

DECISION FROM DISCIPLINARY REPORTS AND DECISIONS SEARCH

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND

DISCIPLINARY COMMISSION

In the Matter of:

ROD R. BLAGOJEVICH,
Attorney-Respondent,
No. 6186764.

Commission No. 2019PR000
FILED --- August 1, 2019

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Christopher Heredia, pursuant to Supreme Court Rule 761(d), complains of Respondent, Rod R. Blagojevich, who was licensed to practice law in Illinois on May 10, 1984, and alleges that Respondent has engaged in the following conduct which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

COUNT I

(Criminal conviction for wire fraud, attempt to commit extortion, corrupt solicitation, conspiracy to commit extortion, conspiracy to commit corrupt solicitation to defraud the United States, and making false statements to agents of the Federal Bureau of Investigation)

1. At all times alleged in this complaint, Title 18, United States Code, Sections 1343 and 1346 made it a federal criminal offense, punishable by up to 20 years of imprisonment and a fine of up to \$250,000, to transmit or cause to be transmitted by means of wire communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing a scheme or artifice to defraud, after having devised such a scheme or artifice, which included a scheme or artifice to deprive another of the intangible right of honest services.

2. At all times alleged in this complaint, Title 18, United States Code, Section 1951(a) made it a federal criminal offense, punishable by up to 20 years of imprisonment and a fine of up to \$250,000, to obstruct, delay, or affect commerce or the movement of any article or commodity in commerce by extortion.

3. At all times alleged in this complaint, Title 18, United States Code, Section 666(a)(1)(B) made it a federal criminal offense, punishable by up to 10 years of imprisonment and a fine of

up to \$250,000, to corruptly solicit or demand anything of value, as an agent of a state, for the benefit of any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such government involving any thing of value of \$5,000 or more, when the organization, government, or agency receives more than \$10,000 annually in federal funding.

4. At all times alleged in this complaint, Title 18, United States Code, Section 371 made it a federal criminal offense, punishable by up to 5 years of imprisonment and a fine of up to \$250,000, to conspire to commit any offense against the United States or defraud the United States or any of its agencies for any purpose in any matter, and one or more persons do any act to effect the object of that conspiracy.

5. At all times alleged in this complaint, Title 18, United States Code, Section 1001(a)(2) made it a federal criminal offense, punishable by up to 5 years imprisonment and a fine of up to \$250,000, to knowingly and willfully make any materially false, fictitious, or fraudulent statement or representation in any matter within the jurisdiction of the executive, legislative, or judicial branch of the government of the United States.

6. In November 2002, Respondent was elected Governor of the State of Illinois, and was sworn in as the 40th governor on January 13, 2003, having previously served as an assistant state's attorney with the Cook County State's Attorney's Office, and a member of both the Illinois House of Representatives and the United States House of Representatives. Respondent was re-elected to the office in November 2006, and was sworn in for a second term on January 8, 2007.

7. Beginning in or about 2002 to on or about December 9, 2008, Respondent, along with others, devised and participated in a scheme to deprive the people of the State of Illinois of their right to honest services of Respondent in his capacity as Governor. As part of that fraudulent scheme, Respondent used the powers of the Office of the Governor to take governmental actions to obtain financial benefits for Respondent. Respondent's actions included:

- a. attempting to obtain campaign contributions and employment in exchange for appointing a United States Senator to fill the vacancy created by then President-Elect Barack Obama;
- b. soliciting \$25,000 in campaign contributions from Patrick Magoon, Chief Executive Officer of Children's Memorial Hospital, in exchange for enacting legislation to increase the Illinois Medicaid reimbursement rate for specialty-care pediatric physicians; and
- c. soliciting \$100,000 in campaign contributions from racetrack owner John Johnston in exchange for enacting legislation for the renewal of a subsidy requiring Illinois casinos to share a portion of their profits with Illinois racetracks.

8. As part of Respondent's conduct, Respondent made and participated in several telephone calls on October 17, 2008, November 12, 2008, November 13, 2008, and December 4, 2008 with

various parties regarding details to execute the fraudulent scheme, described in paragraph 7, above.

9. In addition to Respondent's conduct, described in paragraphs 7 and 8, above, in March 2005, Respondent made material false statements to agents of the Federal Bureau of Investigation ("FBI") during their investigation into potential corruption and fraud within the Illinois Governor's Office by stating, in summary, that he attempted to keep politics and government separate, and did not keep track of campaign contribution amounts or sources.

10. On December 9, 2008, Respondent was arrested by the FBI and charged in a federal criminal complaint with conspiracy to commit mail fraud and wire fraud, as well as solicitation of bribery.

11. On January 29, 2009, following a four-day hearing before the Illinois Senate, Respondent was impeached from his position as Governor of the State of Illinois in two separate and unanimous votes finding Respondent guilty of abuses of power. As a result of both votes, the Illinois Senate removed Respondent from office and disqualified him from holding any political office in Illinois in the future.

12. On February 4, 2010, a federal grand jury returned a second superseding indictment against Respondent and five other co-defendants, charging Respondent with 24 counts of federal criminal offenses related to racketeering, conspiracy, wire fraud, extortion, corrupt solicitation, and making material false statements to FBI agents, as a result of his actions while elected to the Office of Governor of the State of Illinois. The superseding indictment was filed in the United States District Court for the Northern District of Illinois, captioned *United States of America v. Rod Blagojevich*, case number 08 CR 888-1, and assigned to the Hon. James B. Zagel ("Judge Zagel"). A copy of the second superseding indictment is attached as Exhibit One.

13. On August 17, 2010, following a nearly two-month jury trial, the jury found Respondent guilty of Count 24 only, finding that Respondent knowingly and willfully made materially false statements during interviews with FBI agents during their investigation of Respondent, for stating to agents that he attempted to keep politics and government separate, and did not keep track of campaign contribution amounts or sources. (Exh. 1, at 105-107) The jury did not return verdicts on the remaining 23 counts, and Judge Zagel declared a mistrial as those counts.

14. Following the mistrial on Counts 1 through 23, the United States Attorney's Office for the Northern District of Illinois retried Respondent on 20 counts of the second superseding indictment, described in paragraph 12, above.

15. On June 27, 2011, as a result of Respondent's re-trial, the jury found Respondent guilty on 17 counts, which included Count 3, 5 through 13, 15 through 18, and 21 through 23 of the second superseding indictment. The jury found Respondent not guilty on Count 20, and Judge Zagel declared a mistrial on Counts 14 and 19.

16. In finding Respondent guilty on the 17 counts, described in paragraph 15, above, the jury found that, as Governor:

- a. Respondent committed wire fraud by discussing financial benefits which he could obtain in exchange for 1) appointing a United States Senator to fill the vacancy left by then President-elect Barack Obama, 2) enacting legislation that would benefit to Children's Memorial Hospital and the racetrack industry, as charged in Counts 3, and 5 through 13 of the indictment (Exh. 1, at 44-66, 68-76);
- b. Respondent committed bribery and attempted extortion by trying to obtain campaign contributions from the Chief Executive Officer of Children's Memorial Hospital in exchange for enacting legislation intended to benefit the hospital's physicians, as charged in Counts 15 and 16 of the indictment (Exh. 1, at 78-79);
- c. Respondent conspired to bribe and extort racetrack owner John Johnston by attempting to obtain campaign contributions in exchange for enacting legislation which benefitted the racetrack industry, as charged in Counts 17 and 18 of the indictment (Exh. 1, at 80-87); and
- d. Respondent, along with others, attempted to extort and conspired to commit extortion and bribery by devising and discussing methods to obtain benefits for himself and his wife, Patricia Blagojevich, including high-ranking federal government positions, leadership positions with various organizations, and campaign contributions, in exchange for appointment to the United States Senate, as charged in Counts 21 through 23 of the indictment (Exh. 1, at 90-104).

17. On August 25, 2011, the Administrator filed a Petition for Interim Suspension Pursuant to Supreme Court Rule 774 requesting that the Court issue a rule to show cause and suspend Respondent, on an interim basis, from the practice of law immediately and until further order of the Court as a result of his convictions, referred to in paragraphs 15 and 16, above.

18. On October 26, 2011, based on the Administrator's petition, referred to in paragraph 17, above, the Court entered an order suspending Respondent from the practice of law and until further order of the Court, which became effective immediately. Respondent has remained suspended from the practice of law on an interim basis since that date.

19. On December 7, 2011, Judge Zagel sentenced Respondent to a total of 168 months of incarceration in the United States Bureau of Prisons ("BOP"), and 24 months of supervised release following his release from BOP custody.

20. On December 20, 2011, Respondent filed a notice of appeal in relation to his criminal matter. The United States Court of Appeals for the Seventh Circuit ("Seventh Circuit") held oral arguments in the matter on December 13, 2013.

21. On July 21, 2015, the Seventh Circuit issued its opinion in relation to Respondent's appeal, in which it vacated Respondent's convictions as to Counts 5, 6, 21, 22, 23, vacated Respondent's 168-month sentence, affirmed Respondent's convictions on Counts 3, 7 through 13, 15 through 18, and 24, and remanded the case back to the District Court for retrial on the vacated convictions and resentencing.

22. On March 28, 2016, after Respondent sought to appeal his criminal matter to the Supreme Court of the United States ("U.S. Supreme Court"), the U.S. Supreme Court denied Respondent's petition for writ of *certiorari*.

23. On August 12, 2016, based on the Seventh Circuit's remand for sentencing, Judge Zagel entered an amended judgment, and resented Respondent to a total of 168 months of incarceration in the BOP on Counts 3, 7 through 13, 15 through 18, and 24. A certified copy of the amended judgment is attached as Exhibit Two.

24. On August 23, 2016, Respondent filed a notice of appeal in relation to the amended judgment and sentence, described in paragraph 23, above. On June 13, 2017, based on Respondent's appeal, the Seventh Circuit issued its opinion affirming the amended judgment and sentence.

25. Shortly thereafter, Respondent sought to appeal his matter in relation to the amended judgment and sentence to the U.S. Supreme Court. On April 16, 2018, the U.S. Supreme Court denied Respondent's petition for writ of *certiorari*. As a result, Respondent had exhausted all available remedies and appeals, which left standing Respondent's 13 convictions and corresponding sentences on Counts 3, 7 through 13, 15 through 18, and 24, of the second superseding indictment.

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

- a. committing criminal acts that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects, by conduct including committing and being convicted of the offenses of wire fraud, attempt to commit extortion, corrupt solicitation, conspiracy to commit extortion, conspiracy to defraud the United States, and making material false statements to agents of the Federal Bureau of Investigation, in violation of Title 18 U.S.C. Sections 1343, 1346, 1951(a), 666(a)(1)(B), 371, and 1001(a)(2), in violation of Rule 8.4(a)(3) of the Illinois Rules of Professional Conduct (1990); and
- b. engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including engaging in wire fraud, attempting to commit extortion, corrupt solicitation, conspiracy to commit extortion, conspiracy to defraud the United States, by using the powers of the Office of the Governor to appoint a United States Senator, and enact legislation involving increased Medicaid reimbursement rates, and renewed profit sharing with Illinois racetracks in exchange for obtain

obtaining campaign contributions, political support, and employment, by making and participating in phone calls, solicitation, and extortion attempts, in violation of Title 18 U.S.C. Sections 1343, 1346, 1951(a), 666(a)(1)(B), 371, and 1001(a)(2), in violation of Rule 8.4(a)(4) of the Illinois Rules of Professional Conduct (1990).

WHEREFORE, the Administrator respectfully requests that this matter be assigned to a panel of the Hearing Board of the Commission, that a hearing be held pursuant to Rule 761(d), and that the Hearing Panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

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Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Christopher Heredia
Christopher Heredia