructed him not to proceed with the appeal. (Tr. 31-34, 45).

On or about June 29, 2003, Jeanne sent a letter to Respondent stating she had not authorized the investment of her funds, and demanding the return of her money. Respondent did not comply with the request and did not return Jeanne's money to her. As of October 6, 2003, at a time when Respondent should have been holding at least $47,742.90 in his trust account for Jeanne, the account had a balance of $50.00. As of that date, Respondent had used at least $47,692.90 of Jeanne's funds without her authorization for his own personal purposes. (Tr. 35; Adm. Ex. 7, 8).

Between November 2004 and January 2005, Respondent returned $1,500 to Jeanne. As of the date a complaint was voted in this matter, he had not returned the remaining $46,242.90. Jeanne stated she did not believe Respondent retained the funds as a fee due to him. Respondent never raised the subject of any fee that might be owed to him and did not provide any invoices to Jeanne. (Tr. 43, 46, 49).

Count II

At all times relevant to the Complaint, Respondent was a resident of Washington, D.C. He was admitted to practice law in the State of Illinois in 1971 and in the State of Texas in 1981, but has never been admitted to practice in Washington D.C.

On or about October 1, 2001, Respondent prepared, signed, and sent a letter to Anita Schofield informing her that he represented Jeanne Schofield in the partition suit, and notifying her to cease and desist from all non-court ordered actions regarding residency of the home on Illinois Avenue. Between October 17, 2001 and April 7, 2003, Respondent drafted, signed, and filed with the Superior Court of the District of Columbia various documents which identified him as Jeanne's attorney. Respondent and attorney Ronnie Thaxton, who Jeanne understood to be Respondent's partner, appeared at the court proceedings. On July 6, 2002, Respondent attended a mandatory mediation session on behalf of Jeanne and on April 30, 2003, he filed a Notice of Appeal in the Schofield matter. (Tr. 25, 42).

Between September 2001 and November 2003, Respondent used the name "Cooper, Barnes and Thaxton" on documents provided to Jeanne and others in connection with the Schofield case. He also used the names "The Cooper Company Law Firm," "The Cooper Company Professional Legal Services," and "G. Michael Cooper & Associates," even though he was not admitted to practice law in Washington, D.C., or admitted *pro hac vice* to provide legal services in the Schofield matter.

On August 11, 2003 Jeanne filed a complaint against Respondent with the District of Columbia Bar Counsel stating that Respondent had failed to turn over funds he was holding for her. Anthony P. Bisceglie, an attorney in Washington D.C. who serves as vice chair of the District of Columbia Court of Appeals Committee on the Unauthorized Practice of Law (the "Committee") testified the Committee received Jeanne's complaint in September 2004 and

undertook an investigation of Respondent. As part of that investigation, Bisceglie spoke to both Jeanne and an attorney who had been involved in the Schofield litigation, reviewed court files, and sent a letter of inquiry to Respondent. (Tr. 36-37, 52-56; Adm. Ex. 1).

Bisceglie also spoke to Ronnie Thaxton, Respondent's purported law partner. He learned that Thaxton and Respondent had once worked for the same government agency and had conversations about opening a firm together. The idea never materialized, however, and Thaxton did not establish a firm with Respondent. Bisceglie also learned that Respondent held himself out as an attorney in D.C. by carrying and issuing business cards which identified him as an attorney with a D.C. address. (Tr. 65, 69-70).

On December 18, 2003 the Committee initiated formal proceedings against Respondent for his representation of Jeanne. Bisceglie testified that Respondent's representation of Jeanne constituted the unauthorized practice of law in violation of D.C. Court of Appeals Rule 49. On March 1, 2004, the Committee sent a copy of the notice of formal proceedings to the attorney disciplinary authorities in Illinois and Texas. Bisceglie noted that the Committee does not routinely notify other jurisdictions of its proceedings but does so in egregious situations. (Tr. 57-59; Adm. Ex. 2).

On October 15, 2004, Respondent entered into a Consent Agreement with the Committee whereby he acknowledged that he engaged in the unauthorized practice of law in the District of Columbia. He further acknowledged that no partnership ever existed between himself, Ronnie Thaxton and Webster Barnes. Regarding the funds he held in trust for Jeanne Schofield, he admitted that he owed $47,744.91 to Jeanne and agreed to repay her that amount, plus interest. The payments were to commence with seven monthly payments of $500, with the balance to be repaid by June 30, 2005. (Tr. 38, 60-62; Adm. Ex. 3).

Jeanne received three installments of $500 each between November 2004 and January 2005. Respondent has not made any other payments to Jeanne and still owes her $46,242.90, plus interest. (Tr. 38-39).

Additional Evidence Offered in Aggravation

Jeanne Schofield testified that when Respondent did not turn over her funds, she retained attorney Patrick Merkle to initiate proceedings against Respondent. That lawsuit is still pending and she has not seen Respondent in connection with the matter. Jeanne stated she currently works as a temporary employee and receives a salary of $14,000. Her only other source of income is a pension from AT & T. She has depleted her funds in her 401(k) account and has a mortgage on her home. (Tr. 39-41, 46-47).

Prior Discipline

The Administrator reported, pursuant to Commission Rule 277, that Respondent has been disciplined by the Illinois Supreme Court on two previous occasions. On October 4, 1984, Respondent was suspended for six months for neglecting two criminal appeals, failing to properly withdraw from employment, and failing to carry out a contract of employment and thereby prejudicing a client during the course of a professional relationship. In re Cooper, 82 CH 86, M.R. 3360 (October 4, 1984). On September 24, 1996 Respondent was suspended for three years for failing to cooperate with disciplinary authorities, making a misrepresentation to a tribunal, failing to refund unearned fees, and implying that he was able to influence a tribunal or public official. In re Cooper, 96 CH 427, M.R. 12674 (September 24, 1996). The three-year suspension was imposed pursuant to a Petition for Reciprocal Discipline after Respondent had been suspended in Texas.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In attorney disciplinary proceedings the Administrator has the burden of proving the charges of misconduct by clear and convincing evidence. In re Ingersoll, 186 Ill.2d 163, 710 N.E.2d 390, 393 (1999). Clear and convincing evidence constitutes a high level of certainty, which is greater than a preponderance of the evidence but less than proof beyond a reasonable doubt. People v. Williams, 143 Ill.2d 477, 577 N.E.2d 762 (1991).

Having considered the two-count Complaint, the failure of Respondent to appear or participate in these proceedings in any manner, the order of March 27, 2006 by which the allegations of the Complaint were deemed admitted, and the evidence submitted by the Administrator and admitted at the hearing, we find by clear and convincing evidence that Respondent engaged in the acts alleged and committed the following misconduct as charged in the complaint.

a. conversion (Count I);

b. practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction in violation of Rule 5.5(a) of the Illinois Rules of Professional Conduct (Count II);

c. conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(a)(4) (Counts I and II);

d. conduct that is prejudicial to the administration of justice in violation of Rule 8.4(a)(5) (Counts I and II); and

e. conduct which tends to defeat the administration of justice or which brings the courts or the legal profession into disrepute in violation of Supreme Court Rule 770 (Counts I and II).

RECOMMENDATION

Having found that Respondent engaged in wrongdoing, we must determine the appropriate discipline warranted by the misconduct. In determining the proper sanction, we consider the purposes of the disciplinary process. The goal of these proceedings is not to punish

but rather to safeguard the public, maintain the integrity of the profession and protect the administration of justice from reproach. In re Timpone, 157 Ill.2d 178, 623 N.E.2d 300 (1993). Another factor for consideration is the deterrent value of attorney discipline and the need to impress upon others the repercussions of errors such as those committed by Respondent in the present case. In re Discipio, 163 Ill.2d 515, 645 N.E.2d 906, 912 (1994).

We also take into account those circumstances which may mitigate and/or aggravate the misconduct. In re Witt, 145 Ill.2d 380, 583 N.E.2d 526, 535 (1991). By failing to appear at the hearing, Respondent forfeited his opportunity to present any evidence of mitigating circumstances.

In aggravation, Respondent's failure to attend and participate in these proceedings is a factor which weighs heavily against him. His absence demonstrates a lack of respect for the disciplinary process and for his profession. See In re Brody, 65 Ill.2d 152, 357 N.E.2d 498, 500 (1976) (an attorney's failure to cooperate in his or her own disciplinary proceeding demonstrates a want of professional responsibility and is a factor to be considered in aggravation for the purpose of determining an appropriate sanction). Moreover, Respondent's apparent lack of concern for his own disciplinary proceeding is an indication to us that he will not provide conscientious representation to others.

We also take into account the harm caused by Respondent's conduct. See In re Saladino, 71 Ill. 2d 263, 375 N.E.2d 102 (1978) (discipline should be "closely linked to the harm caused or the unreasonable risk created by the [attorney's] lack of care"). Respondent's conversion of real estate proceeds caused financial harm to Jeanne Schofield, who had limited financial resources and anticipated being able to use the funds to purchase a home. At the time of hearing Respondent still had not returned over $46,000 to Jeanne, even though he admitted in a consent agreement that he owed her the funds. See In re Uhler II, 126 Ill.2d 532, 535 N.E.2d 825 (1989)

(failure to make prompt restitution is a factor for consideration in the determination of discipline.) Because Respondent failed to repay the funds, Jeanne had to retain another attorney to file suit against Respondent. See In re Demuth, 126 Ill.2d 1, 533 N.E.2d 867 (1988) (client is harmed when he has to go to the "expense and inconvenience" of hiring another attorney.) We note that we received no evidence that Respondent was entitled to retain any portion of the funds as his fees, or even that he raised that issue with Schofield. Even if he were owed fees, our conclusions would not change since Respondent's actions with respect to Schofield were clearly improper.

Finally, prior discipline has been considered to be a significant factor when determining discipline. In re Blank, 145 Ill.2d 534, 585 N.E.2d 105 (1991). Respondent's previous infractions, although dissimilar in nature to the present misconduct, were serious. More important, however, the multiple and repeated infractions indicate Respondent's inability to adhere to the rules and obligations of the profession, and a failure to be deterred by prior sanctions.

The Administrator has suggested that Respondent's conversion of over $47,000 in client funds and his unauthorized practice of law, coupled with the serious aggravating factors, warrants disbarment. We agree.

Respondent's intentional conversion of funds is a gross breach of his ethical obligations which, in the absence of mitigating circumstances, by itself warrants disbarment. See In re Rotman, 136 Ill.2d 401, 556 N.E.2d 243 (1990). In Rotman the attorney was disbarred for converting approximately $15,000 from the estate of a client who had been adjudicated incompetent. Unlike the present case, no other misconduct was involved and the attorney participated in his disciplinary proceedings. See also In re Woldman, 98 Ill.2d 248, 456 N.E.2d

35 (1983) ("Other offenses might be excused, but conversion to [an attorney's] own use of the property of his client is an offense that cannot in any degree be countenanced.")

We also derive guidance from two cases cited by the Administrator. In In re Klein, 95 CH 433, M.R. 11419 (September 29, 1995) the attorney was disbarred on consent for converting $38,294 from one client and engaging in the unauthorized practice of law. In In re Larson, 95 CH 720, M.R. 11820 (December 1, 1995) the attorney was disbarred on consent for converting at least $54,000 from four clients, making misrepresentations to a client, and engaging in the unauthorized practice of law.

Respondent, by his actions and his absence from these proceedings, has demonstrated a complete disregard for his professional responsibilities. Keeping in mind the purposes of the disciplinary process, which are to safeguard the public from any future abuse by Respondent, to preserve the integrity of the legal profession, and to protect the administration of justice from reproach, we conclude that the most severe discipline should be imposed upon Respondent.

We are also attentive to the deterrent aspect of these proceedings. By recommending disbarment, we hope to impress upon other attorneys the grave consequences which result from errors such as those committed by Respondent in the present case.

For the reasons stated, we recommend that Respondent G. Michael Cooper, III be disbarred.

Date Entered: September 8, 2006

Champ W. Davis, Jr. kt

Champ W. Davis, Chair, with Patrick M. Blanchard and Matthew Bonds, concurring

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ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
of the
SUPREME COURT OF ILLINOIS

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Hon. Juleann Hornyak
Clerk of the Supreme Court
of Illinois
Supreme Court Building
Springfield, IL 62701

Chicago
October 25, 2006

Supreme Court No. M.R. 21194
Commission No. 05 CH 82

In Re: G. Michael Cooper III

Dear Ms. Hornyak:

Enclosed please find the original and two copies of the Administrator's **MOTION TO APPROVE AND CONFIRM PURSUANT TO SUPREME COURT RULE 753(d)(2)**, in the above matter, together with a Notice of Filing and Proof of Service.

Thank you for your cooperation.

Very truly yours,

Marita C. Sullivan

Marita C. Sullivan
Counsel

MCS:rmm
Enclosure
MAINLIB_#245872_v1

IN THE SUPREME COURT OF ILLINOIS

In the Matter of:	
G. MICHAEL COOPER III,	Supreme Court M.R. 21194
Attorney-Respondent,	Commission No. 05 CH 82
No. 513164.	

NOTICE OF FILING

TO: G. Michael Cooper III
Respondent
307 Allison Street N.W.
Washington, D.C. 20011

PLEASE TAKE NOTICE that on October 25, 2006, I will file the Administrator's **MOTION TO APPROVE AND CONFIRM PURSUANT TO SUPREME COURT RULE 753(d)(2)**, a copy of which is attached, by causing the original and two copies to be mailed to the Clerk of the Supreme Court of Illinois in Springfield, by causing the same to be deposited in the United States mail at One Prudential Plaza, 130 East Randolph Drive, Suite 1500, Chicago, Illinois 60601 with proper postage prepaid.

Respectfully submitted,

Mary Robinson, Administrator
Attorney Registration and
Disciplinary Commission

By: Marita C. Sullivan
Marita C. Sullivan

Marita C. Sullivan
Counsel for Administrator
One Prudential Plaza
130 East Randolph Drive, #1500
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PROOF OF SERVICE

I, Roni M. Martin, on oath state that I served a copy of a Notice of Filing and the **MOTION TO APPROVE AND CONFIRM PURSUANT TO SUPREME COURT RULE 753(d)(2)**, on the individual at the address shown on the foregoing Notice of Filing, by regular mail, proper postage prepaid, by causing the same to be deposited in the U.S. Mailbox located at One Prudential Plaza, 130 East Randolph Drive, Suite 1500, Chicago, Illinois 60601 on October 25, 2006 at or before 5:00 p.m.

Roni M. Martin

Subscribed and sworn to before
me this 25th day of October, 2006.

NOTARY PUBLIC

"OFFICIAL SEAL"
ROXANNE TRENTER
Notary Public, State of Illinois
My Commission Expires 04/22/10

IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

G. MICHAEL COOPER III,

Attorney-Respondent,

No. 513164.

Supreme Court No. M.R. 21194

Commission No. 05 CH 82

MOTION TO APPROVE AND CONFIRM PURSUANT TO SUPREME COURT RULE 753(d)(2)

Mary Robinson, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, Marita C. Sullivan, requests that this Court, pursuant to Supreme Court Rule 753(d)(2), approve and confirm the report and recommendation of the Hearing Board submitted to this Court on October 6, 2006, in the above-captioned matter and order that the Respondent be disbarred. In support of her motion, the Administrator states as follows:

I. SUMMARY

1. Respondent was admitted to practice law in Illinois on November 15, 1971. The Hearing Board found that Respondent converted $47,692 from a client and practiced law in a jurisdiction where he was not authorized. (H.B. Rpt. at 8). The Hearing Board recommended that Respondent be disbarred. (*Id.* at 11). This recommendation is consistent with discipline imposed by this Court for similar misconduct and should be approved and confirmed.

II. PROCEDURAL BACKGROUND

2. The Administrator filed a two-count complaint on August 30, 2005. (H.B. Rpt. at 1). The complaint charged Respondent with misconduct arising from his conversion of $47,692 from a client, engaging in his dishonest conduct, and practicing law in a jurisdiction without proper authorization. (H.B. Rpt. at 1).

3. On March 27, 2006, the Chairperson of the Hearing Board granted the Administrator's motion to deem the allegations of the complaint admitted. (H.B. Rpt. at 2). The Administrator's motion was granted as a result of Respondent's failure to file any response to the Complaint. (*Id.* at 2).

4. The hearing in this matter was held on June 28, 2006. (H.B. Rpt. at 1). Respondent failed to appear at the hearing, nor did anyone appear on his behalf.

5. On September 8, 2006, the Hearing Board issued its report and recommendation and recommended that Respondent be disbarred. (H.B. Rpt. at 11).

6. Neither the Administrator nor Respondent filed exceptions to the Hearing Board report and recommendation, and the Clerk of the Commission submitted the report and recommendation to the Court as an agreed matter, pursuant to Supreme Court Rule 753(d)(2), on October 6, 2006.

III. FINDINGS OF FACT

7. The Hearing Board found that Respondent converted $47,692 from his client, Jeanne Schofield, in connection with his representation of Jeanne in a real estate partition action. (H.B. Rpt. at 4, 8). The Hearing Board further found that at the time of the hearing, Respondent had still failed to repay over $46,000 to Jeanne. (*Id.* at 9).

8. The Hearing Board also found that Respondent practiced law in a jurisdiction where doing so violated the regulation of the legal profession in that jurisdiction. (H.B. Rpt. at 8). The Hearing Board found that Respondent represented Jeanne Schofield, including filing documents and appearing in the Superior Court of the District of Columbia, which constituted the unauthorized practice of law in violation of D.C. Court of Appeals Rule 49. (*Id.* at 5-6).

IV. THE PROVEN MISCONDUCT

9. The Hearing Board found that Respondent engaged in the following misconduct: conversion; practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction in violation of Rule 5.5(a); conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(a)(4); conduct that is prejudicial to the administration of justice, in violation of Rule 8.4(a)(5); conduct which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute, in violation of Supreme Court Rule 770. (H.B. Rpt. at 8).

V. EVIDENCE IN AGGRAVATION

10. The Hearing Board found in aggravation that Respondent's failure to attend and participate in his disciplinary proceedings was a factor that weighed heavily against him. (H.B. Rpt. at 9). In addition, the Hearing Board took into account the serious harm caused by Respondent's conduct, noting the financial harm to Jeanne Schofield, who had limited financial resources and to whom Respondent still owed over $46,000. (*Id.* at 9). The Hearing Board further found as an additional aggravating factor that Jeanne Schofield had to hire and pay a new attorney to file suit against Respondent. (*Id.* at 10).

11. The Hearing Board took note of Respondent's prior discipline. On October 4, 1984, Respondent was suspended for six months for neglecting two criminal appeals, failing to properly withdraw from employment, and failing to carry out a contract of employment and thereby prejudicing a client during the course of a professional relationship. In re Cooper, 82 CH 86, M.R. 3360 (October 4, 1984). (H.B. Rpt. at 7).

12. In addition, the Hearing Board noted that on September 24, 1996, Respondent was suspended for three years for failing to cooperate with disciplinary authorities, making a misrepresentation to a tribunal, failing to refund unearned fees, and implying that he was able to influence a tribunal or public official. In re Cooper, 96 CH 427, M.R. 12674 (September 24, 1996). The three-year suspension was imposed pursuant to a Petition for Reciprocal Discipline after Respondent had been suspended in Texas. (H.B. Rpt. at 7).

VI. DISCUSSION

13. This Court should approve and confirm the Hearing Board's recommendation that Respondent be disbarred. The recommendation is consistent with precedent involving comparable misconduct.

14. In *In re Klein*, 95 CH 433, M.R. 11419 (September 29, 1995), the attorney was disbarred on consent for converting $38,294 from one client and engaging in the unauthorized practice of law.

15. In *In re Larson*, 95 CH 720, M.R. 11820 (December 1, 1995), the attorney was disbarred on consent for converting at least $54,000 from four clients, making misrepresentations to a client, and engaging in the unauthorized practice of law.

16. Given the facts that Respondent's misconduct is comparable to that described in *Klein* and *Larson*; that he is a recidivist; and that he did not participate in this disciplinary proceeding, disbarment is an appropriate recommendation in this case.

VII. CONCLUSION

For the foregoing reasons, the Administrator requests that this Court approve and confirm the Report and Recommendation of the Hearing Board and order that Respondent be disbarred.

Respectfully submitted,

Mary Robinson, Administrator
Attorney Registration and
Disciplinary Commission

By: Marita C. Sullivan
Marita C. Sullivan

Marita C. Sullivan
Counsel for Administrator
One Prudential Plaza
130 East Randolph Drive, #1500
Chicago, Illinois 60601
Telephone: (312) 565-2600

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SUPREME COURT OF ILLINOIS
SUPREME COURT BUILDING
SPRINGFIELD 62701

JULEANN HORNYAK
CLERK OF THE COURT
(217) 782-2035

TELECOMMUNICATIONS DEVICE
FOR THE DEAF
(217) 524-8132

FIRST DISTRICT OFFICE
20TH FLOOR
160 N. LASALLE ST.
CHICAGO 60601
(312) 793-1332

TELECOMMUNICATIONS DEVICE
FOR THE DEAF
(312) 793-6185

January 12, 2007

Ms. Marita C. Sullivan
Attorney Reg. & Disc. Comm.
One Prudential Plaza
130 E. Randolph Drive, Suite 1500
Chicago, IL 60601

TODAY THE COURT ENTERED THE FOLLOWING ORDER:

M.R.21194 - In re: G. Michael Cooper, III. Disciplinary Commission.

The motion by the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is allowed, and respondent G. Michael Cooper, III is disbarred.

Order entered by the Court.

cc: Mr. Kenneth Jablonski, One Prudential Plaza
G. Michael Cooper III

STATE OF ILLINOIS
SUPREME COURT

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the eighth day of January, 2007.

Present: Robert R. Thomas, Chief Justice
Justice Charles E. Freeman
Justice Thomas R. Fitzgerald
Justice Thomas L. Kilbride
Justice Rita B. Garman
Justice Lloyd A. Karmeier
Justice Anne M. Burke

On the twelfth day of January, 2007, the Supreme Court entered the following judgment:

In re:

M.R.21194

G. Michael Cooper III
307 Allison St. NW
Washington, DC 20011-7307

Attorney
Registration and
Disciplinary
Commission
05CH82

The motion by the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is allowed, and respondent G. Michael Cooper, III is disbarred.

Order entered by the Court.

As Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, I certify that the foregoing is a true copy of the final order entered in this case.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Seal of said Court, this twelfth day of January, 2007.

Julie Ann Hornyak
Clerk,
Supreme Court of the State of Illinois

FILED

JAN 16 2007

ATTY REG & DISC COMM
CHICAGO

April 3, 2007

Juleann Hornyak
Clerk of the Supreme Court
State of Illinois
Springfield, IL 62701-1721

312-603-5426

Re: In re G. Michael Cooper, III No. M.R. 21194

Greetings:

Enclosed for filing, please find the below listed documents:

PETITION FOR RECONSIDERATION OF THE JANUARY 12, 2007 ORDER APPROVING AND CONFIRMING THE HEARING BOARD REPORT AND DISBARRING G. MICHAEL COOPER, III

ORDER

Please process and file the document in your usual manner and return a file stamped copy for our records.

Respectfully Submitted,

G. Michael Cooper, III
307 Allison Street, NW
Washington, DC 20011
202-722-6666

Encl:

SUPREME COURT OF THE STATE OF ILLINOIS

No. M.R. 21194

In the matter of:

G. Michael Cooper, III

Attorney-Petitioner

Commission No. 05 CH 82

PETITION FOR RECONSIDERATION OF THE JANUARY 12, 2007 ORDER APPROVING AND CONFIRMING THE HEARING BOARD REPORT AND DISBARRING G. MICHAEL COOPER, III

ORAL ARGUMENT REQUESTED

G. Michael Cooper, III
307 Allison Street, NW
Washington, DC 20011
202-722-6666

PETITION FOR RECONSIDERATION OF THE JANUARY 12, 2007 ORDER APPROVING AND CONFIRMING THE HEARING BOARD REPORT AND DISBARRING G. MICHAEL COOPER, III

PETITION

Now comes, The Petitioner, G. Michael Cooper, III and respectfully request that this Honorable Court:

1. Reconsider the January 12, 2007 order approving and confirming the Attorney Registration and Disciplinary Commission hearing board report in matter No. 05 CH 82 dated 9/8/06 disbarring the Petitioner,

2. Vacate that order and disapprove the Hearing Board's recommendation, and

3. Remand the matter to the Attorney Registration and Disciplinary Commission and Hearing Board for a full and complete hearing on the allegations.

FOR THE REASONS, that:

The Petitioner had no knowledge that a complaint was filed against him, that a hearing was conducted by the Attorney Registration and Disciplinary Commission, that a finding was entered against him and that this Honorable Court approved the Hearing Board Report. The proceedings had before the Attorney Registration and Disciplinary Commission Hearing Board were entirely without notice to the Petitioner and was entirely a default proceeding.

In support of the foregoing, the Petitioner states that:

1. The Petitioner is not guilty of the charges and findings as alleged in the Attorney Registration and Disciplinary Commission Hearing

Board report.

2. The Petitioner did not do the acts alleged in the Attorney Registration and Disciplinary Commission Hearing Board's report.

3. The Petitioner has not had the opportunity for a fair and impartial hearing in any forum and has not had the opportunity to appear either in person or in writing and defend against the allegations.

4. The Petitioner has good and viable defenses to the allegations alleged; but the Petitioner has not had the opportunity to present a defense in any forum.

5. The Petitioner was not represented at any hearing on these issues either in person or by counsel in any forum.

6. There were no facts introduced at the hearing favorable to the Petitioner or in explanation of the testimony presented against him. The Petitioner has not been allowed to confront the witnesses against him in any forum.

7. The Attorney Registration and Disciplinary Commission's finding is replete with hearsay and inaccuracies.

8. The facts as stated in the Attorney Registration and Disciplinary Commission's report, even if believed, do not support the hearing Board's finding.

Specifically, the Petitioner excepts to:

a. the ex parte nature of the proceedings,
b. the lack of notice to the Petitioner,
c. the default nature of the proceedings,
d. the failure to consider evidence and facts favorable to the Petitioner,
e. the failure to consider evidence of good character of the Petitioner,
f. the lack of counsel or any type of representation for the Petitioner at the Attorney Registration and Disciplinary Commission hearing, and
g. any and all other errors and omissions including procedural errors.

Additionally, the Petitioner takes exception to the Attorney Registration and

Disciplinary Commission's finding that the Petitioner committed the following acts of misconduct as alleged in the Attorney Registration and Disciplinary Commission Hearing Board report, to wit:

a). conversion (Count I);

b). practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction in violation of Rule 5.5(a) of the Illinois Rules of Professional Conduct (Count II);

c). conduct involving dishonesty, fraud, deceit or misrepresentation in violation Rule 8.4(a)(4) (Counts I and II);

d). conduct that is prejudicial to the administration of justice in violation Paul rule 8.4 (a)(5) (Counts I and II); and

e). conduct which tends to defeat the administration of justice or which brings the courts or the legal profession into disrepute in violation of Supreme Court Rule 770 (Counts I and II).

All of the above constitutes serious and damming charges against the Petitioner which deprives the Petitioner of his livelihood and amounts to a taking of his license and property without due process and fundamental fairness of the laws and the opportunity to defend, to confront and to cross-examine the witnesses against him.

Respectfully Submitted,

G. Michael Cooper, III
Petitioner

STATEMENT OF FACTS

1. The Petitioner is a 62 years old Black attorney that has resided in Houston, Texas since 1980. The Petitioner, graduated from Northwestern University School of Law in Chicago, Illinois in May of 1971, set for the Illinois Bar examination that summer and passed. The Petitioner passed the character and fitness exam and was sworn in to practice law in the State of Illinois by this Honorable Court in the fall of 1971. The Petitioner started his law practice, that year, with the firm of Evins, Pincham, Fowlkes & Strayhorn, later to become Evins, Pincham, Fowlkes, Strayhorn & Cooper. The Petitioner practiced law in Illinois from 1971 until 1980.

2. In 1980, the Petitioner moved to Houston, Texas to be the Associate Dean of the National College for Criminal Defense, a LEAA funded program, based at the University of Houston, Bates School of Law, along with the National Prosecutor's College. The Petitioner wrote attorney CLE programs and conducted seminars in trial practice. From this position, in 1981, the Petitioner was one of the attorneys to go to Iran to negotiate the release of the American hostages.

3. In 1981, the Petitioner received his license to practice law in the State of Texas and became inactive in Illinois. The Petitioner practiced law in Houston, Texas until 1994 when he moved to Washington, DC to work in government. While working in DC and Federal Government, by rule, the Petitioner was not required to be admitted to the District of Columbia Bar. In January of 2001, the Petitioner retired from government practice and returned home to Houston, Texas. The Petitioner returns to Washington, DC from time to time to work on projects.

4. Before leaving DC to return to Houston, the Petitioner engaged in negotiations with former work associates to establish a Washington, DC based law firm. District of Columbia law allows non-DC licensed lawyers to partner with DC licensed lawyers, *District of Columbia Bar*

Rules, Appendix A, Rules of Professional Conduct, Rule 5.4, Professional Independence of a Lawyer. The name of the Firm was to be Cooper, Barnes and Thaxton. Organizational steps were taken to create the Firm, but the Firm never actually came into existence.

5. During the time that Cooper, Barnes and Thaxton was being organized, a then personal friend of the Petitioner, Jean Schofield, asked the Petitioner for help with a property dispute. The Petitioner met with Ms. Schofield about her problem. During this initial meeting, the Petitioner informed, advised and reminded Ms. Schofield that he was not licensed to practice law in DC, but that lawyers in his firm could represent her. Acting for the ill fated law firm, the Petitioner signed Ms. Schofield to a contract and accepted a retainer's fee for the firm. Since the Cooper, Barnes and Thaxton law firm was never formed, the Petitioner, with Ms. Schofield's agreement, referred the matter to DC licensed attorney, Ronnie Thaxton. Attorney Thaxton accepted the case and the Petitioner transferred the retainers fee to Attorney Thaxton. Attorney Thaxton represented Ms. Schofield and went to court on her behalf. The Petitioner took no part in representing Ms. Schofield and by DC rules, would not have been allowed to take any part in the court proceedings. In the meantime a time, the Petitioner was, however, involved with Ms. Schofield in some non-related financial investment matters that has probably led to the confusion that produced the Attorney Registration and Disciplinary Commission Hearing Board report.

6. Apparently, Ms. Schofield became dissatisfied with Attorney Thaxton's legal representation of her. The Petitioner received inquiries from the District of Columbia Bar committee on unauthorized practice of law and an inquiry from the Illinois Attorney Registration and Disciplinary Commission. The informal inquiry from the Attorney Registration and Disciplinary Commission was by telephone sometime in January-February, 2003. The Petitioner received the call from a representative of the Attorney Registration and Disciplinary Commission

while the Petitioner was in Denver, Colorado. The Petitioner explained to the representative of the Attorney Registration and Disciplinary Commission that Ms. Schofield was not a legal of the Petitioner and that the Petitioner did not represent Ms. Schofield. The Attorney Registration and Disciplinary Commission's representative asked that the Petitioner send the Attorney Registration and Disciplinary Commission a copy of his file on Ms. Schofield. In compliance, the Petitioner called back to DC from Denver and had his complete file on Ms. Schofield sent to the Attorney Registration and Disciplinary Commission (Inadvertently the Petitioner's complete original file was sent to the Attorney Registration and Disciplinary Commission, who still has possession of that file). In the telephone conversation with the representative from the Attorney Registration and Disciplinary Commission, the Petitioner told the representative that he would have the file sent to the Attorney Registration and Disciplinary Commission and advised the representative that the Petitioner was traveling to Japan and China for an extended period at the end of that month, February, 2003. Upon returning from the east the Petitioner went to Wyoming and then home to Houston, Texas. The Petitioner heard no more about the matter in any form from February 2003 until January 2007.

7. In November of 2006, the Petitioner began an employment project with a charitable corporation in Washington, DC. In connection with that employment the Petitioner met and talked with and attorney who when doing a conflicts check on the internet, discovered and e-mailed a copy of the disbarment proceeding report at issue (Exhibit 1). A few days later, February 6, 2007, the Petitioner received a letter from his former Illinois law partner, R. Eugene Pincham, containing a copy of a notice of disbarment (Exhibit 2). These two incidents are the first and only notice that the Petitioner has of the disciplinary proceeding.

8. Immediately, the Petitioner set out to determine the facts at issue and contacted the

Attorney Registration and Disciplinary Commission. The Petitioner discovered that the Attorney Registration and Disciplinary Commission had the Petitioner's mailing address as 307 Allison Street, Washington, DC 20011. This location is an unoccupied family home where the Petitioner stays on the occasions he is in Washington, DC.

9. Upon discovering this information from the Attorney Registration and Disciplinary Commission the Petitioner went to the Allison Street address and retrieved the unopened mail (Group Exhibit 3). The Petitioner did not know of this mail and the Petitioner never personally received or read any mail that composes Group Exhibit 3. The Petitioner never received any registered mail from Attorney Registration and Disciplinary Commission and the petitioner never received any papers from a process server regarding this matter. The DC Bar who was apparently acting with the Attorney Registration and Disciplinary Commission, did not send any papers to the Petitioner regarding an Attorney Registration and Disciplinary Commission complaint.

10. On or about February 1, 2007, the Petitioner filed a Notice of Exception with the Attorney Registration and Disciplinary Commission. In response the Petitioner received a letter saying that the "Disciplinary Commission no longer has jurisdiction in this matter".

ARGUMENT

Notice and Due Process

11. Article 1, section 2 of the Illinois Constitution provides that no person shall be deprive of life, liberty or property without due process of law; nor be denied the equal protection of the laws. The Supreme Court said in *In re Ruffalo, 390 U.S. 544, 550, 88 S. Ct. 1222, 20 L. Ed. 2d 117 (1968)*, "Disbarment, designed to protect the public, is a punishment or penalty imposed on the lawyer, *Ex parte Garland, 71 U.S. (4 Wall.) 333, 380 [, 18 L. Ed. 366]; Spevack v. Klein, 385 U.S. 511, 515 [, 87 S. Ct. 625, 628, 17 L. Ed. 2d 574].", In the Matter of Ming, Jr., 469 F.2d 1352*

(1972).

12. The essential requirements of any such proceeding is notice and the opportunity to be heard., *In re Ruffalo, 390 U.S. 544, 88 S. Ct. 1222, 20 L. Ed. 2d 117 (1967), In the Matter of Echeles, 430 F.2d 347 (1970).* Your Petitioner in the case at bar, had no knowledge that a formal complaint was filed, that a hearing was conducted and that a finding was entered against him. The Petitioner did not receive actual notice of a complaint from the Attorney Registration and Disciplinary Commission. The proceedings had before the Attorney Registration and Disciplinary Commission Hearing Board were entirely without notice to the Petitioner and was entirely a default proceeding. It is axiomatic that an attorney whose conduct is in question, must submit himself and his records for examination and appear and give testimony under oath, *In re Royal*, 29 Ill.2d 458, 460, In re Krasner, 32 Ill. 2d 121, 204 N.E.2d 10 (1965). Notice is the key element. No person can appear and defend without notice. Without notice, any verdict or finding is flawed. Due process requires that the action not offend traditional notions of fair play and substantial justice, *Orton V. Woods Oil and Gas Co., 249 F.2d 198 (1957).* The Petitioner, when requested, submitted his complete original file to an officer of the Attorney Registration and Disciplinary Commission. Afterwards, the record does shows inaction by the Petitioner; but the record does not show that the Petitioner was ever advised of a formal complaint against him or that the Petitioner ever received notice of a hearing.

13. Though free to adopt rules defining grounds for disbarment and suspension, the Attorney Registration and Disciplinary Commission's procedures must meet the essential requirements of due process, *In the Matter of Ming, Jr., 469 F.2d 1352 (1972).* As before said, the Supreme Court held in *In re Ruffalo, 390 U.S. 544, 550, 88 S. Ct. 1222, 20 L. Ed. 2d 117 (1968),* that disbarment is a punishment or penalty imposed on the lawyer and thus the lawyer is ". . . .

accordingly entitled to procedural due process. . . ", *In re Ruffalo, 390 U.S. 544, 550 (1968) at page 550.* In *Ruffalo*, the Court reasoned that:

> One of the conditions this Court considers in determining whether disbarment by a State should be followed by disbarment here [in the federal courts] is whether 'the state procedure from want of notice or *opportunity to be heard* was wanting in due process.' Selling v. Radford, 243 U.S. 46, 51 [, 37 S. Ct. 377, 379, 61 L. Ed. 585]." 390 U.S. at 550, 88 S. Ct. at 1226. (Emphasis added.) Earlier the Court in Randall v. Brigham, 74 U.S. (7 Wall) 523, 540, 19 L. Ed. 285 (1868), had stated, "All that is requisite to their [disbarment proceedings] validity is that, when not taken [**11] for matters occurring in open court, in the presence of the judges, notice should be given to the attorney of the charges made and *opportunity afforded him for explanation and defence*." (Emphasis added.)
>
> General Rule 8 provides for "notice and opportunity to respond" for three grounds for disbarment, including conviction of a misdemeanor. In the present case, this was interpreted to be satisfied by allowing appellant to file a written answer. In previously construing the phrase "notice and opportunity to respond" in the context of a disbarment for professional misconduct, this court stated, "The Court specifically took note of the difference in procedure authorized by Rule 8 between a summary disbarment or suspension for conviction of a felony, and a disbarment or suspension *after notice and hearing* for professional misconduct." In re Echeles, supra, 430 F.2d at 352. n2 (Emphasis in original.)
>
> However, we need not rest on the language from the Supreme Court nor on our former construction of this phrase, since logic compels us to reach the same result. Both licenses to practice law and welfare payments can be viewed as a type of "new property," Reich, The New Property, 73 Yale L.J. 733 (1964), the deprivation of which has drastic consequences to the individual. It is only fair and just that the Government not subject any person to such a drastic divestment without affording him substantial due process of law. As the Supreme Court noted in Goldberg v. Kelly, 397 U.S. 254, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970), required procedural safeguards depend on the particular characteristics of the participants and [*1356] the controversy, but "'the fundamental requisite of due process of law is the opportunity to be heard.' Grannis v. Ordean, 234 U.S. 385, 394 [34 S. Ct. 779, 783, 58 L. Ed. 1363] (1914)." 397 U.S. at 267, 90 S. Ct. at 1020. "In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront

> and cross-examine adverse witnesses." Goldberg v. Kelly, supra, 397 U.S. at 269, 90 S. Ct. at 1021. See also, In re Crane, 23 Ill.2d 398, 400-401, 178 N.E.2d 349 (1961).
>
> * * *
>
> Recently, in a case of parole revocation, the Supreme Court held that the parolee had the right to a hearing, with minimum due process requirements, including the opportunity to be heard in person and to present evidence and to confront and cross-examine adverse witnesses, Morrissey v. Brewer, 408 U.S. 471, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972). While in a hearing on a suspension based on a finalized conviction of a misdemeanor, an attorney may not be allowed to reargue the merits of the conviction, he would seem to have similar interests to those of the parolee, or a person being sentenced for a crime, to some hearing under due process. In such a situation, "a chance to respond" must be equated to "the opportunity [**14] to be heard" which necessarily implies a hearing. Appellant was not afforded such a hearing and we find that this denial was a deprivation of due process of law.

Though notice to the Petitioner may have been attempted, the evidence on this petition is that the Petitioner never actually received notice and there is no evidence in the record the Attorney Registration and Disciplinary Commission attempted personal service on the Petitioner or took any steps to make certain that the Petitioner knew of the proceeding. This matter is too important and to serious a "taking" to allow the Attorney Registration and Disciplinary Commission to rest on the presumed receipt of regular mail.

Out of State

14. At all times since January 1980, the Petitioner was not resident of Illinois; nor did the Petitioner have a law practice in Illinois. The Petitioner had no ties to Illinois. The Petitioner relocated to Texas in 1980 and became a licensed attorney in Texas in 1981. The Petitioner was not paying Illinois bar dues and the Illinois Bar was notified of the Petitioner's relocation. At the time the Attorney Registration and Disciplinary Commission's inquiry began, the Petitioner was not an

Illinois resident, nor maintaining a law practicing in Illinois. The Petitioner maintained an out of state address with the Attorney Registration and Disciplinary Commission's master rolls. This information was known to the agents of the Attorney Registration and Disciplinary Commission in that they in DC. It should also be noted, that the Schofield incident was a DC matter of which the Attorney Registration and Disciplinary Commission was somehow made aware. The Petitioner does not here argue that Illinois had no personal jurisdiction over the non-resident Petitioner; only that the exercise of jurisdiction over a non-resident attorney is congruent with traditional concepts of fair play and substantial justice. See *Hanson v. Denckla, 357 U.S. 235, 251, 78 S. Ct. 1228, 1238, 2 L. Ed. 2d 1283 (1958), International Shoe Co. v. Washington, 326 U.S. 310, 316, 66 S. Ct. 154, 158, 90 L. Ed. 95 (1945).* Your Petitioner is arguing the sufficiency of the service of process on a known, non-resident, out of state, attorney.

Insufficiency of Process

15. The Petitioner is only in possession of an "internet"copy of the Attorney Registration and Disciplinary Commission's decision (Exhibit 1). The Petitioner has not been served with a copy of the finding. The Attorney Registration and Disciplinary Commission's decision does not allege that the Petitioner was served with process or whether any type of service was attempted. The decision does not allege any notice to the Petitioner. There is no argument that the Petitioner failed to appear or otherwise answer. The Petitioner here contends that the failure to appear and answer was due to lack of notice and thus excusable neglect and mistake. With notice, the Petitioner would have answered the complaint and appeared for a hearing. The Petitioner maintains that the true facts will easily exonerate the Petitioner. There would be no need to not answer and present the facts. An attorney who has failed to answer a bar complaint or otherwise plead may seek leave to vacate

an order of default and file an answer upon a showing that his failure to answer or otherwise plead was a result of mistake, inadvertence, surprise or excusable neglect, *Ill. R. Att'y Regis. & Disc. Comm'n, R 236 (2007).* In the instant case, the Petitioner did not answer, plead or appear, but the Petitioner could not answer, plead or appear. The Petitioner never received notice of the complaint or hearing. As before said, the Petitioner did speak, telephonically with a representative from the Attorney Registration and Disciplinary Commission and comply with the request for his file. There is no reason to believe, having given his file, the Petitioner would not continue to respond to the Attorney Registration and Disciplinary Commission. A matter so important and serious should requires notice to actually be received by the Petitioner or at the very least, some filing alleging that the Attorney Registration and Disciplinary Commission attempted service personal service and an affidavit of service or non-service, before a hearing proceeds.

16. The applicable Commission rule are *Ill. R. Att'y Regis. & Disc. Comm'n, R 214 (2007) Service of Complaint,* which provides that:

> The Clerk shall cause a copy of the complaint, a copy of these rules and a notice of the hearing to be served on the respondent within or without the State of Illinois as follows:
>
> (a) *By Personal Service.* Personal service shall be made by leaving a copy with the respondent personally; or
>
> (b) *By Mail Service.* If a person authorized to make personal service, as provided in Rule 215 below, files with the Hearing Board his affidavit that the respondent (1) resides out of the state, (2) has left the state, (3) on due inquiry cannot be found, or (4) is concealed within the state so that process cannot be served upon him, the Administrator shall serve the respondent by ordinary mail, postage fully prepaid, directed to the respondent at the address shown on the Master Roll or if he is not listed on the Master Roll at his last known business or residence address. The Administrator's certificate of mailing is sufficient proof of service." (Emphasis Added)

And *Ill. R. Att'y Regis. & Disc. Comm'n, R 215 (2007) Persons Authorized to Make Service*:

Personal service may be made:

> (4) In another state, by any resident of the state who, by the laws or rules of court of that state, is authorized to serve process in disciplinary proceedings. (Emphasis Added)

17. In *In Re Hancock, 192 F.3d 1083(1999)* the appellant argued that he was deprived of procedural due process because he had no notice that disciplinary measures against him would be considered at a scheduled hearing on attorney's fees in a bankruptcy case. The appellant did not appear at that hearing to argue the attorney's fees issue. At the hearing, the court not only assessed attorney's fees against the non-appearing attorney; but also suspended his license to practice law. On appeal the appellant argued that although he had notice of the hearing, he was not given notice that disbarment would be considered at the hearing and since he was not present at that hearing, he was not given a meaningful opportunity to be heard in violation of his due process rights. The United States Court of Appeals for the Seventh Circuit found that "... an attorney may not be disbarred, suspended, or assessed attorneys' fees without fair notice and the opportunity for a hearing on the record. See *Roadway Express, Inc. v. Piper, 447 U.S. 752, 767, 65 L. Ed. 2d 488, 100 S. Ct. 2455 (1980), In re Ruffalo, 390 U.S. 544, 550, 20 L. Ed. 2d 117, 88 S. Ct. 1222 (1968).* The fundamental requirement of due process, as the Supreme Court has noted, is the opportunity to be heard at a meaningful time and in a meaningful manner, *Mathews v. Eldridge, 424 U.S. 319, 333, 47 L. Ed. 2d 18, 96 S. Ct. 893 (1976).* The *Hancock* court held that without notice that sanctions were in the offing and without an opportunity to be heard, the attorney was in fact deprived of his due process rights. In *Ingrassia v. Ingrassia, 156 Ill. App. 3d 483, 509 N.e.2d 729, 109 Ill. Dec. 68 (1987)*, the Appellate Court of Illinois, Second District, considered the question of due notice of a petition, saying "to do that, it is necessary first to determine when plaintiff should be deemed to have

been served with the petition". In that case, the "serving" attorney stated that his office mailed two copies of the petition to the appellant, one by regular mail and the other by certified mail. The "serving" attorney admitted that he never received the registry receipt from the certified mail, before proceeding. The appellant stated that she received neither the certified mail or regular mail copy of the papers. The court said that:

> "Service of a document by certified mail is generally complete when the party to whom it is addressed receives it, and the registry receipt is evidence of its receipt by the party. (See 87 Ill. 2d R. 105(b)(2).) Plaintiff denied receiving the copy of the petition sent by certified mail, and attorney Walker was unable to present the court the registry receipt or any other evidence that plaintiff had received it. Plaintiff therefore cannot be deemed to have been served with the copy sent by certified mail.
>
> With respect to the copy sent by regular mail, it appears that the following provisions in the supreme court rules govern: "Pleadings subsequent to the complaint, written motions, and other papers required to be filed shall be filed with the clerk with a certificate of counsel or other proof that copies have been [***37] served on all parties who have appeared and have not therefore been found by the court to be in default for failure to plead." (87 Ill. 2d R. 104(b).) "Papers [other than process and complaint] shall be served [on parties not in default in the trial court] as follows:
>
> * * *
>
> (3) by depositing them in a United States post office or post-office box, enclosed in an envelope, plainly addressed * * * to the party at his business address or residence, with postage fully prepaid." (87 Ill. 2d R. 11(b)(3).) "(a) Filing. When service of a paper is required, proof of service shall be filed with the clerk.
>
> (b) Manner of proof. Service is proved:
>
> * * *
>
> (3) in case of service by mail, by certificate of the attorney, or affidavit of a person other than the attorney, who deposited the paper in the mail, stating the time and place of mailing, the complete address which appeared on the envelope, and the fact that proper

postage was prepaid:

> © Effective date of Service by Mail. Service by mail is complete four days after mailing." (87 Ill. 2d R. 12.) Service of a document by mail is not invalid merely because the party to be served denies receiving it. (Bernier v. Schaefer [***38] (1957), 11 Ill. 2d 525, 529, [*502] 144 N.E.2d 577, 579 ("[if] the proper giving of the notice can now be frustrated by the mere allegation of the defendant that he did not receive it, then the giving of notice by mail cannot be relied upon even though the rules specify such a method").) Although minor defects will be excused, proof of proper service by mail must be made in substantial compliance with the requirements of Supreme Court Rule 12 (87 Ill. 2d R. 12). Curtis v. Pekin Insurance Co. (1982), 105 Ill. App. 3d 561, 566-67, 434 N.E.2d 555, 559; see also Bernier v. Schaefer (1957), 11 Ill. 2d 525, 529, 144 N.E.2d 577, 579.
>
> In the case at bar, attorney Walker did not substantially comply with the requirements of Rule 12 for proof of service by mail. In fact, despite Rule 12's statement that "[when] service of a paper is required, proof of service shall be filed with the clerk" (87 Ill. 2d R. 12(a)), no proof of service whatsoever appears in the record. There was therefore no compliance with the requirements of Rule 12.
>
> Attorney Walker stated in open court that he personally had placed the copy of the petition in a mailbox the afternoon of April 25, 1986. Assuming [***39] *arguendo* that a statement by an attorney in open court could ever substitute for the certificate he is required to file under Rule 12 (87 Ill. 2d Rules 12(a), (b)(3)), the statement of attorney Walker would be insufficient for failure [**743] to contain substantially the information required in an attorney's certificate. His statement included the time of mailing, albeit somewhat vaguely, and some nonspecific reference to where it had been sent. It did not state the place of mailing (beyond the reference to a mailbox) or "the complete address which appeared on the envelope, and the fact that proper postage was prepaid." (87 Ill. 2d R. 12(b)(3).) Thus, there was no proper proof that plaintiff was served with a copy of the petition by mail, and we cannot deem service to have occurred on April 29, 1986, four days after the April 25, 1986, mailing. See 87 Ill. 2d R. 12©.

Your Petitioner, here contends that the service of the complaint in the instant case should not have been made by mail as the rules require the service of a complaint to be by service of process; but here argues that if the Attorney Registration and Disciplinary Commission claims service by mail,

then that service was likewise defective, following the reasoning of *Ingrassia,* as set out above.

18. Your Petitioner in this case has not had the opportunity to present evidence in his behalf and to argue the charges against him because he never received notice of the proceedings. The referenced proceedings were entirely ex-pârté and without actual notice. The judgment in this matter is entirely a default judgment. A disciplinary proceedings begins with an inquiry. The Attorney Registration and Disciplinary Commission does not have to involve the attorney at that stage, *Ill. R. Att'y Regis. & Disc. Comm'n, R 102.* Once a complaint is voted, however, the attorney must be served with process and notice must be given. Knowing that the Petitioner resided out of state, the service on him must have be by a person in the Petitioner's home state who is authorized to serve process upon him:

> *Ill. R. Att'y Regis. & Disc. Comm'n, R 215 (2007) Persons Authorized to Make Service*:
>
> Personal service may be made:
>
> ***
>
> (4) In another state, by any resident of the state who, by the laws or rules of court of that state, is authorized to serve process in disciplinary proceedings.

This method of service was ignored in the case at bar and thus the Petitioner cannot be said to have had proper notice of the complaint. The taking of an attorney's license is far too serious to be left to chance. Notice to an out-of-state attorney cannot be sufficient by regular mail. Before proceeding with a hearing the Attorney Registration and Disciplinary Commission reformation must know that the attorney has notice of the proceedings. In this case the opposite is true. The Attorney Registration and Disciplinary Commission not only failed to achieve service of process on the Petitioner; but also used the fact of the attorneys nonappearance in its findings of fact and

conclusions of law as aggravation for the severest penalty, disbarment. The Attorney Registration and Disciplinary Commission should do all within its power and reason to obtain service on an attorney if for no other reason than to gather all evidence from each side. It is an inquiry. The Attorney Registration and Disciplinary Commission takes neither side. The Attorney Registration and Disciplinary Commission does not know if a complainant is being truthful and must seek to determine the true facts at issue. The Attorney Registration and Disciplinary Commission should not act to favor one side over another. It is not too much to require the Attorney Registration and Disciplinary Commission to obtain actual service of process on an out of state attorney; or at the very least to determine that service is being deliberately avoided. It is not known if service by certified mail was attempted; but if it was then be return receipt clearly shows that the Petitioner was not served. It is not known whether service was attempted through the use of a process server; but if it was then clearly the Petitioner was not served. Additionally, the Attorney Registration and Disciplinary Commission through its agent, knew that the Petitioner would be out of the country for an extended period of time. Armed with this additional knowledge, to not attempt to get actual service of process on the Petitioner and to later use that fact against him is unfair, is fundamentally unfair, and violates the Petitioner's right to due process and equal protection of the laws. The Petitioner's license has been taken unfairly and without due process. The Petitioner has meritorious defenses to the allegations in the Attorney Registration and Disciplinary Commission Hearing Board's findings. No one is prejudiced by a remand to the Attorney Registration and Disciplinary Commission to determine the true facts. The Petitioner is prejudiced if the Attorney Registration and Disciplinary Commission's decision, stands in this posture. The Petitioner denies that he ever represented Ms. Schofield as alleged in the Attorney Registration and Disciplinary Commission Hearing Board's findings. It is the Petitioner's position and request that this judgment be vacated

and that the Petitioner have the opportunity for a full and complete hearing on the issues. Giving the Petitioner his day in court does not prejudice any party. There is no complaining person on the opposite side and the commission has already investigated the matter and gathered and preserved the evidence and statements to be used at any subsequent proceeding. The Attorney Registration and Disciplinary Commission should have no objection to a remand for further proceedings. The allegations in the Attorney Registration and Disciplinary Commission's report are serious and devastating. They cast dispersions on the Petitioner's character. The Petitioner is being held up to public ridicule for no good cause. The Board's action has taken away the Petitioner's ability to maintaining a livelihood and to produce income for his family.

Defense to the Findings

20. The Attorney Registration and Disciplinary Commission Hearing Board found that the Petitioner committed the following acts of misconduct, to wit:

a). conversion (Count I);

b). practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction in violation of Rule 5.5(a) of the Illinois Rules of Professional Conduct (Count II);

c). conduct involving dishonesty, fraud, deceit or misrepresentation in violation Rule 8.4(a)(4) (Counts I and II);

d). conduct that is prejudicial to the administration of justice in violation Paul rule 8.4 (a)(5) (Counts I and II); and

e). conduct which tends to defeat the administration of justice or which brings the courts or the legal profession into disrepute in violation of Supreme Court Rule 770 (Counts I and II).

The Petitioner has never been heard on these five charges in any forum or at any time; yet the Petitioner can disprove each specification. The Petitioner herein says that he did not commit the alleged acts. The Petitioner did not convert money from Ms. Schofield and the Petitioner should have the opportunity to prove so. The Petitioner believes that real evidence will show that Ms. Schofield used the bar complaint procedure as a means to satisfy her anger and to attempt to extort money from the Petitioner. The Petitioner can prove this contention, but has not had his day in court. The Attorney Registration and Disciplinary Commission's findings is replete with hearsay on crucial elements and wrong on some others.

Conclusion

The Petitioner has not had the opportunity to present evidence and to argue the charges against him. The referenced proceedings have been entirely ex-pârté and without actual notice. The judgment in this matter is entirely a default judgment. The Petitioner's license has been taken unfairly and without due process. The Petitioner has meritorious defenses to the allegations in the Attorney Registration and Disciplinary Commission Hearing Board's findings. It is the Petitioner's position and request that this judgment be vacated and that the Petitioner have the opportunity for a full and complete hearing on the issues.

Giving the Petitioner his day in court does not prejudice any party. There is no complaining person on the opposite side and the Attorney Registration and Disciplinary Commission has already

investigated the matter and gathered and preserved evidence and statements which can be used at any subsequent proceeding. Delay, thus, is not an issue. The allegations in the disciplinary commission report serious and devastating. They cast dispersions on the Petitioner's character. the Petitioner is being held up to public ridicule for no good cause. The Board's action has taken away the Petitioner's ability to maintaining a livelihood and to produce income for his family. As a result of the disbarment, the Petitioner lost his employment. Upon final hearing, the Petitioner, request that:

1. The prior proceedings referenced herein be vacated,

2. The Attorney Registration and Disciplinary Commission Hearing Board's findings be held for naught,

3. The Petitioner be reinstated to the Bar, or in the alternative,

4. The matter be remanded to Attorney Registration and Disciplinary Commission, ordering a new hearing on the original complaint, and

5. Any and all other further relief to which the Petitioner may be entitled.

Respectfully submitted,

By: _____

G. Michael Cooper, III
307 Allison Street, NW
Washington, DC 20011
202-722-6666

DECISION FROM DISCIPLINARY REPORTS AND DECISIONS SEA

Reciprocal Petition Allowed by the Illinois Supreme Court and Imposing Discipline

Allowed September 24, 1996

IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

G. MICHAEL COOPER III, Supreme Court No. M.R. 1

Attorney-Respondent, Commission No. 96 CH 47

No. 0513164.

PETITION FOR RECIPROCAL DISCIPLINE PURSUANT TO SUPREME COURT RULE 763

Mary Robinson, Administrator of the Attorney Registration and Disciplinary Commission, by her attorn Anderson, pursuant to Supreme Court Rule 763, reports to the Court that in 1993 the District Court of H ordered Respondent, G. Michael Cooper III, suspended from the practice of law in the State of Texas fo years. The Administrator petitions the Court to impose reciprocal discipline upon Respondent or such ot Court deems appropriate, and in support states:

I. BACKGROUND

1. Respondent was admitted to practice of law in Illinois on November 15, 1971. On February 13, 1981, admitted to practice law in the State of Texas.

2. On October 4, 1984, Respondent's license to practice law in Illinois was suspended for six months by Cooper, M.R. 3360, Commission No. 82 CH 86 (1984). The District Court of Harris County, Texas, ent reciprocal discipline on July 2, 1987. The State Bar of Texas v. Cooper, 86-11741.

3. Respondent is currently registered for 1996 in Illinois and is included in the Master Roll of attorneys Respondent paid the $35.00 registration fee required of attorneys who neither reside nor practice nor are State. Supreme Court Rule 756(a)(4).

4. On June 22, 1993, the District Court of Harris County, Texas, ordered that Respondent be suspended law for a period of three years, beginning on May 1, 1993. Respondent was found to have failed to coop

EX. 1

authorities; made a misrepresentation to the court; failed to refund an unearned fee; and implied that he a tribunal or public official. On April 30, 1996, Respondent was automatically reinstated to practice law

II. RESPONDENT'S TEXAS DISCIPLINARY PROCEEDINGS

5. On November 23, 1987, the Grievance Committee for the State Bar of Texas filed an Original Discipl Respondent in the District Court of Harris County, Texas. The State Bar of Texas v. Cooper, 87-056078 Petition is attached as Exhibit One.
The Petition alleged that between 1983 and 1986, Respondent neglected a post-conviction matter on beh failed to refund the unearned fee; neglected and made misrepresentations in relation to a criminal bond r Danny Davidson and collected an excessive fee; neglected a criminal appeal on behalf of Willie Simpso the unearned fee; neglected a criminal appeal on behalf of Caffery Mouton, misrepresented the status of and failed to return the unearned fee; neglected a civil claim on behalf of Kathy Mosby and failed to acc collected; and failed to cooperate with disciplinary authorities in their investigation of the above matters

6. On April 19, 1993, Carolyn Garcia, Judge of the District Court of Harris County, Texas, 151st Judicia report entitled Findings of Fact and Conclusions of Law in 87-56078. Judge Garcia found that Responde with disciplinary authorities; made a misrepresentation to the court; failed to refund an unearned fee; an able to influence a tribunal or public official. Judge Garcia found that Respondent violated rules 1-102(A (A)(5) and (8), and 9-102(C) of the Texas Code of Professional Responsibility [fn1] and Article X, Sect State Bar Rules. Judge Garcia further found the proper discipline for each occurrence of misconduct to b suspension of not more than three years, to run concurrently, beginning on May 1, 1993. Copies of the F Conclusions of Law and the above cited Texas disciplinary rules are attached as Exhibits Two and Thre

7. On June 23, 1993, Judge Garcia entered a Final Judgment in case no. 87-56078. Pursuant to the Final Respondent was suspended from the practice of law in the State of Texas for a period of three years beg and ending April 30, 1996. A certified copy of the June 23, 1993 Final Judgment is attached as Exhibit I

III. REQUEST FOR RECIPROCAL DISCIPLINE

8. Illinois Supreme Court Rule 763 provides that if any attorney licensed to practice in the State of Illinc foreign state, he may be subjected to the same discipline as that imposed by the foreign state upon proof foreign state imposing such discipline. In re Witte, 99 Ill.2d 301, 458 N.E.2d 484 (1983); In re Neff, 83 1282 (1980).

9. Rule 8.3(d) of the Illinois Rules of Professional Conduct requires an attorney, who has been disciplin Illinois, to report that fact to the Illinois Attorney Registration and Disciplinary Commission. As of the d filed, Respondent had not reported his discipline in the State of Texas to the Commission. The Administ Respondent's 1993 Texas suspension in 1996 from a search of the American Bar Association's National Data Bank.

10. Respondent was suspended for three years in Texas for his conduct in failing to cooperate with disci making a misrepresentation to the court; failing to refund an unearned fee; and implying that he was abl tribunal or public official. In addition, Respondent was previously disciplined by this Court for miscond imposed the sanction of suspension for similar misconduct. See, e.g., In re Samuels, 126 Ill.2d 509, 535 (attorney suspended one year for neglecting client matters and failing to cooperate with disciplinary autl 91 Ill.2d 326, 438 N.E.2d 198 (1982)(attorney suspended three years for submitting false affidavits to th false income tax statement and failing to return client's money); In re Thebeau, 111 Ill.2d 251, 489 N.E. (attorney suspended two years for committing fraud and deceit upon court); and In re Adelman, M.R. 11 suspended six months for neglect and failure to promptly return unearned fees).

Historically, the Court has considered recidivism as an aggravating factor in attorney disciplinary proce imposed harsher sanctions on recidivist lawyers. See, e.g., In re Levin, 118 Ill.2d 77, 514 N.E.2d 174 (1 attorney disbarred for neglecting three criminal appeals, making misrepresentations to clients, and conv a bond refund check); and In re Guilford, 115 Ill.2d 495, 505 N.E.2d 342 (1987)(recidivist attorney susp for neglecting a client matter and for making misrepresentations to the client and to the Commission).

WHEREFORE, the Administrator requests that the Court enter an order of reciprocal discipline provid be suspended from the practice of law in Illinois for a period of three years or such other discipline as th appropriate.

Respectfully submitted,

Mary Robinson, Administrator Attorney Registration and Disciplinary Commission

By: Christine P. Anderson

Christine P. Anderson
Counsel for Administrator
One Prudential Plaza
130 East Randolph Drive, #1500
Chicago, Illinois 60601-6219
Telephone: 312-565-2600

FN1: These rules are the same as, or similar to, the following Illinois Rules of Professional Conduct: 8.4(a)(1); 8.4(a)(4); 3.3 (a)(6).

Justice R. Eugene Pincham, Retired
Appellate Court of Illinois
9316 South Michigan Avenue
Chicago, Illinois 60619
773/568-7927
773/568-7938 (fax)

February 6, 2007

G. Michael Cooper, III.
307 Allison Street, NW
Washington, D.C. 29911-7307

Dear G. Michael,

I was shocked and devastated by the enclosed. So sorry, and if I can be of any assistance to you at any time, don't hesitate to let me know. I am as close to you as your telephone.

Love you,

Sincerely,

R. Eugene Pincham

R. Eugene Pincham

Encl.

EX. 2

STATE OF ILLINOIS
SUPREME COURT

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the eighth day of January, 2007.

Present: Robert R. Thomas, Chief Justice
Justice Charles E. Freeman — Justice Thomas R. Fitzgerald
Justice Thomas L. Kilbride — Justice Rita B. Garman
Justice Lloyd A. Karmeier — Justice Anne M. Burke

On the twelfth day of January, 2007, the Supreme Court entered the following judgment:

In re:

M.R.21194

G. Michael Cooper III
307 Allison St. NW
Washington, DC 20011-7307

Attorney
Registration and
Disciplinary
Commission
05CH82

The motion by the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is allowed, and respondent G. Michael Cooper, III is disbarred.

Order entered by the Court.

As Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, I certify that the foregoing is a true copy of the final order entered in this case.

SEAL OF THE SUPREME COURT
STATE OF ILLINOIS
AUG. 26, 1818

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Seal of said Court, this twelfth day of January, 2007.

Julieann Hornyak
Clerk,
Supreme Court of the State of Illinois

SUPREME COURT OF THE STATE OF ILLINOIS

No. M.R. 21194

IN THE MATTER OF:

G. MICHAEL COOPER, III

ATTORNEY-RESPONDENT

COMMISSION NO. 05 CH 82

CERTIFICATION OF SERVICE

/S/ ORIGINAL SIGNED, DOES HEREBY CERTIFY THAT A COPY OF G. MICHAEL COOPER'S PETITION FOR RECONSIDERATION OF THE JANUARY 12, 2007 ORDER APPROVING AND CONFIRMING THE HEARING BOARD REPORT AND DISBARRING G. MICHAEL COOPER, III, WAS SERVED:

ON: The Attorney Registration and Disciplinary Commission
One Prudential Plaza
130 East Randolph Drive
Suite 1500
Chicago, IL 60601-6219
800-826-8625

BY:

MAILING, FIRST CLASS POSTAGE PAID: FEBRUARY 3, 2007

G. MICHAEL COOPER
307 ALLISON STREET, NW
WASHINGTON, DC 20011
202-722-6666

SUPREME COURT OF THE STATE OF ILLINOIS

No. M.R. 21194

In the matter of:

G. Michael Cooper, III

Attorney-Respondent

Commission No. 05 CH 82

ORDER

This cause coming on to be heard on the Attorney-Respondent-Appellant's motion to reconsider the January 12, 2007 Order approving and confirming the Attorney Registration and Disciplinary Commission Hearing Board Report disbarring, G. Michael Cooper, III and the Court being fully advised in the premises;

IT IS HEREBY ORDERED ADJUDGED AND DECREED that the Attorney-Respondent-Appellant's motion is hereby deniedgranted in all things and this court's January 12, 2007 Order approving and confirming the Attorney Registration and Disciplinary Commission Hearing Board Report of disbarring G. Michael Cooper, III is vacated and held for naught and G. Michael Cooper is reinstated to the Bar and the matter is remanded to Attorney Registration and Disciplinary Commission for new proceedings.

_____

Judge

_____

Dated

SUPREME COURT OF THE STATE OF ILLINOIS

No. M.R. 21194

In the matter of:

G. Michael Cooper, III

Attorney-Respondent

Commission No. 05 CH 82

ORDER

This cause coming on to be heard on the Attorney-Respondent-Appellant's motion to reconsider the January 12, 2007 Order approving and confirming the Attorney Registration and Disciplinary Commission Hearing Board Report disbarring, G. Michael Cooper, III and the Court being fully advised in the premises;

IT IS HEREBY ORDERED ADJUDGED AND DECREED that the Attorney-Respondent-Appellant's motion is hereby denied.

_____

Judge

_____

Dated

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
of the
SUPREME COURT OF ILLINOIS

One Prudential Plaza
130 East Randolph Drive, Suite 1500
Chicago, IL 60601-6219
(312) 565-2600 (800) 826-8625
Fax (312) 565-2320

One North Old Capitol Plaza, Suite 333
Springfield, IL 62701
(217) 522-6838 (800) 252-8048
Fax (217) 522-2417

Hon. Juleann Hornyak
Clerk of the Supreme Court
of Illinois
Supreme Court Building
Springfield, IL 62701

Chicago
April 13, 2007

Supreme Court No. M.R. 21194
Commission No. 05 CH 82

In Re: G. MICHAEL COOPER, III

Dear Ms. Hornyak:

Enclosed please find the original and two copies of the **ADMINISTRATOR'S OBJECTION TO PETITION FOR RECONSIDERATION**, in the above matter, together with a Notice of Filing and Proof of Service.

Thank you for your cooperation.

Very truly yours,

Rosalyn B. Kaplan
Chief of Appeals and Ancillary Litigation

RBK:dnm
Enclosure

IN THE
SUPREME COURT OF ILLINOIS

In the Matter of:	)	
G. MICHAEL COOPER III,	)	Supreme Court No. M.R. 21194
Attorney-Respondent,	)	Commission No. 05 CH 82
No. 513164.	)	

NOTICE OF FILING

TO: G. Michael Cooper, III
Attorney-Respondent
307 Allison Street NW
Washington, DC 20011-7307

PLEASE TAKE NOTICE that on April 13, 2007, I will file with the Clerk of the Illinois Supreme Court, the **ADMINISTRATOR'S OBJECTION TO PETITION FOR RECONSIDERATION,** copies of which are attached, by causing the original and two copies to be mailed to the Clerk of the Supreme Court of Illinois in Springfield, by causing the same to be deposited in the United States mailbox at 130 E. Randolph Drive, Ste. 1500, Chicago, IL 60601, with proper postage prepaid.

Respectfully submitted,
Jerome Larkin, Administrator
Illinois Attorney Registration and
Disciplinary Commission

By: _____
Rosalyn B. Kaplan

Rosalyn B. Kaplan
Counsel for Respondent
130 E. Randolph Drive
Suite 1500
Chicago, IL 60601
Telephone: (312) 565-2600

PROOF OF SERVICE

I, Denise N. Manolis on oath state that I served a copy of a Notice of Filing and **ADMINISTRATOR'S OBJECTION TO PETITION FOR RECONSIDERATION,** on the individual at the address shown on the foregoing Notice of Filing, by regular mail, proper postage prepaid, by causing the same to be deposited in the U.S. mailbox located on 130 East Randolph Drive, Suite 1500, Chicago, IL 60601, on April 13, 2007 at or before 5:00 p.m.

Denise N. Manolis

Subscribed and sworn to before me this
13th day of April, 2007.

NOTARY PUBLIC

"OFFICIAL SEAL"
LORITA JORDAN
Notary Public, State of Illinois
My Commission Expires 01/26/10

IN THE SUPREME COURT OF ILLINOIS

In the Matter of:

G. MICHAEL COOPER III,

Attorney-Respondent,

No. 513164.

Supreme Court No. M.R. 21194

Commission No. 05 CH 82

OBJECTION TO PETITION FOR RECONSIDERATION

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Rosalyn B. Kaplan, objecting to the petition for reconsideration filed by the Respondent and served, according to his "certification of service," on April 3, 2007, states as follows:

Preliminary Matters

1. Respondent was disbarred by this Court on January 12, 2007. M.R. 21194. In February 2007, the Clerk of the Court received, and returned to Respondent, his attempted petition for leave to file exceptions, explaining that his disbarment precluded the filing of that document. A copy of the Clerk's letter is attached as Exhibit 1. In that letter, the Clerk explained that Respondent might file a motion for reconsideration of the disbarment order.

2. Respondent has now tendered not a motion, but a petition for reconsideration, bearing a certification that it was served on the Commission on April 3, 2007. First, the Administrator submits that Respondent's attempted certification of service is invalid, on the basis of his status as a disbarred attorney. *See* Supreme Court Rule 12(b)(3). Second, as demonstrated by the attached copy (Exhibit 2 to this objection) of the mailing envelope (reduced in size by photocopy), the petition was mailed on April 4, 2007; it was received at the Commission offices on April 9, 2007. Respondent thus delayed for approximately 6 weeks after

his initial filing was refused to tender the present petition, and this Court should take note of the dilatory manner in which he is attempting to address this matter.

Background

3. On September 8, 2006, the Hearing Board issued its report and recommendation in this matter, recommending that the Respondent, who was previously suspended on two occasions, be disbarred. A copy of that report and recommendation is attached as Exhibit 3. The report and recommendation finds that Respondent engaged in the conversion of client funds, the unauthorized practice of law, and conduct involving dishonesty, fraud, deceit or misrepresentation; it specifically noted that Respondent had, in October 2004, entered into a consent agreement with the District of Columbia Court of Appeals Committee on the Unauthorized Practice of Law, acknowledging that he had engaged in the unauthorized practice of law in that jurisdiction and that he owed Jeanne Schofield $47,744.91, a sum that he agreed to repay with interest (although he had only paid her $1500 by the time of the Illinois default hearing in June 2006) (Exhibit 3 at 6-7).

4. The Hearing Board report and recommendation also explains the efforts made by the Administrator to secure service of the complaint on the Respondent at the outset of this matter (see Exhibit 3 at pp.1-2). See also Exhibit 4, the affidavit of Jay Jones, in which Mr. Jones detailed the steps that he undertook to make contact with the Respondent between September 19, 2005, and January 2006, as well as the attempt to secure personal service on Respondent with the assistance of the District of Columbia's Office of Bar Counsel. The complaint was eventually served by mail on Respondent, when efforts to personally serve Respondent at the Allison Street address were not successful and Commission personnel could

locate no other address for the Respondent. See Exhibit 4, page 2, the Proof of Service executed by Jay Jones.

5. Prior to her preparation of the formal disciplinary complaint in this matter, Marita C. Sullivan, counsel for the Administrator, had been in contact with the Respondent by telephone as late as July 2005 and had received mail from him in July and August 2005. Although she had no further telephone contact with the Respondent, documents that were mailed to him at the Allison Street address and that did not require execution of a return receipt were never returned to the Commission as undelivered. See affidavit of Marita C. Sullivan, attached as Exhibit 5.

6. Exhibit 6 to this objection is a certification by the Commission's deputy registrar reciting Respondent's registration information since 2000. It shows that Respondent has consistently, since 2000, been registered at 307 Allison Street, NW, Washington, D.C. 20011, and that he has never changed his registered address or supplied the Administrator with any alternate address. Indeed, that registration address is the one that appears as his return address on Respondent's current filing with this Court. *See* Exhibit 2.

Discussion

7. Supreme Court Rule 756(c) specifies that it is the responsibility of every attorney admitted to the master roll to notify the Administrator of any change of address; a September 29, 2005, amendment to that rule provided for such notification to be made within 30 days of the address change. In the discharge of this responsibility, Respondent notified the Administrator of his Allison Street address in September 1999 and never altered that registration address or provided the Administrator with another address at which he could be contacted.

8. Commission Rule 214 provides for service of a disciplinary complaint by mail when a respondent resides out of state or cannot be found. As detailed in the Hearing Board

report and recommendation and the affidavit of Jay Jones (Exhibits 3 and 4), service by mail was not the Administrator's first choice in this matter. His investigator conducted an investigation to ascertain Respondent's location, could not identify any viable address in Illinois, and forwarded the complaint in this matter to the District of Columbia's Office of Bar Counsel, so that a process server in that jurisdiction could attempt personal service on the Respondent. The process server visited the Allison Street house on three different occasions, one of which involved a discussion with an individual at the house who refused to answer the door, but was unable to serve the complaint. Only after personal service could not be accomplished was the complaint mailed to Respondent by regular and by certified mail.

9. It has been explained that "[t]he requirement of due process is met by having an orderly proceeding wherein a person is served with notice, actual or constructive, and has an opportunity to be heard and to enforce and protect his rights." *Reyes v. Court of Claims of State of Illinois*, 299 Ill. App. 3d 1097, 1104, 702 N.E.2d 224, 230 (1st Dist. 1998). In this matter, Respondent had an obligation to keep the Administrator apprised of his address, and the Administrator properly effectuated service of the complaint on him pursuant to Commission Rule 214, such that he has had at least constructive notice of the proceedings in this case. Throughout the disciplinary proceeding, the Administrator continued to serve all appropriate documents by mail to Respondent at his registered address, and no document sent through the regular United States mail was ever returned to counsel.

10. Respondent cannot be heard to complain that he was not aware of the third disciplinary proceeding against him. He was in contact with counsel for the Administrator as late as July 2005 and was sending material to her in connection with the investigation of his conduct as late as August 2005. As a previously-disciplined attorney, he had reason to know and

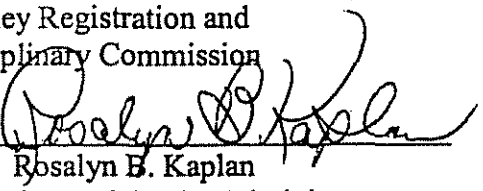
understand the disciplinary process. Given his contacts with Ms. Sullivan, and the fact that he had already admitted to engaging in the unauthorized practice of law in Washington, D.C., he cannot claim surprise that an Illinois disciplinary proceeding was brought against him.

11. The Administrator acted consistently with due process requirements and attempted service beyond the scope of the applicable rule, in an effort to achieve personal service, and no more can be required. This Court has specified that it is the duty of any attorney-respondent who is the subject of an investigation or hearing to appear at the appropriate proceedings, *see* Supreme Court Rule 753(f); that rule, taken together with an attorney's explicit duty to keep the Administrator apprised of his address, makes clear that Respondent's failure to participate in this matter is a result of his own choices and does not and cannot establish any denial of due process. No attorney should be allowed to avoid a disbarment proceeding, or to vacate the results of such a proceeding, when his failure to participate is a result of his own choices.

WHEREFORE, the Administrator objects to the petition for reconsideration and asks that it be denied.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: 

Rosalyn B. Kaplan
Counsel for the Administrator
130 East Randolph Drive, Suite 1500
Chicago, Illinois 60601
Telephone: (312) 565-2600

MAINLIB_#259374_v1

ADMINISTRATOR'S EXHIBIT 1

SUPREME COURT OF ILLINOIS
SUPREME COURT BUILDING
SPRINGFIELD 62701

JULEANN HORNYAK
CLERK OF THE COURT
(217) 782-2035

TELECOMMUNICATIONS DEVICE
FOR THE DEAF
(217) 524-8132

FIRST DISTRICT OFFICE
20TH FLOOR
160 N. LASALLE ST.
CHICAGO 60601
(312) 793-1332

TELECOMMUNICATIONS DEVICE
FOR THE DEAF
(312) 793-8185

February 21, 2007

Mr. G. Michael Cooper, III
307 Allison Street, N.W.
Washington, D.C. 20011

In re: G. Michael Cooper, III, M. R. 21194

Dear Mr. Cooper:

On February 20, 2007, this office received from you a document entitled, "Petition for Leave to File Exceptions to the Order of the Hearing Board and Review Board and for Leave to File an Amended Petition." This document will not be filed because the Court, on January 12, 2007, approved and confirmed the Hearing Board's report and recommendation and entered an order disbarring you. The mandate issued on January 12, 2007, and the case was closed.

In the event that you want the Court to reconsider its order of January 12, 2007, you may file a motion for reconsideration by submitting an original and eight copies of the motion, with proof of service and a proposed order phrased in the alternative, to the Clerk of the Supreme Court in Springfield.

Thank you.

Very truly yours,

Julieann Hornyak

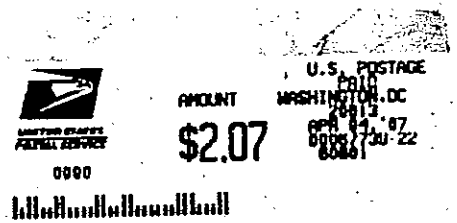
Clerk of the Supreme Court

JH:jmb

cc: Marita C. Sullivan, Counsel, ARDC
Kenneth Jablonski, Clerk, ARDC

ADMINISTRATOR'S EXHIBIT 2

The Cooper Company
307 Allison Street, NW
Washington, DC 20011



THE ATTORNEY REGISTRATION AND DISCIPLINARY
COMMISSION
ONE PRUDENTIAL PLAZA
130 EAST RANDOLPH DRIVE
SUITE 1500
CHICAGO, IL 60601-6219

FIRST
CL

ADMINISTRATOR'S EXHIBIT 3

In re G. Michael Cooper, III

Commission No. 05 CH 82

Synopsis of Hearing Board Report and Recommendation

Default Proceeding

NATURE OF THE CASE: 1) conversion; 2) practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; 3) conduct involving dishonesty, fraud, deceit or misrepresentation; 4) conduct prejudicial to the administration of justice; and 5) conduct which tends to defeat the administration of justice or which brings the courts or the legal profession into disrepute.

RULES DISCUSSED: Rules 5.5(a), 8.4(a)(4), 8.4(a)(5) of the Illinois Rules of Professional Conduct and Supreme Court Rule 770.

RECOMMENDATION: Disbarment.

DATE OF OPINION: September 8, 2006.

HEARING PANEL: Champ W. Davis, Jr., Patrick M. Blanchard, Matthew Bonds.

ADMINISTRATOR'S COUNSEL: Marita C. Sullivan.

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

In the Matter of:

G. MICHAEL COOPER III,

Attorney-Respondent,

No. 513164.

Commission No. 05 CH 82

REPORT AND RECOMMENDATION OF THE HEARING BOARD

DEFAULT PROCEEDING

The hearing in this matter was held on June 28, 2006 at the offices of the Attorney Registration and Disciplinary Commission ("ARDC") in Chicago, Illinois before a hearing panel consisting of Champ W. Davis, Jr., Chair, Patrick M. Blanchard and Matthew Bonds. Marita C. Sullivan represented the Administrator of the Attorney Registration and Disciplinary Commission. Respondent G. Michael Cooper, III did not appear at hearing and was not represented by counsel.

PLEADINGS AND PRE-HEARING PROCEEDINGS

On August 30, 2005, the Administrator filed a two-count Complaint alleging that Respondent converted $47,692 from a client, engaged in dishonest conduct, and practiced law in a jurisdiction without proper authorization.

On January 30, 2006 an ARDC investigator, who had been assigned to effectuate service of process on Respondent, filed an affidavit detailing the methods he employed to locate Respondent. After determining that Respondent's last known registered address was in Washington D.C., the investigator caused the Complaint and other documents to be mailed to the District of Columbia's Office of Bar Counsel for service upon Respondent. The process server

was not able to serve Respondent and voice messages left at Respondent's Washington D.C. telephone number were not returned.

After checking Respondent's credit report and Illinois Secretary of State's office for any additional addresses, the ARDC investigator concluded that Respondent resides out of the state and on due inquiry cannot be found. Pursuant to Commission Rule 214(b) the investigator caused a copy of the Complaint, Notice of Complaint, Order assigning chairperson, and Rules of the Supreme Court of Illinois to be mailed to Respondent's last known address in Washington D.C., via regular and certified mail, postage prepaid, with return receipt requested.

Respondent did not file any response to the Complaint and on March 27, 2006 the hearing panel Chair entered an order deeming the allegations of the Complaint admitted. Copies of orders entered by the Chair, including the order setting the matter for hearing, were mailed to Respondent at his Washington D.C. address.

THE EVIDENCE

At the hearing on June 28, 2006, the Administrator presented two witnesses, who testified by telephone from Washington D.C., and submitted eight exhibits. That evidence, along with the admitted allegations, established the following facts.

Count I

Jeanne Schofield ("Jeanne"), a resident of Washington D.C, testified she retained Respondent on September 18, 2001, to represent her in connection with the partition of real property located at 5010 Illinois Avenue, NW, Washington D.C.. The property had been conveyed to both Jeanne and her former sister-in-law, Anita Schofield ("Anita"). During the September 18, 2001 meeting, Jeanne signed a written agreement to pay Respondent $225 an hour for his services, with $1125 being paid in advance. (Tr. 20-25).

On October 11, 2001, Anita filed a complaint against Jeanne in the Superior Court of the District of Columbia in connection with the Illinois Avenue property. On May 23, 2002, Anita and Jeanne agreed to sell the property for $212,000. On that same date Respondent drafted and filed a praecipe which provided that the proceeds from the sale would be paid into the Registry of the Superior Court until final resolution of the issues in the pending litigation. (Tr. 25).

On May 24, 2002, Respondent represented Jeanne at the real estate closing for the sale of the property. On or about that date, the Federal Title and Escrow Company issued two checks, for $96,542.90 and $98,942.91, made payable to the Clerk of the Superior Court. The checks represented the net proceeds from the sale of the Illinois Avenue property. (Tr. 26)

Shortly after the closing, Respondent requested that the title company re-issue the checks and make one of the checks payable to himself. In accordance with that request, the title company voided the previously written checks. On July 18, 2002, Respondent received a check from the title company made payable to "Jeanne Schofield, The Cooper Company Law Firm" in the amount of $97,742.90. Respondent deposited the check into his account number 001921579936 at Bank of America entitled "The Cooper Company Law Firm IOLTA" ("trust account"). Jeanne testified Respondent told her the money would stay in the account pending a final decision in the case. (Tr. 27-28; Adm. Ex. 4, 5).

On March 5, 2003 Judge Melvin R. Wright held that the net proceeds of $195,485.81 from the sale of the Illinois Avenue property were to be distributed equally between Jeanne and Anita, with Anita receiving $97,742.90 and Jeanne receiving $97,742.91. Jeanne stated she was not satisfied with the order and was advised by Respondent to appeal the decision. (Tr. 29-30, 45).

On or about April 29, 2003, Respondent gave Jeanne two Bank of America cashier's checks in the amount of $25,000 each. The two checks, which represented a partial distribution

of the money due Jeanne, were purchased by "The Cooper Company Law Firm" with funds from Respondent's trust account. Jeanne understood from Respondent that the remainder of the funds had to stay in the account during the appeal. (Tr. 30-31, 46; Adm. Ex. 6).

In or about June 2003, Jeanne made several oral requests for the remainder of her funds. During a meeting with Respondent in mid-June, she was told that she could not have her funds because they had been invested. When she objected and inquired about the nature of the investments, Respondent advised her that it was "none of her concern." Jeanne testified she was very upset because she wanted to use the funds to make a down-payment on another home. At or about that same time, Jeanne told Respondent she no longer wanted him to represent her and instructed him not to proceed with the appeal. (Tr. 31-34, 45).

On or about June 29, 2003, Jeanne sent a letter to Respondent stating she had not authorized the investment of her funds, and demanding the return of her money. Respondent did not comply with the request and did not return Jeanne's money to her. As of October 6, 2003, at a time when Respondent should have been holding at least $47,742.90 in his trust account for Jeanne, the account had a balance of $50.00. As of that date, Respondent had used at least $47,692.90 of Jeanne's funds without her authorization for his own personal purposes. (Tr. 35; Adm. Ex. 7, 8).

Between November 2004 and January 2005, Respondent returned $1,500 to Jeanne. As of the date a complaint was voted in this matter, he had not returned the remaining $46,242.90. Jeanne stated she did not believe Respondent retained the funds as a fee due to him. Respondent never raised the subject of any fee that might be owed to him and did not provide any invoices to Jeanne. (Tr. 43, 46, 49).

Count II

At all times relevant to the Complaint, Respondent was a resident of Washington, D.C. He was admitted to practice law in the State of Illinois in 1971 and in the State of Texas in 1981, but has never been admitted to practice in Washington D.C.

On or about October 1, 2001, Respondent prepared, signed, and sent a letter to Anita Schofield informing her that he represented Jeanne Schofield in the partition suit, and notifying her to cease and desist from all non-court ordered actions regarding residency of the home on Illinois Avenue. Between October 17, 2001 and April 7, 2003, Respondent drafted, signed, and filed with the Superior Court of the District of Columbia various documents which identified him as Jeanne's attorney. Respondent and attorney Ronnie Thaxton, who Jeanne understood to be Respondent's partner, appeared at the court proceedings. On July 6, 2002, Respondent attended a mandatory mediation session on behalf of Jeanne and on April 30, 2003, he filed a Notice of Appeal in the Schofield matter. (Tr. 25, 42).

Between September 2001 and November 2003, Respondent used the name "Cooper, Barnes and Thaxton" on documents provided to Jeanne and others in connection with the Schofield case. He also used the names "The Cooper Company Law Firm," "The Cooper Company Professional Legal Services," and "G. Michael Cooper & Associates," even though he was not admitted to practice law in Washington, D.C., or admitted *pro hac vice* to provide legal services in the Schofield matter.

On August 11, 2003 Jeanne filed a complaint against Respondent with the District of Columbia Bar Counsel stating that Respondent had failed to turn over funds he was holding for her. Anthony P. Bisceglie, an attorney in Washington D.C. who serves as vice chair of the District of Columbia Court of Appeals Committee on the Unauthorized Practice of Law (the "Committee") testified the Committee received Jeanne's complaint in September 2004 and

undertook an investigation of Respondent. As part of that investigation, Bisceglie spoke to both Jeanne and an attorney who had been involved in the Schofield litigation, reviewed court files, and sent a letter of inquiry to Respondent. (Tr. 36-37, 52-56; Adm. Ex. 1).

Bisceglie also spoke to Ronnie Thaxton, Respondent's purported law partner. He learned that Thaxton and Respondent had once worked for the same government agency and had conversations about opening a firm together. The idea never materialized, however, and Thaxton did not establish a firm with Respondent. Bisceglie also learned that Respondent held himself out as an attorney in D.C. by carrying and issuing business cards which identified him as an attorney with a D.C. address. (Tr. 65, 69-70).

On December 18, 2003 the Committee initiated formal proceedings against Respondent for his representation of Jeanne. Bisceglie testified that Respondent's representation of Jeanne constituted the unauthorized practice of law in violation of D.C. Court of Appeals Rule 49. On March 1, 2004, the Committee sent a copy of the notice of formal proceedings to the attorney disciplinary authorities in Illinois and Texas. Bisceglie noted that the Committee does not routinely notify other jurisdictions of its proceedings but does so in egregious situations. (Tr. 57-59; Adm. Ex. 2).

On October 15, 2004, Respondent entered into a Consent Agreement with the Committee whereby he acknowledged that he engaged in the unauthorized practice of law in the District of Columbia. He further acknowledged that no partnership ever existed between himself, Ronnie Thaxton and Webster Barnes. Regarding the funds he held in trust for Jeanne Schofield, he admitted that he owed $47,744.91 to Jeanne and agreed to repay her that amount, plus interest. The payments were to commence with seven monthly payments of $500, with the balance to be repaid by June 30, 2005. (Tr. 38, 60-62; Adm. Ex. 3).

Jeanne received three installments of $500 each between November 2004 and January 2005. Respondent has not made any other payments to Jeanne and still owes her $46,242.90, plus interest. (Tr. 38-39).

Additional Evidence Offered in Aggravation

Jeanne Schofield testified that when Respondent did not turn over her funds, she retained attorney Patrick Merkle to initiate proceedings against Respondent. That lawsuit is still pending and she has not seen Respondent in connection with the matter. Jeanne stated she currently works as a temporary employee and receives a salary of $14,000. Her only other source of income is a pension from AT & T. She has depleted her funds in her 401(k) account and has a mortgage on her home. (Tr. 39-41, 46-47).

Prior Discipline

The Administrator reported, pursuant to Commission Rule 277, that Respondent has been disciplined by the Illinois Supreme Court on two previous occasions. On October 4, 1984, Respondent was suspended for six months for neglecting two criminal appeals, failing to properly withdraw from employment, and failing to carry out a contract of employment and thereby prejudicing a client during the course of a professional relationship. In re Cooper, 82 CH 86, M.R. 3360 (October 4, 1984). On September 24, 1996 Respondent was suspended for three years for failing to cooperate with disciplinary authorities, making a misrepresentation to a tribunal, failing to refund unearned fees, and implying that he was able to influence a tribunal or public official. In re Cooper, 96 CH 427, M.R. 12674 (September 24, 1996). The three-year suspension was imposed pursuant to a Petition for Reciprocal Discipline after Respondent had been suspended in Texas.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In attorney disciplinary proceedings the Administrator has the burden of proving the charges of misconduct by clear and convincing evidence. In re Ingersoll, 186 Ill.2d 163, 710 N.E.2d 390, 393 (1999). Clear and convincing evidence constitutes a high level of certainty, which is greater than a preponderance of the evidence but less than proof beyond a reasonable doubt. People v. Williams, 143 Ill.2d 477, 577 N.E.2d 762 (1991).

Having considered the two-count Complaint, the failure of Respondent to appear or participate in these proceedings in any manner, the order of March 27, 2006 by which the allegations of the Complaint were deemed admitted, and the evidence submitted by the Administrator and admitted at the hearing, we find by clear and convincing evidence that Respondent engaged in the acts alleged and committed the following misconduct as charged in the complaint.

a. conversion (Count I);

b. practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction in violation of Rule 5.5(a) of the Illinois Rules of Professional Conduct (Count II);

c. conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(a)(4) (Counts I and II);

d. conduct that is prejudicial to the administration of justice in violation of Rule 8.4(a)(5) (Counts I and II); and

e. conduct which tends to defeat the administration of justice or which brings the courts or the legal profession into disrepute in violation of Supreme Court Rule 770 (Counts I and II).

RECOMMENDATION

Having found that Respondent engaged in wrongdoing, we must determine the appropriate discipline warranted by the misconduct. In determining the proper sanction, we consider the purposes of the disciplinary process. The goal of these proceedings is not to punish

but rather to safeguard the public, maintain the integrity of the profession and protect the administration of justice from reproach. In re Timpone, 157 Ill.2d 178, 623 N.E.2d 300 (1993). Another factor for consideration is the deterrent value of attorney discipline and the need to impress upon others the repercussions of errors such as those committed by Respondent in the present case. In re Discipio, 163 Ill.2d 515, 645 N.E.2d 906, 912 (1994).

We also take into account those circumstances which may mitigate and/or aggravate the misconduct. In re Witt, 145 Ill.2d 380, 583 N.E.2d 526, 535 (1991). By failing to appear at the hearing, Respondent forfeited his opportunity to present any evidence of mitigating circumstances.

In aggravation, Respondent's failure to attend and participate in these proceedings is a factor which weighs heavily against him. His absence demonstrates a lack of respect for the disciplinary process and for his profession. See In re Brody, 65 Ill.2d 152, 357 N.E.2d 498, 500 (1976) (an attorney's failure to cooperate in his or her own disciplinary proceeding demonstrates a want of professional responsibility and is a factor to be considered in aggravation for the purpose of determining an appropriate sanction). Moreover, Respondent's apparent lack of concern for his own disciplinary proceeding is an indication to us that he will not provide conscientious representation to others.

We also take into account the harm caused by Respondent's conduct. See In re Saladino, 71 Ill. 2d 263, 375 N.E.2d 102 (1978) (discipline should be "closely linked to the harm caused or the unreasonable risk created by the [attorney's] lack of care"). Respondent's conversion of real estate proceeds caused financial harm to Jeanne Schofield, who had limited financial resources and anticipated being able to use the funds to purchase a home. At the time of hearing Respondent still had not returned over $46,000 to Jeanne, even though he admitted in a consent agreement that he owed her the funds. See In re Uhler II, 126 Ill.2d 532, 535 N.E.2d 825 (1989)

(failure to make prompt restitution is a factor for consideration in the determination of discipline.) Because Respondent failed to repay the funds, Jeanne had to retain another attorney to file suit against Respondent. See In re Demuth, 126 Ill.2d 1, 533 N.E.2d 867 (1988) (client is harmed when he has to go to the "expense and inconvenience" of hiring another attorney.) We note that we received no evidence that Respondent was entitled to retain any portion of the funds as his fees, or even that he raised that issue with Schofield. Even if he were owed fees, our conclusions would not change since Respondent's actions with respect to Schofield were clearly improper.

Finally, prior discipline has been considered to be a significant factor when determining discipline. In re Hunk, 145 Ill.2d 534, 585 N.E.2d 105 (1991). Respondent's previous infractions, although dissimilar in nature to the present misconduct, were serious. More important, however, the multiple and repeated infractions indicate Respondent's inability to adhere to the rules and obligations of the profession, and a failure to be deterred by prior sanctions.

The Administrator has suggested that Respondent's conversion of over $47,000 in client funds and his unauthorized practice of law, coupled with the serious aggravating factors, warrants disbarment. We agree.

Respondent's intentional conversion of funds is a gross breach of his ethical obligations which, in the absence of mitigating circumstances, by itself warrants disbarment. See In re Rotman, 136 Ill.2d 401, 556 N.E.2d 243 (1990). In Rotman the attorney was disbarred for converting approximately $15,000 from the estate of a client who had been adjudicated incompetent. Unlike the present case, no other misconduct was involved and the attorney participated in his disciplinary proceedings. See also In re Woldman, 98 Ill.2d 248, 456 N.E.2d

35 (1983) ("Other offenses might be excused, but conversion to [an attorney's] own use of the property of his client is an offense that cannot in any degree be countenanced.")

We also derive guidance from two cases cited by the Administrator. In In re Klein, 95 CH 433, M.R. 11419 (September 29, 1995) the attorney was disbarred on consent for converting $38,294 from one client and engaging in the unauthorized practice of law. In In re Larson, 95 CH 720, M.R. 11820 (December 1, 1995) the attorney was disbarred on consent for converting at least $54,000 from four clients, making misrepresentations to a client, and engaging in the unauthorized practice of law.

Respondent, by his actions and his absence from these proceedings, has demonstrated a complete disregard for his professional responsibilities. Keeping in mind the purposes of the disciplinary process, which are to safeguard the public from any future abuse by Respondent, to preserve the integrity of the legal profession, and to protect the administration of justice from reproach, we conclude that the most severe discipline should be imposed upon Respondent.

We are also attentive to the deterrent aspect of these proceedings. By recommending disbarment, we hope to impress upon other attorneys the grave consequences which result from errors such as those committed by Respondent in the present case.

For the reasons stated, we recommend that Respondent G. Michael Cooper, III be disbarred.

Date Entered: September 8, 2006

Champ W. Davis, Jr. KJ

Champ W. Davis, Chair, with Patrick M. Blanchard and Matthew Bonds, concurring

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ADMINISTRATOR'S EXHIBIT 4

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

In the Matter of:	)	
	)	
G. MICHAEL COOPER III,	)	
	)	**Commission No. 05 CH 82**
Attorney-Respondent,	)	
	)	
No. 513164.	)	

NOTICE OF FILING

TO: G. Michael Cooper III
Attorney-Respondent
307 Allison Street NW
Washington, D.C. 20011-7307

PLEASE TAKE NOTICE that on January 30, 2006, I will file the **AFFIDAVIT OF SENIOR INVESTIGATOR JAY JONES PURSUANT TO COMMISION RULE 214(b)**, a copy of which is attached, by causing the original and four copies to be delivered to the Clerk of the Attorney Registration and Disciplinary Commission in Chicago, Illinois.

Marita C. Sullivan

Marita C. Sullivan
One Prudential Plaza
Counsel for Administrator
130 East Randolph Drive, Suite 1500
Chicago, Illinois 60601
Telephone: (312) 565-2600
MAINLIB.#217304.v1

FILED

JAN 3 0 2006

ATTY REG & DISC COMM
CHICAGO

PROOF OF SERVICE

I, Jay Jones, on oath state that I served a copy of a **Notice of Filing**, and the **AFFIDAVIT OF SENIOR INVESTIGATOR JAY JONES PURSUANT TO COMMISION RULE 214(b), COMPLAINT 05 CH 82, NOTICE OF COMPLAINT, ORDER ASSIGNING CHAIRPERSON OF THE HEARING PANEL, RULES OF THE SUPREME COURT OF ILLINOIS, A LETTER PURSUANT TO COMMISSION RULE 260, AND MEMORANDUM REGARDING PRE-HEARING CONFERENCE PROCEDURES**, on the individual at the address shown on the forgoing Notice of Filing, by regular and certified mail, proper postage prepaid, by causing the same to be deposited in the U.S. Mailbox located at 130 East Randolph, Chicago, Illinois, 60601 on January 30, 2006 at or before 5:00 p.m.

Jay Jones, Senior Investigator

Subscribed and sworn to before me
this 30th day of January, 2006.

NOTARY PUBLIC

"OFFICIAL SEAL"
JENNIFER P. OLIVA
NOTARY PUBLIC STATE OF ILLINOIS
My Commission Expires 10/20/2007

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

In the Matter of:	)	
	)	
G. MICHAEL COOPER III,	)	
	)	Commission No. 05 CH 82
Attorney-Respondent,	)	
	)	
No. 513164.	)	

AFFIDAVIT OF SENIOR INVESTIGATOR JAY JONES
PURSUANT TO COMMISSION RULE 214(b)

I, Jay Jones ("Affiant"), being first duly sworn, hereby state:

1. Affiant possesses first-hand knowledge of the facts presented in this affidavit, and if called as a witness, Affiant will testify to the truth of the facts as presented in this affidavit.

2. Affiant is a Senior Investigator for the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois ("the Commission") who is authorized to effectuate personal service of process pursuant to Supreme Court Rule 765(a) and Commission Rule 215(1).

3. As described in detail below, despite Affiant's efforts, and various persons attempts to serve G. Michael Cooper, III ("Respondent") with documents related to this matter, service remains unsuccessful because "respondent resides out of the state...[and] on due inquiry cannot be found," as described by Commission Rule 214(b)(1) and (3), respectively.

I.
Affiant's Attempts to Serve Respondent with the Complaint in this Matter

4. On or about September 19, 2005, Affiant received a request to personally serve Respondent with a copy of Complaint 05 CH 82, Notice of Complaint, Order Assigning

Chairperson of the Hearing Panel, Rules of the Supreme Court of Illinois, a letter pursuant to Commission Rule 260, and Memorandum Regarding Pre-Hearing Conference Procedures (hereinafter "complaint packet").

5. On September 19, 2005, Affiant reviewed the Commission's Master Roll of Attorneys ("Master Roll), and discovered that Respondent's registered address was 307 Allison Street NW, Washington, D.C. 20011-7307, ("last registered address"), and last registered telephone number was 202-722-6666 ("last registered telephone number"). Affiant verified with the Commission's Registrar that Respondent never provided new registration information to the Commission.

6. Affiant then attempted to contact Respondent via the telephone, between September 19, 2005, and January 23, 2006, to arrange service of the complaint packet. On all occasions, Affiant placed messages on a voicemail system that requested Respondent call Affiant. However, as of this date, Affiant has not received any communication from Respondent.

II.
DC Bar's Service Attempts

7. On or about September 26, 2005, Investigator Humberto Bobadilla contacted the District of Columbia's Office of Bar Counsel ("DCOBC"), to effectuate service of the complaint packet upon Respondent. Investigator Humberto Bobadilla mailed a copy of the complaint packet to the DCOBC so that a process server could attempt to serve Respondent at his last registered address. The process server reported that someone was inside the residence but would not open the door, and the process server was unable to serve Respondent with the complaint packet. (See Exhibit 1, Affidavit of Due Diligence of Daniel F. Portnoy)

III.
Affiant's Additional Investigative Work

8. On January 23, 2006, Affiant reviewed Respondent's credit report, as provided by TransUnion. Respondent's current address and telephone listed in the report were the same as his last registered address and telephone number.

9. On January 24, 2006, inquiry was made at the Illinois Secretary of State's Office regarding an Illinois driver's license or an Illinois residence. The result of that inquiry was that Respondent does not have an Illinois driver's license, and has not since the early 1990s.

10. The investigation failed to reveal any new contact information for Respondent, and there is no evidence to indicate Respondent resides other than out-of-state in Washington, D.C.

11. On January 24, 2006, Affiant again confirmed with the Commission's Registrar that Respondent has not provided a new registration address. As of the filing of this affidavit, Respondent has not registered with the Commission for the year 2006.

12. As of January 30, 2006, Respondent has failed to contact Affiant.

IV.
Affiant's Service of the Complaint Pursuant to Commission Rule 214(b)

13. As set forth above, despite due inquiry, Affiant remains unable to serve Respondent.

14. In accordance with Commission Rule 214(b), Affiant caused a copy of all documents identified in Paragraph four of this affidavit to be mailed, on the date affixed below, to Respondent, via regular and certified mail, postage prepaid, with return receipt requested, to the address listed in Paragraph five of this affidavit.

15. Further Affiant sayeth not.

Jay Jones, Senior Investigator

Subscribed and sworn to before me
this 30th day of January, 2006.

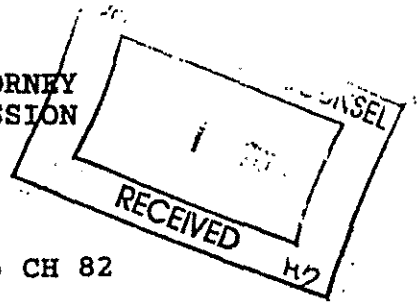
NOTARY PUBLIC

"OFFICIAL SEAL"
JENNIFER P. OLIVA
NOTARY PUBLIC STATE OF ILLINOIS
My Commission Expires 10/20/2007

MAINLIB.#217304.v1

ADMINISTRATIVE EXHIBIT 1

BEFORE THE HEARING BOARD OF THE ATTORNEY
REGISTRATION AND DISCIPLINARY COMMISSION



In the Matter of: G. Michael Cooper, III

Case No. 05 CH 82

AFFIDAVIT OF DUE DILIGENCE

STATE OF DISTRICT OF COLUMBIA
CITY OF WASHINGTON

I, DANIEL F. PORTNOY, having been duly authorized to make service of the Complaint, Notice of Complaint, Order Assigning Chairperson, Rules of the Supreme Court of Illinois, Rule 260 Letter and Memorandum in the above entitled case, hereby depose and say:

That my date of birth is 11-26-1971.

That my business address is 1827 18th Street, N.W., Washington, D.C. 20009.

That I am not a party to or otherwise interested in this suit.

That on the 19th day of October, 2005 at 8:15 o'clock a.m., I attempted to serve the respondent, G. Michael Cooper, III, at his usual place of abode at 307 Allison Street, NW, Washington, DC 20011. On this occasion, someone peered out through the window blinds and inquired as to who was outside. I told the individual that I had legal paperwork for Mr. Cooper, however, he refused to answer the door.

That on the 23rd day of October, 2005 at 9:15 o'clock p.m., I attempted to serve the respondent, G. Michael Cooper, III, at his usual place of abode at 307 Allison Street, NW, Washington, DC 20011. On this occasion, there was no answer at the door.

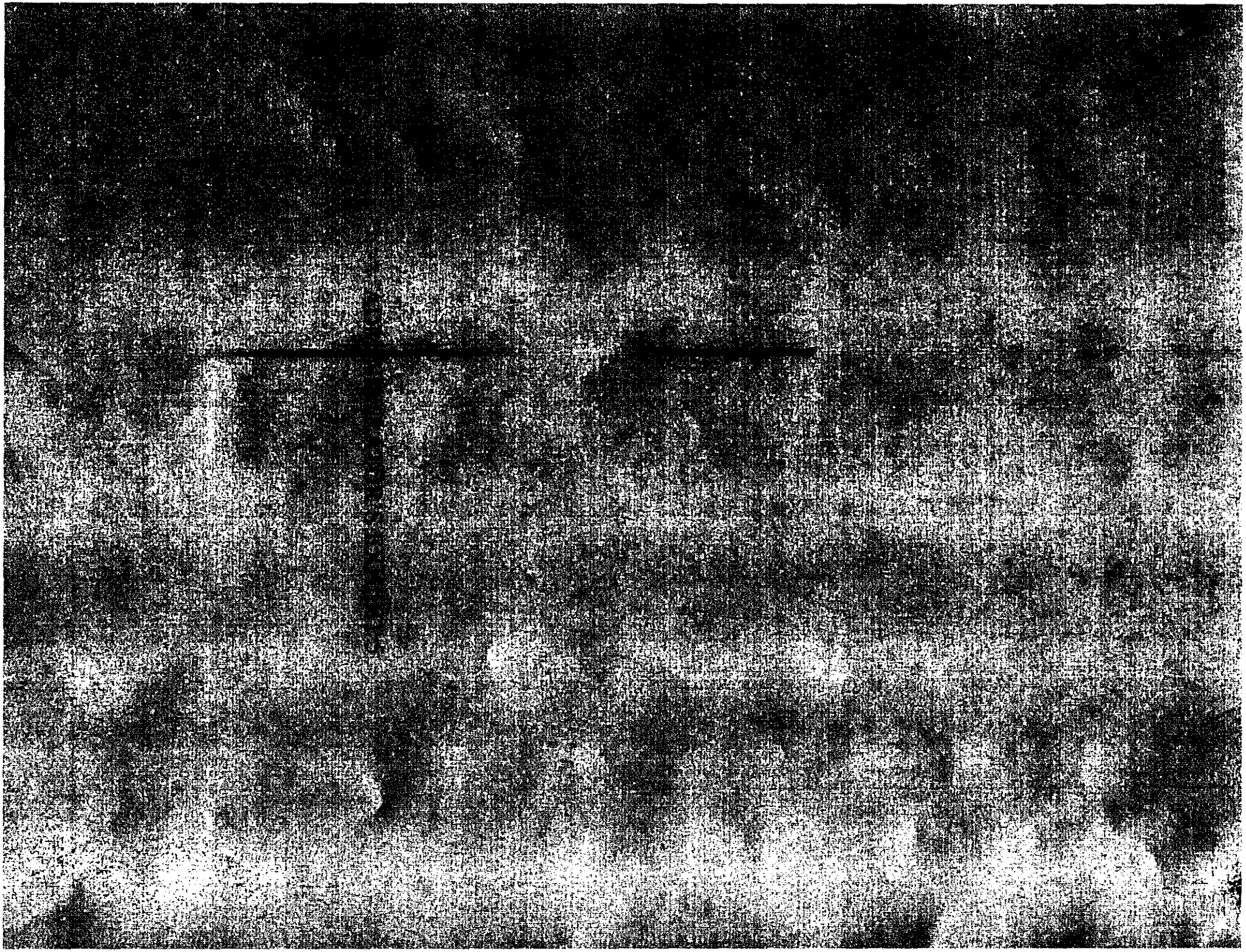
That on the 25th day of October, 2005 at 8:00 o'clock p.m., I attempted to serve the respondent, G. Michael Cooper, III, at his usual place of abode at 307 Allison Street, NW, Washington, DC 20011. On this occasion, again, there was no answer at the door.

I do solemnly declare and affirm under the penalty of perjury that the matters and facts set forth herein are true to the best of my knowledge, information and belief.

DANIEL F. PORTNOY
Private Process Server

Subscribed and Sworn to before me
this 10th day of November 2005.

Angela H. Croson
Notary Public
My commission expires: 03-31-09



IN THE SUPREME COURT OF ILLINOIS

In the Matter of:	
G. MICHAEL COOPER III,	Supreme Court No. M.R. 21194
Attorney-Respondent,	Commission No. 05 CH 82
No. 513164.	

AFFIDAVIT

Marita Clare Sullivan, being first duly sworn, states as follows:

1. I was the attorney assigned to represent the Administrator in the above referenced matter. I represented the Administrator during the investigation stage of these proceedings beginning in March 2004, as well as the public disciplinary hearing.

2. On March 9, 2004, I sent a letter to Respondent at his registration address of 307 Allison Street NW, Washington, D.C. 20011 ("the Allison Street address"). On March 26, 2004, I received a fax from Respondent responding to my March 9th letter. On March 26, 2004, Respondent also mailed me a response to my March 9, 2004 letter. Respondent's Allison Street address appeared as the return address on the envelope of Respondent's March 26th mailing.

3. On June 15, 2005, I sent a letter to Respondent at his Allison Street address via both certified and regular mail. Because Respondent did not reply to the inquiries contained in my June 15th letter, I then sent another letter to Respondent on July 1, 2005 at his Allison Street address, via both certified and regular mail.

4. On July 5, 2005, Respondent phoned me. On that date, Respondent and I had a telephone conversation about his pending investigation. During our phone discussion, Respondent acknowledged receipt of my June 15, 2005 letter. Respondent also requested

fourteen days in which to respond to the inquiries contained in my letter. I agreed to Respondent's request.

5. As of July 21, 2005, I had not received a response from Respondent to the inquiries contained in my June 15, 2005 letter. Therefore, on that date, I sent another letter to Respondent at his Allison Street address via both certified and regular mail.

6. On July 26, 2005, I received a letter from Respondent dated July 20, 2005 responding to the inquiries contained in my June 15, 2005 correspondence. On August 3, 2005, I received documents from Respondent sent via Federal Express. The Federal Express label indicated that Respondent mailed the package to me on August 1, 2005 from his Allison Street address.

7. On August 5, 2005, I sent a letter to Respondent at his Allison Street address via both certified and regular mail. In my August 5, 2005 letter, I indicated that Respondent's letter dated July 20th did not answer most of the questions posed in my June 15, 2005 correspondence, and did not provide me with a full, complete and detailed response to my inquiries as I had requested. In my August 5, 2005 letter, I again asked Respondent to provide me with answers to those questions.

8. On August 10, 2005, I sent an Inquiry Referral Notice Pursuant to Commission Rule 55 to Respondent at his Allison Street address. In the Notice, Respondent was advised, *inter alia*, that the Administrator was referring this matter to the Inquiry Board for consideration at its August 24, 2005 meeting.

9. On August 24, 2005, I sent a letter to Respondent at his Allison Street address. In my letter I advised Respondent that the Inquiry Board of the Commission voted that a complaint be filed with the Hearing Board against him in the above matter.

10. None of the letters I sent to Respondent via regular mail as set forth in Paragraphs 2 through 9 above were ever returned to me by the U.S. Postal Service. Respondent was in receipt of the correspondence I was sending to him at the Allison Street address as demonstrated by the contents of my conversation with Respondent during July 2005, as well as the materials he sent to me in July and August 2005. The only letters which were returned to me were those letters set forth in Paragraphs 2 through 9 above that were sent via certified mail, and which required Respondent's signature.

11. During my July 2005 phone conversation with Respondent, he did not indicate that the Allison Street address was an incorrect address, or provide me with an alternate mailing address. Similarly, in Respondent's July and August 2005 correspondence to me, he did not indicate that the Allison Street address was incorrect or that he was not receiving the mailings I sent to him there.

12. On January 30, 2006, I filed the Affidavit of Senior Investigator Jay Jones Pursuant to Commission Rule 214(b) and mailed it to Respondent at his Allison Street address. The Affidavit of Senior Investigator Jay Jones was not returned to me by the U.S. Postal Service.

13. On March 1, 2006, after Respondent was served with the complaint in this matter, I filed the Administrator's Report Pursuant to Commission Rule 253 and mailed it to Respondent at his Allison Street address. The Administrator's 253 Report was not returned to me by the U.S. Postal Service.

14. On March 13, 2006, I filed the Administrator's Motion to Deem the Allegations of the Complaint admitted Pursuant to Commission Rule 236 and mailed it to Respondent at his Allison Street address. The Administrator's Motion to Deem was not returned to me by the U. S. Postal Service.

15. On July 3, 2006, I filed the Administrator's Report Regarding Prior Discipline and mailed it to Respondent at his Allison Street address. The Administrator's Report Regarding Prior Discipline was not returned to me by the U.S. Postal Service.

16. On October 25, 2006, I filed the Administrator's Motion to Approve and Confirm Pursuant to Supreme Court Rule 753(d)(2) and mailed it to Respondent at his Allison Street address. The Administrator's Motion to Approve and Confirm was not returned to me by the U.S. Postal Service.

Further affiant sayeth not.

Marita Clare Sullivan

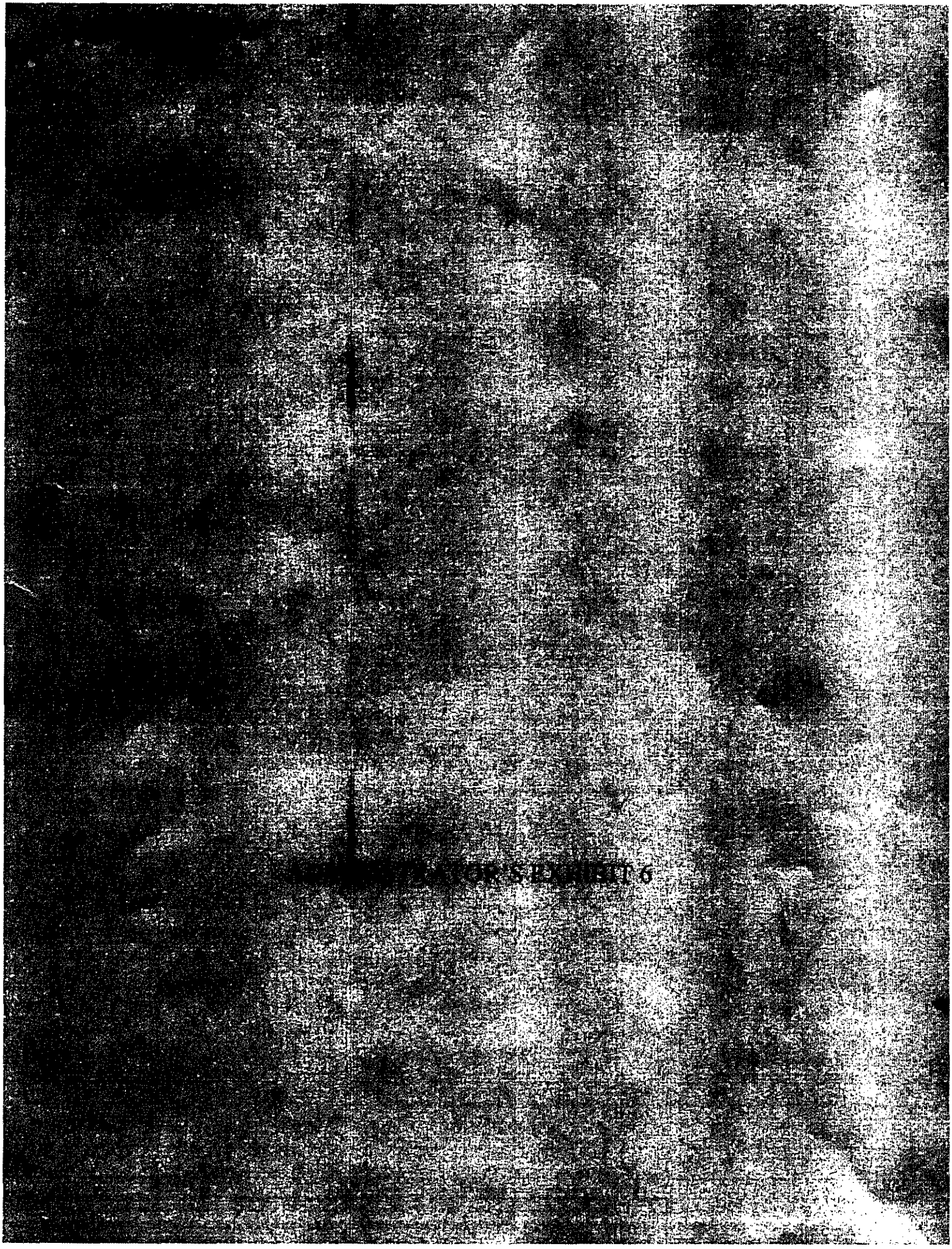
Marita Clare Sullivan

Subscribed and sworn to before
me this 12th day of April, 2007.

NOTARY PUBLIC

"OFFICIAL SEAL"
RONI M. MARTIN
NOTARY PUBLIC STATE OF ILLINOIS
My Commission Expires 09/22/2008

MAINLIB_#259488v1



CERTIFICATION

I, Darryl R. Evans, Deputy Registrar of the Attorney Registration and Disciplinary Commission, hereby certify that on April 11, 2007, I examined the Commission's registration records regarding G. Michael Cooper III and that these records contain the following information:

1. On September 15, 1999, Mr. Cooper changed his registration address from 290 M. Street, S.W., Washington, D.C. 20011, to 307 Allison Street, N.W., Washington D.C. 20011. Since September 1999, Mr. Cooper has provided no additional or changed address to the Commission.

2. Mr. Cooper did not timely register with the Commission in 2000, 2001, and 2002. On January 24, 2003, he paid back registration fees for 2000 and 2001. On February 18, 2003, he paid back registration fees for 2002 and 2003 and was then registered on active status for 2003. He did not timely register in 2004, but he paid his registration fees for that year on April 27, 2004, and was then registered on active status for that year. He did not timely register for 2005, but he paid his registration fees for that year on March 3, 2005, and was then registered on active status for that year.

3. Mr. Cooper did not register with the Commission for 2006 and 2007.

Darryl R. Evans

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SUPREME COURT OF ILLINOIS
SUPREME COURT BUILDING
SPRINGFIELD 62701

JULEANN HORNYAK
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April 24, 2007

Mr. G. Michael Cooper III
307 Allison St. NW
Washington, DC 20011-7307

In re: G. Michael Cooper, III
No. MR 21194

Today the following order was entered in the captioned case:

Motion by G. Michael Cooper, III for reconsideration of the January 12, 2007 order disbarring him. Motion Denied.

Order entered by the Court.

Very truly yours,

Julieann Hornyak

Clerk of the Supreme Court

cc: Mr. Kenneth Jablonski
Ms. Marita C. Sullivan