

DECISION FROM DISCIPLINARY REPORTS AND DECISIONS SEARCH

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

In the Matter of:

JOSEPH HENRY MARTIN,

Attorney-Respondent,

No. 6226947.

Commission No. 2011PR00048

FILED - May 20, 2011

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Meriel Coleman, pursuant to Supreme Court Rule 753(b), complains of Respondent, Joseph Henry Martin, who was licensed to practice law in the State of Illinois on May 2, 1995, 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

(Conflict of interest-filing suit against a client while the representation continues)

1. At all times alleged in this complaint, the Little River Band of the Ottawa Indians ("LRBOI") was a federally-recognized Native American tribe located in and around Manistee, Michigan.
2. At all times alleged in this complaint, the Tribal Ogema was the Chief Executive of the LRBOI.
3. At all times alleged in this complaint, the Chief Legislative Counsel was the highest ranking tribal attorney and was the chief legal counsel to the LRBOI's 12-member Tribal Council, which served as the legislative body of the LRBOI. The Chief Legislative Counsel served as the Tribal Council's legal advisor on any and all legal matters involving the LRBOI and has full access to all of the LRBOI's financial and proprietary information that would have otherwise been confidential.
4. At all times alleged in this complaint, the Tribal Court was a court of general jurisdiction with authority to hear and determine all civil and criminal claims and remedies arising within the LRBOI, or in which the LRBOI or an enrolled member was a party.
5. On September 10, 2007, Respondent entered into a written contract for employment as Chief Legislative Counsel with the LRBOI.

6. As a condition of Respondent's employment with the LRBOI, he was obligated to obtain a license to practice law in Michigan within six months of the date of the contract, or on or before March 10, 2008, and was obligated to maintain in good standing his license to practice law in Illinois.
7. As of March 17, 2008, Respondent had not obtained a license to practice law in Michigan and had been removed from the roll of attorneys authorized to practice law in Illinois as a result of not registering or paying the annual registration fees, as required pursuant to Supreme Court Rule 756.
8. On April 14, 2008, Larry Romanelli ("Romanelli"), the Tribal Ogema, sent Respondent written notice of LRBOI's intent to terminate Respondent's employment due to his failure to obtain a license to practice law in Michigan and his failure to maintain in good standing his license to practice law in Illinois.
8. Shortly thereafter, Respondent sought and received a restraining order from the Tribal Court preventing the enforcement of the notice of termination pending judicial determination as to whether Romanelli had the authority to unilaterally terminate Respondent's employment.
10. On May 23, 2008, Respondent filed in the Tribal Court in Manistee, Michigan, a breach of contract claim against the LRBOI based on LRBOI's letter of intent to terminate Respondent's employment as Chief Legislative Counsel. The matter was captioned as *Joseph Martin v. LRBOI Ogema and Larry Romanelli*, Tribal Court case number 08-132-GC.
11. On January 22, 2009, the Honorable Angela Sherigan issued a ruling on behalf of the Tribal Court finding that Romanelli possessed the authority to terminate Respondent's employment. That ruling served to lift the restraining order that prevented the enforcement of the April 14, 2008 notice of termination of Respondent, referred to in paragraph nine, above.
12. On February 16, 2009, Respondent moved to amend his complaint in case number 08-132-GC to add the LRBOI's Tribal Council as a defendant.
13. At the time that Respondent filed case number 08-132-GC and moved to amend his complaint, he was still serving in the capacity of LRBOI's Chief Legislative Counsel.
14. On April 6, 2009, Respondent was notified by Romanelli that Romanelli had reconsidered the decision to terminate Respondent's employment because Respondent had been restored to the roll of attorneys authorized to practice law in Illinois, and that Romanelli, had rescinded the April 14, 2008 notice of termination. At that time, Romanelli reminded Respondent that the terms of Respondent's employment agreement still required him to obtain a license to practice law in Michigan.
15. On May 23, 2009, Respondent and the LRBOI entered into an agreed stipulation to dismiss case number 08-132-GC.
16. As of June 19, 2009, Respondent had not obtained a license to practice law in Michigan. On June 19, 2009, the LRBOI Tribal Council, held a meeting. During the pendency of the meeting, the LRBOI Tribal Council discussed Respondent's employment contract and how his contract could be terminated.
17. During the Tribal Council meeting, Respondent entered the meeting room and inquired about the nature of the Tribal Council's discussions.
18. Upon learning that the discussions pertained to who had authority to terminate Respondent's employment contract, Respondent told the Tribal Council that he would sue them if his employment contract was terminated.

19. When Norbert Kelsey, one of the Tribal Council members, expressed concern to Respondent regarding Respondent's threat to file a suit against the LRBOI, Respondent referred to Councilman Kelsey as a "joke."

20. After Councilman Kelsey left the room, Respondent made the following statements to the remaining Tribal Council Members about Councilman Kelsey:

"I will fucking kill that god damn pervert. I will kill him. If he thinks I won't I'll take that fucking cane of his and shove it right up his ass. Make him into a popsicle. I'm sick of his shit. Questioning me saying I was a token at Northwestern? "

"I'll kill his ass?."

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

- a. continuing to represent the LRBOI when the representation is materially limited by Respondent's own interest, as a result of his having filed a lawsuit against the LRBOI, while still employed as its Chief Legislative Counsel, in violation of Rule 1.7(b) of the 1990 Illinois Rules of Professional Conduct;
- b. in his remarks concerning Councilman Kelsey, using means that have no substantial purpose other than to embarrass, delay, or burden a third person, in violation of Rule 4.4 of the 1990 Illinois Rules of Professional Conduct;
- c. engaging in conduct that is prejudicial to the administration of justice, in violation of Rule 8.4(a)(5) of the 1990 Illinois Rules of Professional Conduct; and
- d. engaging in 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

(Engaging in a conflict of interest by initiating lawsuits against a client while the representation continues and threatening to bring disciplinary charges to gain an advantage in a civil proceeding)

22. The Administrator realleges paragraphs 1 through 21, above.

23. On August 17, 2009, Respondent filed in the Tribal Court in Manistee, Michigan, a second breach of contract claim against the LRBOI, after learning that the LRBOI was again considering terminating his employment as Chief Legislative Counsel. That matter was captioned as *Joseph Martin v. Little River Band of Ottawa Indians, LRBOI Tribal Council, LRBOI Ogema Larry Romanelli*, Tribal Court case number 09-169-GC. At the time that Respondent filed case number 09-169-GC, he was still serving in the capacity of the LRBOI's Chief Legislative Counsel.

24. On October 16, 2009, Stephen Parsons, Tribal Council Speaker ("Parsons"), and Romanelli, on behalf of the LRBOI, sent Respondent a letter formally discharging him as its Chief Legislative Counsel, in part, for failing to obtain a license to practice law in Michigan.

25. On November 3, 2009, Respondent, through counsel, filed another lawsuit in the Tribal Court in Manistee, Michigan against the LRBOI, alleging that the LRBOI had violated its Whistleblower Protection Act by discharging him after he filed case number 09-169-GC. That matter was captioned as *Joseph Martin*

v. *Little River Band*, Tribal Court case number 09-244-GC.

26. On November 6, 2009, Respondent filed another lawsuit in the Tribal Court in Manistee, Michigan against the LRBOI, as well as its Tribal Council, Romanelli, and the Honorable Angela Sherigan under the Indian Civil Rights Act ("ICRA") alleging that his due process and equal protection rights had been violated as a result of Judge Sherigan's decision determining the scope of the LRBOI's constitutional authority to terminate Respondent's employment contract, referenced in paragraph 11, above. That matter was captioned as *Joseph Martin v. Little River Band of Ottawa Indians, LRBOI Tribal Council, LRBOI Ogema Larry Romanelli, Hon. Angela Sherigan*, Tribal Court case number 09-248-GC.

27. At the time that Respondent filed case number 09-248-GC and named Judge Sherigan as a defendant, based on actions taken by her in her judicial capacity, he knew or should have known that, based on prevailing case law under the doctrine of judicial immunity, Judge Sherigan could not be sued for action taken in her judicial capacity.

28. On December 4, 2009, Respondent telephoned David Giampetroni ("Giampetroni"), the attorney representing the LRBOI on all three matters initiated by Respondent, as described in paragraphs 23, 25, and 26, above, and advised Giampetroni that Respondent believed that Giampetroni had an impermissible conflict of interest because Respondent had named separate branches of the tribal government of the LRBOI as defendants in the three lawsuits, and Giampetroni was representing LRBOI and the separate tribal branches named by Respondent in each of his lawsuits. Respondent told Giampetroni that if he did not withdraw from representing the LRBOI in case number 09-169-GC, case number 09-248-GC, and case number 09-244-GC, by the close of business on December 9, 2009, Respondent would initiate disciplinary proceedings against Giampetroni with the State Bar of Michigan.

29. On December 7, 2009, case number 09-248-GC was before the Tribal Court for a hearing on the LRBOI's motion for extension of time to respond.

30. During the December 7, 2009 court proceedings, Respondent stated that he planned to file a disciplinary complaint against Giampetroni when Respondent made the following statement:

"Mr. Giampetroni is?by the way Mr. Giampetroni you should have taken my offer on Friday to withdraw on all of these cases that letter is going to the Michigan Bar on Wednesday."

During the December 7, 2009 proceedings, Respondent acted in an agitated manner and did not make any arguments related to the motion for an extension of time. Instead, Respondent attempted to argue that Giampetroni had a conflict of interest. Respondent also argued 31. that the Honorable Daniel Bailey, who was presiding over case number 09-248-GC, should recuse himself because of an unrelated order that Judge Bailey had entered in a different matter in which Respondent was the plaintiff.

32. During the December 7, 2009 proceedings, Judge Bailey repeatedly told Respondent to sit down. Respondent left the court room prior to the conclusion of the proceedings.

33. Because of Respondent's conduct during the December 7, 2009 court proceedings, Judge Bailey entered an order holding Respondent in direct criminal contempt of court for engaging in conduct that was "unprofessional and irrational" and fining him \$200, which was to be paid within fourteen days of the entry of the order, or by December 21, 2009. As of December 21, 2009, Respondent had not paid the \$200 contempt fine.

34. Shortly thereafter, Respondent filed a notice before the LRBOI's Tribal Court of Appeals appealing the December 7, 2009 order holding him in indirect criminal contempt.

35. On September 23, 2010, the LRBOI's Tribal Court of Appeals entered an order upholding the December 7, 2009 order holding Respondent in direct criminal contempt and fining Respondent \$200 in case number 09-248-GC, as referred to in paragraph 33, above.

36. As of March 2, 2011, Respondent had not paid the \$200 contempt fine. On March 2, 2011, Judge Brott issued a bench warrant for Respondent's arrest.

37. As of the March 7, 2011, the date that Panel A of the Commission Inquiry Board voted the filing of this complaint Respondent had not been located for purposes of executing the March 2, 2011 bench warrant.

38. As of the filing of this complaint, Respondent had not paid the \$200 contempt fine.

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

- a. continuing to represent the LRBOI when the representation was materially limited by the lawyer's own interests as a result of Respondent's lawsuit, in violation of Rule 1.7(b) of the 1990 Illinois Rules of Professional Conduct;
- b. threatening to present a professional disciplinary allegation against David Giampretroni to force his withdrawal from representing the opposing party in civil litigation, in violation of Rule 1.2(e) of the 1990 Illinois Rules of Professional Conduct;
- c. engaging in conduct that is prejudicial to the administration of justice, in violation of Rule 8.4(d)(5) of the 1990 Illinois Rules of Professional Conduct;
- d. engaging in conduct that is prejudicial to the administration of justice, in violation of Rule 8.4(d) of the 2010 Illinois Rules of Professional Conduct; and
- e. engaging in 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

(Communication with a represented party, threatening to reveal client confidence)

40. The Administrator realleges paragraphs 1 through 38, above.

41. On December 11, 2009, Respondent sent a letter directly to the LRBOI, through Larry Rommanelli, Tribal Ogema, and Steve Parsons, Tribal Council, stating, in part:

"As I am sure your legal staff and Mr. Giampetroni have told you, in a breach of contract lawsuit between attorney and client, any and all claim of privilege and confidentiality are deemed waived, and therefore EVERYTHING I learned and/or advised the Tribe of during my tenure, including Commercial Fishing, the Casino, illegal payments to members, lawsuits, personnel, boundary disputes, etc., is fair game in any court of law. And, because of this Tribe's stunning failure to tamp down the staggering amount of information leaked to third parties by certain Tribal Council members and the Ogema,

including legal advice, whether by email to the Karol Ann Chabots of the world and her followers or by other means, all that information is not privileged and/or confidential and can be shared with anybody at my discretion, including federal and state authorities, those opposing the Tribe's efforts, in any venture, etc."

"Thus, based on all of the above and much, much more, in return for voluntarily dropping all lawsuits and a confidentiality agreement covering all knowledge, confidential or not, gained during employment with the Tribe, the Tribe will agree to pay me the sum of \$225,000?."

42. At the time that Respondent sent the letter referenced in paragraph 41, above to the LRBOI, Romanelli, and Parsons, they were all represented by Giampetroni. Respondent knew that they were represented by Giampetroni. At no time did Giampetroni authorize Respondent to contact the LRBOI, Romanelli, or Parsons.

43. At the time that Respondent sent the letter referenced in paragraph 41, above, he knew or should have known that the letter would serve no purpose other than to harass the recipients.

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

- a. asserting a position or taking other action that Respondent knew or reasonably should know would serve to merely harass or maliciously injure another by sending the December 11, 2009 letter, in violation of Rule 1.2(f) (1) of the 1990 Illinois Rules of Professional Conduct;
- b. communication with a party in a proceeding known by Respondent to be represented by counsel, in violation of Rule 4.2 of the 1990 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 1990 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.

COUNT IV

(Filing a frivolous lawsuit-Honorable Angela Sherigan)

45. The Administrator realleges paragraphs 1 through 43, above.

46. On July 7, 2010, the Honorable Wilson D. Brott entered orders on motions to dismiss and/or for summary disposition filed by the LRBOI, its Tribal Council and Romanelli dismissing with prejudice case numbers 09-169-GC, 09-244-GC, and 09-248-GC.

47. In the order dismissing case number 09-248-GC, Judge Blott found that Respondent's claims against Judge Sherigan, were frivolous and without arguable merit. Respondent was ordered to pay Judge Sherigan's costs, including reasonable legal fees.

48. Shortly thereafter, Judge Sherigan submitted a Bill of Costs to the court requesting \$13,996.66 in attorney's fees and expenses from Respondent as a result of his filing of case number 09-248-GC. Respondent received Judge Sherigan's Bill of Costs shortly after it had been filed.

49. On July 30, 2010, Judge Brott entered a judgment and order allowing the Bill of Costs and ordering Respondent to pay \$13,996.66 to Judge Sherigan within 21 days of the order, or by August 20, 2010. The order further provided that Respondent could file objections to the Bill of Costs with the court within fourteen days of the order. Respondent received a copy of the order shortly after it was entered. At no time did Respondent file an objection to Judge Sherigan's Bill of Costs.

50. As of December 20, 2010, Respondent had not paid Judge Sherigan's costs and reasonable legal fees. On December 20, 2010, Judge Brott conducted a hearing in which he requested financial information from Respondent to determine the appropriate sanction for Respondent's failure to pay Judge Sherigan's costs and attorney fees.

51. On January 10, 2011, Judge Brott issued an order in case number 09-248-GC requiring Respondent to complete an affidavit concerning Respondent's financial condition, and to file the affidavit with the LRBOI Tribal Court and provide a copy to Judge Sherigan's attorney on or before January 21, 2011.

52. As of February 11, 2011, Respondent had not provided a financial affidavit to the Tribal Court or Judge Sherigan's attorney. On February 11, 2011, Judge Brott entered an order in case 09-248-GC finding Respondent in contempt of court and requiring him to pay a \$200 contempt fine within 21 days of the order for failing to file his financial affidavit or request for an extension of time to file his financial affidavit. The order further provided that if Respondent failed to timely pay the contempt fine, he was to serve three days in jail. Respondent received a copy of the order shortly after it had been entered.

53. As of the filing of this complaint, Respondent has not paid Judge Sherigan's court ordered attorney's fees and costs associated with case number 09-248-GC.

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

- a. advancing a claim against the Honorable Angela Sherigan that the lawyer knows is unwarranted under existing law, in violation of Rule 1.2(f)(2) of the 2010 Illinois Rules of Professional Conduct;
- b. bringing a frivolous proceeding, in violation of Rule 3.1 of the 2010 Illinois Rules of Professional Conduct;
- c. conduct that is prejudicial to the administration of justice, in violation of Rule 8.4(d) of the 2010 Illinois Rules of Professional Conduct;
- d. engaging in conduct that is prejudicial to the administration of justice, in violation of Rule 8.4(d) of the 2010 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 V

(Filing a frivolous lawsuit-September 29, 2010)

55. The Administrator realleges paragraphs 1 through 53, above.

56. On September 29, 2010, Respondent filed in the Tribal Court a third complaint for breach of contract against the LRBOI, as well as its Tribal Council and Romanelli. That matter was captioned as *Joseph Martin v. Little River Band of Ottawa Indians, LRBOI Tribal Council, LRBOI Ogema Larry Romanelli*, Tribal Court case number 10-210-GC.

57. Respondent's allegations in case number 10-210-GC arose from the LRBOI terminating Respondent's employment contract before the expiration of the 60-day notice period referred to in paragraph six of the contract; the elimination of Respondent's training and travel budget; and failure of the LRBOI to comply with the provision in Respondent's employment contract that provides that Respondent was to receive compensation deemed equitable through the date of his termination should he and the LRBOI not be able to reach an agreement within 15 days after the date of termination.

58. Respondent's claims relating to the termination of Respondent's employment contract before the expiration of the 60-day notice period and the elimination of Respondent's training and travel budget had previously been dismissed by the court with prejudice in 09-169-GC and 09-244-GC.

59. With respect to Respondent's claim involving paragraph six of his employment contract, Respondent had been previously afforded the opportunity to amend his complaints in 09-169-GC and 09-244-GC to include his claims relating to paragraph 6, but failed to do so.

60 The complaint filed by Respondent in 10-210-GC was largely factually identical to the complaints filed in case numbers 09-169-GC, 09-244-GC, and 09-248-GC, which had been dismissed by the court.

61. At the time that Respondent filed case number 10-210-GC, he knew or should have known that the claims contained in his complaint were largely factually similar to his prior complaints that had been disposed of by the court. Respondent knew or should have known that the complaint filed in case number 10-210-GC lacked legal merit and was a frivolous complaint that served no other purpose but to harass or unduly burden the defendants.

62. Shortly thereafter, LRBOI, the Tribal Council, and Romanelli filed a motion for summary disposition, costs, and injunctive relief in case number 10-210-GC.

63. On February 7, 2011, Judge Brott entered an order granting the motion for summary disposition, costs, and injunctive relief, stating that Respondent's claims in case number 10-210-GC were "nearly identical to claims brought in prior actions involving the identical Defendants."

64. Judge Brott also ruled that Respondent's complaint was frivolous for the following reasons:

"First, because Plaintiff's complaint was without legal merit and Plaintiff was or should have been aware of the lack of legal merit. The claims made were not warranted by existing law, nor was a non-frivolous argument for reversing, extending, or modifying existing law present. Second, because the Plaintiff has filed a steady stream of lawsuits related to his termination of employment, each of which has been unsuccessful, the court must conclude that the suit's primary purpose was to harass, embarrass, or injure the Tribe, and to cause the Tribe to incur additional expenses in defending the actions. The court finds that the Plaintiff should be sanctioned, and that the Defendants should be compensated reasonable attorney fees, costs and

expenses incurred in defending this action."

65. Judge Brott further ordered that Respondent was "permanently enjoined from filing any civil lawsuit alleging or asserting factual or legal claims based upon or arising out of the legal or factual claims" alleged in case number 10-210-GC or any of the prior cases filed by Respondent "without first obtaining certification from a Tribal Judge that the claim or claims asserted are not frivolous and that the suit is not brought for an improper purpose." Respondent received a copy of the order shortly after it had been entered.

66. On February 28, 2011, the LRBOI, the LRBOI Tribal Council, and Romanelli submitted a Bill of Costs to the court requesting \$11,305.27 in attorney's fees and expenses from Respondent as a result of his filing 10-210-GC. Respondent received a copy of the Bill of Costs shortly after it was filed.

67. On March 1, 2011, Judge Brott entered a judgment and order allowing February 28, 2011 Bill of Costs and ordering Respondent to pay \$11,305.27 to the LRBOI, the LRBOI Tribal Council, and Romanelli within 21 days of the order, or by March 22, 2011. The order further provided that Respondent could file objects to the Bill of Costs with the court within fourteen days of the order.

68. At no time did Respondent file objections to the Bill of Costs.

69. As of the filing of this complaint, Respondent has not paid the judgment ordered on March 1, 2011 related to the Bill of Costs.

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

- a. bringing a frivolous proceeding, in violation of Rule 3.1 of the 2010 Illinois Rules of Professional Conduct;
- b. conduct that is prejudicial to the administration of justice, in violation of Rule 8.4(d) of the 2010 Illinois Rules of Professional Conduct; and
- c. 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 VI

(Filing a frivolous lawsuit-relating to ARDC Investigation)

71. The Administrator realleges paragraphs 1 through 69, above.

72. At all times alleged in this complaint, Supreme Court Rule 775 provided that "any person who submits a claim to the Client Protection Program or who communicates a complaint concerning an attorney to the Commission, or its administrators, staff, investigators, or any member of its boards, shall be immune from all civil liability which, except for this rule, might result from such communications or complaint." Respondent knew or should have known of the existence of Supreme Court Rule 775.

73. On February 3, 2010, the Administrator received a request for investigation of a lawyer from Romanelli and Parsons, on behalf of the LRBOI. That request alleged that Respondent was engaging in the unauthorized practice of law, that Respondent had filed harassing lawsuits against the LRBOI, that Respondent threatened to file disciplinary charges against the LRBOI's attorney in an effort to gain an advantage in the lawsuits that Respondent had filed against LRBOI and that Respondent had threatened to reveal client confidences in an attempt to force the LRBOI to settle Respondent's lawsuits. The Administrator docketed an investigation and assigned the matter case number 2010IN00568.

74. On February 17, 2010, counsel for the Administrator sent Respondent a letter advising him of the allegations made in case number 2010IN01474 and requesting that he respond in writing within fourteen days. Respondent received the letter shortly after it had been mailed.

75. On March 9, 2010, Respondent sent a letter to Larry Romanelli, Tribal Ogema for LRBOI and Steven Parsons, Tribal Council for LRBOI which stated, in part, the following:

" It has come to my attention that statements made by the Little River Band of

Ottawa Indians ("Tribe") by the Ogema and Tribal Council, including written statements made to the Illinois Attorney Registration and Disciplinary Commission ("IARDC"), are defamatory and constitute a libel *per se*. By this letter and pursuant to the laws of the Tribe, the State of Michigan, and the United States, I demand that you immediately retract the libelous statements (including, but not limited to those statement specifically designated below). I further insist that you refrain from making or in any way publishing any further false and defamatory statements. A copy of my reply to the IARDC regarding such statements is included for your review."

"Statements constituting libel *per se* are automatically actionable as a matter of law and without the necessity of proof of any special damages?"

"Additionally, the Tribe included many other written statements to the IARDC that will prove to be libel while not necessarily being libel *per se*?"

"I am confident that if you consult any experienced attorney, you will be advised that such statements subject you to liability. This demand is, therefore, a very reasonable one. Please retract and stop these unfounded and defamatory statements. Should you fail to do so, I may have no alternative but to pursue all available legal remedies."

76. As of April 23, 2010, the LRBOI has not responded to Respondent's letter, referred to in paragraph 75, above. On April 23, 2010, Respondent filed a lawsuit in the Circuit Court of Manistee County, Michigan against the LRBOI, Steven Parsons, Tribal Council Speaker, Janine Sam, Tribal Council Recorder, Robert Whiteloon, Tribal Councilor, Candace Chapman, Tribal Councilor, Virgil Johnson, Tribal Councilor, Loretta Becarria, Tribal Councilor, Pat Rutter, Tribal Councilor, Sandra Mezeske, Tribal Councilor, Larry Romanelli, Tribal Ogema, David Giampetroni, the State of Michigan, Jennifer M. Granholm, Governor of the State of Michigan, and John Wernet, Dupty Legal Counsel of the State of Michigan, alleging, in part that the defendants had defamed Respondent in the request for investigation submitted to the Commission on behalf of the LRBOI. That matter was captioned as *Joseph Martin v. Little River Band, et al*, case number 10-13845-CZ.

77. On April 23, 2010, Respondent sent a copy of the complaint to Romanelli and Parsons along with a letter

stating that he was withholding service of process on the named defendants to give the LRBOI time to consider possible resolution or discussion of any and all outstanding claims against it by Respondent.

78. Upon not receiving a response from the LRBOI, Respondent served summons and a copy of the complaint in case number 10-13845-CZ on all named defendants.

79. On or around May 27, 2010, Keefe A. Brooks, the attorney representing all defendants affiliated with the LRBOI, including Giampetroni, filed a motion for summary disposition and a supporting brief arguing that the defendants were immune because statements made in disciplinary proceedings were privileged and could not form for the basis for liability. He also argued that suits against the LRBOI and its legal counsel were barred by the doctrine of sovereign immunity.

80. On July 7, 2010, Respondent filed his reply brief asking that the motion for summary disposition be denied.

81. On July, 13, 2010, prior to the court's ruling on the motion for summary disposition, the parties in case number 10-13845-CZ entered into an agreement for a stipulated order of dismissal with prejudice.

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

- a. bringing a frivolous proceeding , in violation of Rule 3.1 of the 2010 Illinois Rules of Professional Conduct;
- b. conduct that is prejudicial to the administration justice, in violation of Rule 8.4(d) of the 2010 Illinois Rules of Professional Conduct; and
- c. 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,

Jerome Larkin,
Administrator
Attorney Registration
and
Disciplinary Commission

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