

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

In the Matter of:

**DAVID MARK LAZ,

Attorney-Respondent,

No. 6182860.**

**Commission No. 05 CH 114
FILED - December 15, 2005**

COMPLAINT

Mary Robinson, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, Cass R. Buscher, pursuant to Supreme Court Rule 753(b) and 761, complains of Respondent, David Mark Laz, who was licensed to practice law in the State of Illinois on November 1, 1982, and alleges that Respondent has engaged in the following conduct which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute:

COUNT I

(Neglect of appeal - Kenneth Brooks)

- 1. On September 2, 1997, the Hon. Edmund Ponce de Leon entered judgment ("judgment for dissolution") dissolving the marriage between Kenneth Brooks ("Brooks") and Evelyn Brooks ("Evelyn") in the matter entitled *In re The Marriage of Evelyn A. Brooks, Petitioner, and Kenneth A. Brooks, Respondent*, case number 96 D 7144, Circuit Court of Cook County. The judgment for dissolution incorporated a joint parenting order that had been entered on October 1, 1996 in case number 96 D 7144.**
- 2. In or about April 1999, Respondent agreed to represent Brooks in certain post-decree matters relating to custody of the children born to Brooks and Evelyn ("children").**
- 3. On April 19, 1999, Evelyn filed a *Petition to Dissolve Joint Parenting Order* in case number 96 D 7144.**
- 4. On April 20, 1999, Respondent filed on Brooks' behalf a *Petition for Modification of Custody* in case number 96 D 7144.**
- 5. On January 16, 2001, the Hon. Karen G. Shields entered an order in**

case number 96 D 7144 that, in part, dissolved the joint-parenting order and agreement and awarded Evelyn sole custody of the children.

6. On February 1, 2001, Respondent filed a *Notice of Appeal* in case number 96 D 7144 appealing from Judge Shields' January 16, 2001, order. On February 16, 2001, the Clerk of the Illinois Appellate Court, First District ("Appellate Court"), docketed the appeal as case number 1-01-0585.

7. On March 16, 2001, Judge Shields entered an order in case number 96 D 7144 awarding attorney fees to Evelyn's attorney and to the children's representative.

8. On or about April 12, 2001, Brooks paid Respondent \$2,500 representing legal fees to pursue an appeal of Judge Shields' January 16, 2001, order.

9. On April 16, 2001, Respondent filed in case number 96 D 7144 a *Motion to Reconsider* the order of January 16, 2001.

10. On July 19, 2001, due to inactivity, the Appellate Court dismissed case number 1-01-0585 for want of prosecution.

11. On or about September 28, 2001, Brooks paid Respondent \$2,000 representing final payment of fees in relation to the appeal of Judge Shields' January 16, 2001, order.

12. On June 12, 2002, Judge Shields entered an order denying Brooks *Motion to Reconsider*.

13. On July 3, 2002, Respondent filed a *Notice of Appeal* in case number 96 D 7144 appealing from orders entered by Judge Shields on January 16, 2001; March 16, 2001; and June 12, 2002. On October 11, 2002, the Clerk of the Appellate Court docketed the appeal as case number 1-02-3058.

14. On November 14, 2002, Respondent filed a *Motion to File Docketing Statement Instantly and for Extension of of (sic) Time to File Appellant's Brief* in case number 1-02-3058.

15. On November 20, 2002, the Appellate Court entered an order granting Respondent's motion described in paragraph 67, above, and extended the time for filing the appellant's brief to within 30 days of entry of its order.

16. Respondent prepared, but never filed a brief on Brook's behalf. Respondent did not file the brief because he believed Brooks owed him additional funds for pursuing the appeal in case number 1-02-3058.

17. On March 13, 2003, the Appellate Court dismissed case number 1-02-3058 for want of prosecution. At no time did Respondent inform Brooks that case number 1-02-3058 had been dismissed for want of prosecution.

18. After March 13, 2003, Respondent took no further action on Brooks' behalf with relation to Brooks' post-decree matters.

19. Sometime thereafter, Brooks terminated Respondent as his attorney and hired new counsel.

20. Respondent did not provide sufficient legal services to warrant his retention of the entire \$4,500 that Brooks paid him to pursue an appeal on Brooks' behalf.

21. As of December 13, 2005, the date Inquiry Panel D voted that a complaint be filed, Respondent had not refunded any of the money Brooks paid Respondent to pursue the appeals on his behalf.

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

- a. failing to act with reasonable diligence and promptness in representing Brooks, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct;**
- b. failing to keep Brooks reasonably informed about the status of his appeal and promptly comply with reasonable requests for information, in violation of Rule 1.4(a) of the Illinois Rules of Professional Conduct;**
- c. failing to refund promptly any part of the fee paid in advance by Brooks that Respondent had not earned, in violation of Rule 1.16(e) of the Illinois Rules of Professional Conduct;**
- d. 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**
- e. 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.**

COUNT II

(Forgery in relation to representation of Samuel Bowes)

23. On or about April 28, 2000, judgment for dissolution of marriage was entered in *In re the Marriage of Lora Bowes, Petitioner, and Samuel E. Bowes, Respondent*, case number 99 D 2285, Circuit Court of Du Page County.
24. On May 28, 2002, Samuel E. Bowes ("Bowes") filed a *pro se* motion to reduce the monthly child support obligation of \$807 that he owed to Lora Bowes, now known as Lora Kendrick ("Kendrick"). The court scheduled a hearing on Bowes' motion for September 16, 2002.
25. On September 16, 2002, Bowes did not appear for the hearing on his motion and the court struck Bowes' motion with prejudice. Shortly thereafter, Respondent agreed to represent Bowes.
26. On September 30, 2002, Respondent filed his appearance on behalf of Bowes and filed a motion to vacate the September 16, 2002, order.
27. On January 27, 2003, the court granted Bowes' motion to vacate and set Bowes' motion to reduce child support for status on February 26, 2003.
28. Between January 27, 2003, and February 26, 2003, Respondent and Kendrick's attorney, Emily R. Carrara ("Carrara"), negotiated and agreed to write a settlement agreement, which stated in part that Bowes' monthly child support obligation would be \$575 a month and placing Bowes' arrearage at \$1,632, and to an agreed order incorporating the terms of the settlement agreement.
29. On February 26, 2003, Bowes did not appear for the status hearing. At the status hearing, Carrara presented Respondent with an original agreed order signed by Kendrick. The matter was continued to March 12, 2003, at which time Respondent was to produce the original agreed order with Bowes' signature added to Kendrick's.
30. As of the status hearing on March 12, 2003, Bowes had not signed the agreed order and the matter was removed from the court's call.
31. Sometime between March 12 and November 14, 2003, without Kendrick's or Carrara's knowledge or consent, Respondent caused handwritten revisions to be affixed to the unexecuted agreed order. The handwritten revisions purported to affect certain original provisions of the order, including reducing Bowes' monthly child support obligation to \$547 from \$575 and placing his arrearage at \$588 instead of \$1,632.
32. On November 14, 2003, although the matter was not scheduled to be heard that day, Respondent appeared before the court without

notice to Kendrick or Carrara and orally moved the court to enter the purported agreed order.

33. Respondent stated to the court: "It's an agreed order that goes back a little bit, but it's on your call, it's on your calendar."

34. Respondent statements to the court as described in paragraph 33, above, were false, because at no time had Kendrick or Carrara agreed to the handwritten changes as described in paragraph 31, above.

35. At all times alleged in the complaint, 720 ILCS 5/17-3 provided, in part, that:

A person commits forgery when, with intent to defraud, he knowingly makes or alters any document apparently capable of defrauding another in such manner that it purports to have been made by another or at another time, or with different provisions, or by authority of one who did not give such authority.

36. On November 14, 2003, based on Respondent's misrepresentation to the court as referred to in paragraph 33, above, the Honorable Joseph S. Bongiorno entered the purported agreed order.

37. At no time thereafter did Respondent send Kendrick or Carrara a copy of the purported agreed order.

38. On or about February 13, 2005, Bowes fled a *pro se* motion entitled "Motion to Adjust Arrears and for Refund." After receiving a copy of this motion, Kendrick learned of the November 14, 2003 order and she advised the DuPage County State's Attorney that the November 14, 2003 had been entered without her knowledge or consent.

39. On April 25, 2005, on behalf of Kendrick, the Du Page County State's Attorney filed a *Motion to Vacate Order of November 14, 2003*.

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

- a. making a statement of material fact or law to a tribunal which the lawyer knows or reasonably should know is false, in violation of Rule 3.3(a) of the Illinois Rules of Professional Conduct;
- b. committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, in violation of Rule 8.4(a)(3), by violating 720 ILCS 5/17-3, forgery;
- c. conduct involving dishonesty, fraud, deceit or

misrepresentation, in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct;

d. 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

e. 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.

COUNT III

(Forgery in relation to representation of Chad Shiffer)

41. On or about June 10, 2003, Respondent agreed to represent Chad Shiffer ("Chad") in relation to Chad's petition to dissolve his marriage to Shelly Shiffer ("Shelly").

42. On June 13, 2003, Respondent caused to be filed on Chad's behalf in the Circuit Court of Cook County a petition for dissolution of marriage, captioned *In re the Marriage of Chad Shiffer and Shelly Shiffer*, and docketed as case number 03 D3 30528.

43. On June 15, 2003, Shelly hired attorney Anthony M. Rocco to represent her in case number 03 D3 30528.

44. From June 15, 2003 through March 29, 2004, case number 03 D3 30528 proceeded as both parties and their counsels negotiated terms of a marital settlement agreement.

45. On or about March 29, 2004, Chad and Shelly executed a *Marital Settlement Agreement* and *Joint Parenting Agreement* outside the presence of Respondent or Rocco, and without the benefit of their advice.

46. On April 22, 2004, Rocco filed a motion to withdraw from representing Shelly.

47. On May 3, 2004, the date of the prove-up of the petition for dissolution, the Court granted Rocco's motion to withdraw. Shelly did not appear in Court on that date.

48. On or before May 3, 2004, without Shelly's knowledge or consent, Respondent caused Shelly's purported signature to be affixed to documents entitled *Appearance; Stipulation and Waiver*; and *Certification and Agreement by Counsel*. Shelly had not reviewed any of the documents prior to Respondent affixing her purported signature to them.

49. The documents referred to in paragraph 48, above, purported to represent, respectively, Shelly's *pro se* appearance on her own behalf in case number 03 D3 30528; her waiver of a two-year statutory waiting period for entering the judgment; and her certification that she contested no issues in the matter and was ready to proceed in the matter by way of uncontested prove-up.

50. At no time had Shelly advised Respondent that she agreed to the terms of the marital settlement agreement and that there were no remaining contested issues.

51. On May 3, 2004, Respondent caused the three documents referred to in paragraphs 47 and 48, above, to be filed in case number 03 D3 30528.

52. At all times alleged in the complaint, 720 ILCS 5/17-3 provided, in part, that:

A person commits forgery when, with intent to defraud, he knowingly makes or alters any document apparently capable of defrauding another in such manner that it purports to have been made by another or at another time, or with different provisions, or by authority of one who did not give such authority. (720 ILCS 5/17-3)

53. By preparing and filing the documents referred to in paragraphs 48 and 49, above, Respondent misrepresented to the court that Shelly did not object to their entry and was able to proceed at the prove-up on May 3, 2004 without her appearance.

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

- a. making a statement of material fact or law to a tribunal which the lawyer knows or reasonably should know is false, in violation of Rule 3.3(a) of the Illinois Rules of Professional Conduct;**
- b. committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, in violation of Rule 8.4(a)(3), by violating 720 ILCS 5/17-3;**
- c. conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct;**
- d. 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

- e. 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.

COUNT IV

(Criminal conduct: Conviction for Attempted Forgery and Attempted Obstruction of Justice)

55. During June 2003, Respondent agreed to represent Daniel Romano ("Romano") in relation to a criminal complaint against Romano in relation to an insufficient funds check in the amount of \$783.69 Romano had tendered to SavWay Liquors ("SavWay") on or about July 18, 2002 to purchase two cases of cognac. The criminal case was captioned *The People v. Romano*, docketed as case number 03 CF 1553 in the Circuit Court of DuPage County.

56. On or about June 20, 2003, Respondent presented to Richard Tucker ("Tucker"), an employee or agent of SavWay, Respondent's funds in the amount of \$783.72 as incentive for Tucker not to testify in case number 03 CF 1553.

57. On or about July 21, 2003, Respondent filed his appearance on behalf of Romano in case number 03 CF 1553.

58. At all times alleged in the complaint 720 ILCS 5/31-4 provided, in part, that:

A person obstructs justice when, with the intent to prevent the prosecution of any person, he knowingly commits the following acts: (b) Induces a witness having knowledge material to the subject at issue to leave the State or conceal himself.

59. At all times alleged in the complaint 720 ILCS 5/8-4(a) provided, in part, that:

A person commits an attempt when, with intent to commit a specific offense, he does an act which constitutes a substantial step toward the commission of that offense.

60. Prior to October 7, 2003, Respondent came into the possession of a checkbook belonging to his client, Donald Boscamp ("Boscamp"). The checkbook contained unused starter checks for account number 2760228003 at Standard Bank. Respondent knew this account to be closed.

61. Respondent came into possession of the checkbook, in part, due to his representation of Boscamp, and at all times alleged in the complaint owed Boscamp a duty of loyalty not to take actions that jeopardized Boscamp.

62. On or about October 7, 2003, Respondent caused the purported signature of Boscamp to be affixed to an unnumbered starter check drawn on account number 2760228003. Respondent caused the check to be made payable to "David M. Laz" in the amount of \$45,000.

63. At no time did Boscamp or anyone on Boscamp's behalf authorize Respondent to cause Boscamp's name to be affixed to the starter check, make a check payable to Respondent, or draw \$45,000 from Standard Bank account number 2760228003.

64. On or about October 7, 2003, Respondent endorsed and caused the starter check to be deposited into account number 5201261509 at LaSalle Bank. Account number 5201261509 was entitled "David Laz, Attorney at Law" and was used as Respondent's business account. Respondent knew at the time he caused the check to be deposited that the starter check had no value because it had been drawn on a closed account.

65. Respondent intended to show the balance of account number 5201261509 after the starter check was deposited to falsely claim he had sufficient funds to pay for repairs being done to his personal residence.

66. At all times alleged in the complaint, 720 ILCS 5/17-3 provided, in part, that:

A person commits forgery when, with intent to defraud, he knowingly makes or alters any document apparently capable of defrauding another in such manner that it purports to have been made by another or at another time, or with different provisions, or by authority of one who did not give such authority.

67. At all times alleged in the complaint, 720 ILCS 5/8-4(a) provided, in part, that:

A person commits an attempt when, with intent to commit a specific offense, he does an act which constitutes a substantial step toward the commission of that offense.

76. On December 9, 2004, the DuPage County State's Attorney filed a criminal complaint in the Circuit Court of Du Page County captioned *People v. David M. Laz*, and docketed as case number 04 CM 7466. Based on the conduct described in paragraphs 56 and 60 through 65, above, the complaint charged Respondent with one count attempt

forgery and one count attempted obstruction of justice. (A certified copy of the complaint is attached as exhibit 1.)

68. On March 2, 2005, the court accepted Respondent's guilty plea and sentenced Respondent to two years conditional discharge, and ordered him to pay court costs and perform 300 hours of public service through the Du Page County Probation Department. (A certified copy of the judgment of conviction is attached as exhibit 2.)

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

- a. breach of fiduciary duty to a client (Boscamp);**
- b. offering an inducement to a witness that is prohibited by 720 ILCS 5/31-4, in violation of Rule 3.4(a)(2) of the Illinois Rules of Professional Conduct;**
- c. committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, in violation of Rule 8.4(a)(3), by violating 720 ILCS 5/8-4(a), attempted forgery;**
- d. committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, in violation of Rule 8.4(a)(3), by violating 720 ILCS 5/8-4(a), Attempted Obstruction of Justice; conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct;**
- e. conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct;**
- f. 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**
- g. 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**

**Cass R. Buscher
Counsel for the Administrator
One Prudential Plaza
130 East Randolph Drive, Suite 1500
Chicago, Illinois 60601-6219
Telephone: (312) 565-2600**

**By: Cass R.
Buscher**