In re James Douglas Cottrell
Respondent-Appellee
Commission No. 2022PR00069

Synopsis of Review Board Report and Recommendation
(February 2024)

The Administrator brought a one-count complaint against Respondent, charging him with dishonestly misappropriating $2,902 belonging to third parties, in violation of Rules 1.15(a) and 8.4(c) of the Illinois Rules of Professional Conduct (2010).

The Hearing Board found that Respondent had committed the charged misconduct. Respondent admitted that he misappropriated $2,902, without authority, knowing it was wrong.

The majority of the Hearing Board Panel recommended that Respondent be reprimanded, and issued a reprimand letter along with the Hearing Board Report. One member of the Hearing Board Panel recommended that Respondent be censured instead of reprimanded.

The Administrator appealed, challenging the Hearing Board's sanction recommendation, and asking the Review Board to recommend a suspension of at least 30 days. Respondent argued that a reprimand was the appropriate sanction, but also argued that the Hearing Board erred in denying his motion for a directed verdict and in finding that he violated Rules 1.15(a) and 8.4(c).

The Review Board found that the Hearing Board did not err in denying Respondent's motion for a directed verdict, and affirmed the Hearing Board's findings that Respondent committed the charged misconduct. The Review Board recommended that Respondent be reprimanded.

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

In the Matter of:

JAMES DOUGLAS COTTRELL,

Respondent-Appellee,

No. 6184207.

Commission No. 2022PR00069

REPORT AND RECOMMENDATION OF THE REVIEW BOARD

SUMMARY

The Administrator brought a one-count complaint against Respondent, charging him with dishonestly misappropriating $2,902 belonging to third parties, in violation of Rules 1.15(a) and 8.4(c) of the Illinois Rules of Professional Conduct (2010).

Following a hearing at which Respondent was represented, the Hearing Board found that Respondent had committed the charged misconduct. Respondent admitted that he misappropriated $2,902, without authority, knowing it was wrong.

The majority of the Hearing Board Panel recommended that Respondent be reprimanded, and issued a reprimand letter along with the Hearing Board Report. One member of the Hearing Board Panel recommended that Respondent be censured instead of reprimanded.

On appeal, the Administrator challenges the Hearing Board's sanction recommendation and asks this Board to recommend that Respondent be suspended for at least 30 days. Respondent argues that a reprimand is the appropriate sanction. He also argues, however, that the Hearing Board erred in denying his motion for a directed verdict and in finding that he violated Rules 1.15(a) and 8.4(c).

For the reasons that follow, we find that the Hearing Board did not err in denying Respondent's motion for a directed verdict, and we affirm the Hearing Board's findings that Respondent committed the charged misconduct. We also agree with the Hearing Board's recommendation that Respondent be reprimanded.

FACTS

The facts are fully set out in the Hearing Board's report, and are summarized only to the extent necessary here.

Respondent

Respondent was admitted to practice law in Illinois in 1983. He worked at three law firms in the Champaign-Urbana, Illinois area, between 1983 and 2013. He opened his own law firm, in Champaign, in 2013, and he has been a solo practitioner since then. Most of his work involves representing approximately 40 drainage districts, which are small municipal bodies. He handles reports, notices, and filings requirements on their behalf, and he has worked with those clients for more than 20 years. Respondent has no prior discipline.

Respondent's Misconduct

Respondent took $2,902 that he was holding in his trust account for third parties, without authority, for his own benefit, knowing that it was wrong to do so.

In 2011, Respondent purchased a law practice from an attorney, Carl Sinder, who was retiring. As part of that purchase, Respondent received a check for $2,977, which constituted funds that Carl Sinder owed to entities associated with real estate transactions, some of which dated back to 1972. Sinder gave Respondent a hand-written list of the entities to whom the funds were owed, and the amounts owed. The list did not include any telephone numbers, addresses, or other contact information.

In 2011, Respondent deposited the check into a bank account, and in 2014, he transferred the funds to a client trust account that he opened after he started his solo law practice. The only money Respondent held in the trust account was the $2,977. Respondent's solo practice did not involve holding funds for clients or third parties.

Respondent spent several weeks trying to locate the entities to whom the funds were owed. He located only two of the names on the list, namely, a drainage district that was owed $5, and a person who was owed $67 from an estate. Respondent paid them what was owed.

Although Respondent tried to locate information to contact the other entities on the list, he was not successful. Based on his investigation, Respondent learned that at least five of the entities had gone out of business before 1990. He could not find the other entities. No one on the list ever contacted Respondent to request payment.

In 2016, Respondent misappropriated $2,544, which he used for his own benefit. Six years later, in March 2022, he misappropriated another $300. At some point, he misappropriated another $58, thereby taking a total of $2,902.

In April 2022, a month after he took the $300, Respondent deposited $3,100 into his client trust account to replace the money he had taken.

Shortly thereafter, Respondent reported his misconduct to the ARDC. (*See* Resp. Ex. 7, Respondent's letter to the ARDC.) In his letter to the ARDC, Respondent admitted that he misappropriated $2,902, which he acknowledged was an ethics violation. He stated that misusing those funds was unacceptable; it was clearly a failure of judgment; and it was appalling. In the letter, he stated that the law practice he took over from Carl Sinder was completely disorganized, and he spent a tremendous amount of time reviewing hundreds of old files and taking the steps needed to properly close those files and tie up loose ends, which also resulted in his incurring

expenses. Respondent was 68 years old at the time he submitted the letter in 2022. Respondent testified that he self-reported his misconduct because he knew that taking money was wrong, and it was his understanding that he had an obligation to report his misconduct.

HEARING BOARD'S FINDINGS AND SANCTION RECOMMENDATION

Misconduct Findings

The Hearing Board found Respondent violated Rule 1.15(a), which requires attorneys to "hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property." The Hearing Board found that Respondent failed to safeguard the $2,902, that he misappropriated from his client trust account. (Hearing Bd. Report at 2, 5-6.)

The Hearing Board also found Respondent violated Rule 8.4(c), which prohibits attorneys from engaging in "conduct involving dishonesty, fraud, deceit, or misrepresentation." The Hearing Board found that Respondent's misappropriation of funds was dishonest, in that he purposefully and knowingly misappropriated those funds, without authority, for his own personal benefit. (*Id*. at 6.)

Findings Regarding Mitigation and Aggravation

In aggravation, the Hearing Board found that this was not an isolated lapse in judgment, in that Respondent took funds in 2016 and 2022. (Hearing Bd. Report at 8.)

In terms of mitigation, the Hearing Board found that there was extensive mitigation. (*Id*. at 6-10.) The Hearing Board considered the following evidence, and made the following findings:

- Respondent accepted responsibility and is genuinely remorseful.
- He practiced law for 40 years, without any prior discipline.

- He self-reported his misconduct, at a time when his misconduct was unlikely to be discovered, absent his self-reporting. The Hearing Board gave significant weight to this factor.

- Respondent's misconduct did not relate to his representation of any clients, and he did not cause harm to anyone, including clients and third parties. The Hearing Board stated, "Respondent's misconduct falls on the less egregious end of the spectrum of conversion matters due to the relatively small amount of funds involved and absence of harm to any client or third party." (Hearing Bd. Report at 8.)

- The Hearing Board concluded it is unlikely that his misconduct will recur, given the particular set of facts in this case.

- A suspension could harm Respondent's municipal clients because they have deadlines that must be met on an on-going basis.

- Respondent provided candid testimony during the disciplinary hearing.

- He fully cooperated in the disciplinary proceedings.

- He testified he would have paid the amounts owed if any of the entities had contacted him.

- He eventually tried to rectify his misconduct by replacing the funds that he had misused.

- The circumstances of this case are unique, including that Respondent was not the attorney who initially received the funds and held them for decades; Respondent tried to locate the entities to whom the funds were owed so that he could pay them; he discovered that at least five of the entities had gone out of business; and he paid money to the entity and individual he did locate.

- He provided a service to Sinder's former clients by properly closing hundreds of files from Sinder's law practice, as well as tying up loose ends and filing wills, which involved a substantial amount of time.

- Respondent has represented his municipal clients for 20 years and provides valuable representation to them.

- Respondent completed three legal education courses pertaining to client trust accounts which shows that he values his law license.

- The Hearing Board found that Respondent does not pose a threat to the public or the profession.

Recommendation

The majority of the Hearing Board recommended that Respondent be reprimanded, and the Hearing Board issued a letter reprimanding Respondent for his misconduct. A dissenting member of the Panel recommended that Respondent be censured, but agreed that a suspension is not appropriate.

ANALYSIS

The Administrator argues that Respondent's misconduct warrants a suspension of at least 30 days, based on the serious nature of Respondent's misconduct.

Respondent argues that a reprimand is the appropriate sanction. He also argues the Hearing Board erred in denying his motion for a directed verdict and in finding that he violated Rules 1.15(a) and 8.4(c).

The Hearing Board's factual findings are entitled to deference and generally will not be disturbed on review unless they are against the manifest weight of the evidence. *See In re Timpone*, 208 Ill. 2d 371, 380, 804 N.E.2d 560 (2004). The Hearing Board's credibility findings are given particular deference because the Hearing Board is able to observe the testimony of the witnesses and judge their credibility. *See In re Franklin*, 2019PR00068 (Review Bd., Jan. 20, 2022) at 13, *petition for leave to file exceptions denied,* M.R. 031177 (May 19, 2022). The Hearing Board's rulings on evidence and procedural issues are reviewed for an abuse of discretion. *See In re Betts-Gaston*, 2008PR00005 (Review Bd., July 18, 2012) at 14, *petitions for leave to file exceptions denied*, M.R. 25529 (Nov. 19, 2012). Questions of law, including the interpretation of disciplinary rules, are reviewed *de novo*. *See In re Thomas*, 2012 IL 113035, ¶ 56, 962 N.E.2d 454 (2012).

For the reasons set forth below, we find that the Hearing Board did not err in denying Respondent's motion for a directed verdict, and we affirm the Hearing Board's findings that Respondent committed the charged misconduct. We also recommend that Respondent be reprimanded.

The Hearing Board's Rulings were Correct

Motion for a directed verdict: The Hearing Board properly denied Respondent's motion for a directed verdict. The complaint charged that Respondent failed to hold third party funds ($2,902) separate from his own personal property, in violation of Rule 1.15(a); and that Respondent engaged in dishonest conduct by using those funds for personal purposes without authority, in violation of Rule 8.4(c). (*See* complaint at 2-3, C000006-000007.) Respondent admitted that he did not hold the $2,902 separate from his own personal property and that he intentionally used those funds for his own purposes without authority. The evidence shows that he violated Rules 1.15(a) and 8.4(c), as charged in the complaint.

Respondent, however, moved for a directed verdict, arguing that the complaint charged him with conversion, which had not been proven under the state law definition of conversion. That argument has no merit. The complaint charged Respondent with violating the Illinois Rules of Professional Conduct, Rules 1.15(a) and 8.4(c), which was proven. The complaint did not charge him with conversion under state law. Therefore, the Hearing Board correctly denied the motion for a directed verdict. (Hearing Bd. Report at 5.)

The complaint does use the term conversion to describe Respondent's misuse of the $2,902. For example, the complaint states, "By using the $2,902.34 set forth in paragraph seven, above, without authority, Respondent engaged in conversion of those funds." (Complaint at 2, C000006.) Although the term conversion accurately describes Respondent's wrongdoing, as

discussed below, identifying the misconduct as conversion in a disciplinary complaint, without further explanation, may create confusion, which could easily be avoided by using different language in the complaint.

In short, we find that the Hearing Board was correct in denying Respondent's motion for a directed verdict.

Respondent's misuse of funds: Respondent argues that he did not violate Rules 1.15(a) and 8.4(c) because his actions did not satisfy the state law definition of conversion. That argument also has no merit. The state law definition of conversion is not applicable in disciplinary cases. *See* Rule 1.15, Comment 1 (2023). As that Comment explains, "The Illinois Supreme Court has drawn a distinction between the common-law tort of conversion and the conduct by an attorney that warrants the imposition of discipline …. Conversion of trust funds occurs when a lawyer uses those funds for a purpose other than that for which they were delivered." In this instance, Respondent admittedly used the $2,902 for a purpose other than that for which it was delivered.

Repayment of funds: Respondent further argues that he did not violate Rules 1.15(a) and 8.4(c) because he repaid the funds. That argument fails. The repayment of funds does not eliminate or erase the attorney's misuse of funds. *See In re Acosta*, 2021PR00037 (Review Bd., Dec. 28, 2022) at 7, *approved and confirmed*, M.R. 031661 (June 6, 2023) ("Respondent's repayment of the funds does not erase his intentional misuse of client funds or absolve him of his wrongdoing, and it does not change the fact that Respondent deliberately took client funds without authority."); *In re Rotman*, 136 Ill. 2d 401, 422-23, 556 N.E.2d 243 (1990) ("[R]estitution does not purge the original wrongdoing."); *In re Rolley*, 121 Ill. 2d 222, 234, 520 N.E.2d 302 (1988) ("[I]t is well settled that restitution will not serve as a defense to a disciplinary action."). A contrary

ruling would allow attorneys to misuse whatever funds they wanted, whenever they wanted, as long as they eventually repaid the funds, which cannot be allowed.

Thus, we affirm the Hearing Board's findings that Respondent committed the charged misconduct, in violation of Rules 1.15(a) and 8.4(c).

SANCTION RECOMMENDATION

The Hearing Board recommended that Respondent be reprimanded for his misconduct. We review the Hearing Board's sanction recommendations based on a *de novo* standard. *See In re Storment*, 2018PR00032 (Review Bd., Jan. 23, 2020) at 15, *petition for leave to file exceptions denied*, M.R. 030336 (June 8, 2020). In making our recommendation, we consider the nature of the proved misconduct, and any aggravating and mitigating circumstances shown by the evidence, while keeping in mind that the purpose of discipline is not to punish but rather to protect the public, maintain the integrity of the legal profession, deter misconduct, and protect the administration of justice from reproach. *In re Gorecki*, 208 Ill. 2d 350, 360-61, 802 N.E.2d 1194 (2003).

The Administrator argues that Respondent should be suspended for at least 30 days given the serious nature of the misconduct. Respondent, on the other hand, argues that the Hearing Board was correct in recommending a reprimand.

We conclude that a reprimand is the appropriate sanction in this matter, given the unique circumstances of this case and the noteworthy mitigating factors.

Mitigating Factors

There is extensive mitigation in this case, which weighs heavily in favor of a reprimand. We believe that the mitigating evidence shows that Respondent will practice law ethically and professionally in the future.

Notably, Respondent practiced law for 40 years, and has an unblemished record, with no prior discipline during his lengthy career. Respondent's misconduct was completely unrelated to his representation of his clients, and had nothing to do with his ordinary practice of law. Respondent otherwise operated his law practice in a responsible manner, and the Hearing Board found that Respondent provided valuable representation to his municipal clients. Significantly, there is no evidence that his misconduct directly harmed anyone.

Respondent accepted responsibility and expressed genuine remorse, he understands his ethical obligations, and he recognizes the seriousness of his misconduct. He also fully cooperated with the disciplinary process. Additionally, Respondent completed three legal education courses pertaining to client trust accounts, which shows that he values his law license.

The Hearing Board found that Respondent provided candid testimony at the disciplinary hearing. A review of the transcript shows that Respondent admitted his misconduct honestly and without prevarication. He did not try to minimize his wrongdoing or shift the blame to someone else. On cross examination, Respondent was asked whether the issue had to do with poor bookkeeping, and he replied, "it was not a bookkeeping error …. I took out the money and should not have." (Tr. 60.) Respondent did not offer any false excuses or misleading defenses. We give him credit for his candid testimony.

Respondent also self-reported his misconduct. There is no evidence that his misconduct had been discovered or that it was likely to be discovered. In deciding between a reprimand and a censure, we believe Respondent's self-reporting weighs heavily on the side of the lower sanction. We want to encourage attorneys to report their own misconduct and we find that self-reporting constitutes an important mitigating factor.

Moreover, Respondent testified he would have repaid the funds if he had been able to locate the entities, and he always had the means to repay the funds. Furthermore, in his ordinary practice, Respondent does not hold funds on behalf of his clients or third parties; he handles all matters on a monthly billing basis with no advancement of fees, which significantly reduces the risk that he will repeat his misconduct.

Respondent has represented approximately 40 municipal drainage districts for 20 years and those clients have strict filing and reporting deadlines that must be met. The needs of those clients cannot simply be postponed or ignored in light of the existing deadlines. A similar issue was addressed in *In re Towles*, 98 Ill. 2d 179, 456 N.E.2d 127 (1983). The attorney in *Towles* was censured for willfully failing to file tax returns for three years, which resulted in a conviction. Although the facts in *Towles* are not similar to the facts here, the Court found it significant that Towles did not present a risk to the public, he did not harm any clients, and his clients would suffer if he were suspended. The Court stated:

> 'Our primary consideration in determining the nature and extent of discipline to be imposed in any particular case is the protection of the public and the integrity of the profession.' … The 'public' which is to be protected through disciplinary measures is comprised of the public at large, but primarily consists of those who are directly affected by the attorney's professional conduct …. [Respondent's misconduct has not] adversely affected those with whom respondent has had professional dealings, and … respondent's clients will suffer if he is suspended from the practice of law.

98 Ill. 2d at 185-86 (citation omitted). In this instance, Respondent's misconduct did not adversely affect anyone with whom he has had professional dealings, and his clients are likely to suffer if he is suspended given the strict deadlines that they must meet.

The Administrator points out that Respondent failed to present any character witnesses to testify about his honesty, integrity, and trustworthiness We do not hold that against him. In our opinion, Respondent's actions, including his self-reporting and his candid testimony,

speak to the issue of his honesty and integrity. Additionally, Respondent represented a large number of clients for 20 years, which indicates that those clients trust him.

We have also taken into consideration the unique set of facts in this case. Respondent essentially inherited a problem not of his own making, involving funds obtained by another attorney years ago. Respondent attempted to locate the owners of the funds, which he was unable to do, and no one contacted him about the money.

We also find it mitigating that Respondent closed hundreds of files from Sinder's law practice, which had not been properly closed. He also located clients in order to return original wills to them; he filed wills for a number of Sinder's clients; and he tied up loose ends in many of Sinder's cases. In doing so, he spent a large amount of time, and paid various fees out of his own pocket. According to Respondent, he did not carefully review Sinder's law practice before taking it over because he had been diagnosed with cancer and was receiving treatment around the time that he purchased the practice.

While the mitigating factors do not excuse Respondent's misconduct, they make it clear that he is not an unscrupulous attorney who set out to take advantage of his clients by using their money. The Hearing Board concluded that Respondent's "misconduct is unlikely to recur and he does not pose a threat to the public or the profession." (Hearing Bd. Report at 8.) We agree.

Relevant Legal Authority

We have considered all of the cases cited by the parties and the Hearing Board, as well as the other cases discussed below, and we conclude that a reprimand is the appropriate sanction. We believe that it will serve the purposes of attorney discipline, and that a suspension or censure will not accomplish anything more than a reprimand will accomplish.

The Administrator cites a number of cases in which attorneys were suspended for dishonestly converting funds. *See e.g., In re Knowles*, 2015PR00073 (Review Bd., April 5, 2017), *petition for leave to file exceptions allowed,* M.R. 028744 (Oct. 13, 2017) (30-day suspension for dishonestly converting $4,354 of client funds; her misconduct involved five client matters; she was struggling financially and put the clients' funds at risk; and her misconduct involved multiple instances of the misuse of funds); *In re Kelly*, 2020PR00029 (Hearing Bd., June 17, 2021), *approved and confirmed*, M.R. 030908 (Oct. 14, 2021) (90-day suspension for dishonestly converting $2,230 of funds being held in an escrow account; Respondent was an attorney for a title company, and was responsible for holding and distributing funds for real estate transactions; his misuse of funds was discovered during an audit; the Hearing Board rejected his testimony that he believed he was entitled to the funds; and, Respondent was using an escrow account, thereby avoiding oversight, even though an auditor from the title company recommended the use of a trust account, which was the proper type of account to hold the funds); *In re Peters*, 2012PR00048 (Review Bd., May 27, 2014), *approved and confirmed*, M.R. 26828 (Oct. 3, 2014) (30-day suspension for misappropriating $1,300 in client funds, and failure to repay the funds for a year, until the client complained to the ARDC; he also provided a misleading response to the ARDC concerning the client's funds).

The cases cited by the Administrator, including *Knowles*, *Kelly*, and *Peters*, are distinguishable based on the unusual circumstances and mitigating factors in this case. Most notably, those cases do not have the combination of several very significant mitigating present here, namely, that Respondent self-reported his misconduct; Respondent's misconduct did not relate to his representation of any clients; Respondent does not hold client funds or third party funds as part of his legal practice; Respondent provided candid testimony; and he has practiced

law for 40 years with an unblemished record. Thus, we find that the cases cited by the Administrator are not persuasive in this instance.

Instead, we find that the cases discussed below provide guidance here. In *Homyk*, *Mandel*, and *Burr*, the attorneys were censured for dishonest conduct, which was somewhat more extensive than the misconduct here. In *Hoeschler*, *Cheung*, and *Porzenski*, the attorneys were reprimanded, and the gravity of their misconduct is comparable to the gravity of the misconduct here.

In *In re Homyk*, 2014PR00154*, petition to impose discipline on consent allowed*, M.R. 27728 (Jan. 21, 2016), the attorney was censured for dishonesty, conversion, failure to refund unearned fees, and other misconduct. Homyk took the client's money; he failed to file a lawsuit for his client and did nothing on the case; he misappropriated the advanced costs of $337; and he failed to refund the unearned fee of $3,500 for three years, until after the ARDC filed a complaint, despite his client's request for repayment. He also initially failed to cooperate with the disciplinary investigation. He deposited the client's funds into his personal account because he did not have a trust account; he failed to disclose to his client that he had not filed a lawsuit; he ignored the letters and subpoena issued by the ARDC; and he failed to produce any documents or appear for a sworn statement. In mitigation, he eventually repaid the funds; he had no prior discipline; he opened a trust account; he participated in the disciplinary proceedings after the complaint was filed; and he had health problems that contributed to his lack of communication.

In *In re Mandel*, 2003PR01513, *petition to impose reciprocal discipline allowed*, M.R. 19028 (Nov. 17, 2003), the attorney was censured for engaging in dishonest conduct relating to travel expenses involving airline tickets, in violation of Rule 8.4(c). On one occasion, Mandel used his corporate credit card to purchase two round trip plane tickets; he used one ticket for

business travel, and exchanged the other ticket to pay for a flight to Florida for a personal vacation. On another occasion, he purchased a round trip ticket for $1,050, but he did not use that ticket. Instead, he returned the ticket, and submitted an expense memorandum to his law firm, which contained false information, seeking reimbursement for the $1,050 ticket. The law firm reimbursed Mandel, and the client reimbursed the law firm.

In *In re Burr*, 2021PR00004, *petition to impose discipline on consent allowed*, M.R. 031039 (Jan. 20, 2022), the attorney was censured for engaging in dishonest conduct in violation of Rule 8.4(c). In support of his request for payment of legal fees, Burr submitted a summary to the U.S. Trustee in a bankruptcy case, which contained false information concerning the work he did in that case. He also directed his client to sign a false declaration, and he lied to the court by stating that his client's declaration was true and accurate. In mitigation, he had practiced for 25 years without prior discipline, he accepted responsibility and expressed remorse, he cooperated and refunded his client's fees.

We believe that *Homyk*, *Mandel*, and *Burr* are comparable to this case, in that the attorneys engaged in dishonest conduct relating to using or obtaining funds. While those cases resulted in censures rather than reprimands, they also involved misconduct that is somewhat more serious than the misconduct here. In *Homyk*, the attorney took the client's money, did nothing, refused to return the money, and initially failed to cooperate with the ARDC. In *Mandel* and *Burr*, the attorneys actively attempted to obtain funds through fraud, and, unlike Respondent, the attorneys made false statements. Additionally, those cases do not have the same combination of mitigating factors that are present in this case. Therefore, in our opinion, *Homyk*, *Mandel*, and *Burr* support a reprimand in this case.

We also believe that three other cases discussed below, *Hoeschler*, *Porzenski*, and *Cheung*, are similar to this case in terms of the seriousness of the misconduct. The attorneys in those cases were reprimanded.

In *In re Hoeschler*, 2018PR00110, *petition to impose reciprocal discipline allowed*, M.R. 029676 (March 19, 2019), the attorney was reprimanded for filing and settling property tax appeals, over a period of three years, without the permission of the property owners, and making false statements to the tax court in violation of Rule 8.4(c). Hoeschler falsely represented to the tax court that he was the attorney for the property owners, even though they had specifically declined to be represented by him, in part because they did not want their property values to be decreased based on the tax assessments. In aggravation, he did not report to the ARDC that he had been reprimanded in Minnesota. In mitigation, Hoeschler accepted responsibility and the property owners were not directly harmed.

In *In re Porzenski*, 2007PR01509, *petition to impose reciprocal discipline allowed*, M.R. 21810 (Sept. 18, 2007), the attorney was reprimanded for engaging in dishonest conduct in connection with his representation of a husband and wife in a medical malpractice case. Porzenski signed a document falsely representing that he witnessed his clients sign a Release and Settlement Agreement, and that he had explained the terms of settlement to them. In fact, Porzenski admitted that he was not present when the documents were signed, and he had not explained the documents to his clients. Porzenski knew that the husband had rejected the settlement offer and had refused to sign the documents. In aggravation, Porzenski did not disclose to the ARDC that he had been sanctioned in Missouri, and he had previously been admonished for misconduct. In mitigation, he cooperated and was forthright in answering questions.

In *In re Cheung*, 2011PR00101, *petition to impose reciprocal discipline allowed*, M.R. 24838 (Nov. 17, 2011), the attorney was reprimanded for engaging in dishonest conduct in violation of Rule 8.4(c). Cheung caused a mistrial in a criminal case involving a bench trial by passing a note to the judge, urging the judge to convict the defendant. Following the mistrial, the judge met in chambers with Cheung and the attorneys of record, and Cheung intentionally made a false statement concerning his actions in order to avoid being held responsible for his misconduct. In mitigation, Cheung self-reported his misconduct, and he accepted responsibility, expressed remorse, apologized, cooperated, and had no prior discipline.

We believe that the misconduct in *Hoeschler*, *Porzenski*, and *Cheung* is comparable to the misconduct here in terms of severity, and that a reprimand is also appropriate in this case.

CONCLUSION

For the foregoing reasons, we find that the Hearing Board did not err in denying Respondent's motion for a directed verdict, and we affirm the Hearing Board's findings that Respondent committed the charged misconduct. We recommend that Respondent be reprimanded. We also adopt the letter of reprimand issued by the Hearing Board. We find that a reprimand is commensurate with Respondent's misconduct; it will serve the goals of attorney discipline; and it is consistent with discipline that has been imposed for comparable misconduct.

Respectfully submitted,

J. Timothy Eaton
Bradley N. Pollock
Michael T. Reagan

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Review Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on February 15, 2024.

/s/ Michelle M. Thome
Michelle M. Thome, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

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

In the Matter of: **JAMES DOUGLAS COTTRELL,** Respondent-Appellee, No. 6184207.	Commission No. 2022PR00069

PROOF OF SERVICE
OF THE REPORT AND RECOMMENDATION
OF THE REVIEW BOARD

I, Andrea L. Watson, hereby certify that I served a copy of the Report and Recommendation of the Review Board on the parties listed at the addresses shown below by email and regular mail, by depositing it with proper postage prepaid, by causing the same to be deposited in the U.S. Mailbox at One Prudential Plaza, 130 East Randolph Drive, Chicago, Illinois 60601 on February 15, 2024, at or before 5:00 p.m. At the same time, a copy was sent to Counsel for the Administrator-Appellant by e-mail service.

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Michelle M. Thome,
Clerk

/s/ Andrea L. Watson
By: Andrea L. Watson
Deputy Clerk

FILED

February 15, 2024

ARDC CLERK