

**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**

In the Matter of

CHRISTOPHER D. LIBERTELLI,

Respondent

**Member of the Bar of the District of
Columbia Court of Appeals**

(Bar Registration No. 451351)

Disciplinary Docket No. 2019-D072

SPECIFICATION OF CHARGES

The disciplinary proceedings instituted by this petition are based upon conduct that violates the standards governing the practice of law in the District of Columbia as prescribed by D.C. Bar R. X and XI, § 2(b).

Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar R. XI. Pursuant to D.C. Bar R. XI, § 1(a), jurisdiction is found because:

1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted on June 3, 1996, and assigned Bar number 451351.

The facts giving rise to the charges of misconduct are as follows:

2. In October 2014, Yuki Elke Noguchi (then known as Yuki Libertelli), through counsel, filed a complaint against Respondent for divorce and other relief,

including the custody of their two minor children. The complaint was filed with the Circuit Court for Montgomery County, Maryland. When the complaint was filed, Ms. Noguchi lived in Montgomery County, Maryland, and Respondent lived in the District of Columbia.

3. For most of the divorce and custody proceedings, Respondent was represented by counsel. During some periods, however, Respondent represented himself in the proceedings.

4. Respondent's use of opioids, cocaine and other drugs was an issue in the proceedings and resulted in the court's placing restrictions and conditions on Respondent's access to his two children.

5. In a hearing in December 2015, Respondent represented to the court, Ms. Noguchi, and counsel that he was in treatment and was no longer using illegal drugs. Respondent, however, continued to use illegal drugs including opioids, cocaine, and marijuana before and after the December 2015 hearing.

6. In July 2016, the court held an evidentiary hearing concerning custody of the children. Respondent falsely represented that he had complied with the court-mandated drug-testing requirements. He testified falsely about his drug use and claimed that, with few exceptions, he had not used illegal drugs such as cocaine and marijuana.

7. On November 1, 2016, the court issued an oral opinion finding that

Respondent had been untruthful about his drug use, the source of his drugs, his water loading before urine tests, and his alleged inability to obtain suboxone, which he was using to treat his opiate addiction. The court nevertheless said that it believed, based on Respondent's representations, that he had made progress in getting his addictions under control. To provide a further incentive, the court set out certain conditions that Respondent had to meet to have unsupervised time with his children.

8. In the November 9, 2016 custody order, the court granted Respondent joint legal custody of the two children, but granted physical custody to Ms. Noguchi. The court further ruled that Respondent's access to his children would be monitored and supervised until he had four consecutive months of clean urine tests. During this initial four-month phase (phase one), Respondent had to undergo random urine testing once a week, with the tests to occur within 24 hours of notification to Respondent. Respondent was required to provide the test results to his wife's counsel within 48 hours of their receipt. If Respondent failed a urine test during the four-month period, then phase one would continue until such time as he completed four consecutive months of clean urine tests.¹ After successfully completing phase one, Respondent could have unmonitored access to his child and an additional

¹ Pursuant to the court's order, a urine test could be considered failed if (1) there was water loading or other tampering of the tests, (2) Respondent missed a test, or (3) he failed to report for testing within 24 hours after notification.

overnight stay with them during the week.

9. After the July 2016 hearing, Respondent continued to lie to the court, Ms. Noguchi, and counsel about his drug use and the funds he used to pay for drugs. Respondent submitted false evidence to support his lies.

10. In March 2017, the court held a merits trial for the divorce. During the trial, Respondent testified about the progress he had made allowing him to transition from phase one to phase two of the custody order provisions. He also testified that he had complied and continued to comply with the conditions of the custody order, including undergoing drug testing. Respondent deliberately concealed from the court, Ms. Noguchi, and counsel that he was continuing to use illegal drugs and had been altering the reports of his drug test reports.

11. Between August 2016 and November 2017, Respondent falsified 62 of his drug tests. Respondent altered the drug tests to eliminate the results reflecting that on 47 occasions he tested positive for cocaine. He also altered the drug test results by switching positive results for oxycodone in 36 tests to negative showings, and switching positive results for oxymorphone in 42 tests to negative showings.

12. Between November 28, 2017 and January 18, 2018, Respondent did not undergo any testing. Yet, during this time, Respondent submitted what purported to be tests results by changing the dates on other test results, including for those he had altered to remove positive results.

13. Respondent also fabricated bank and financial records that he offered as evidence in the court proceedings to conceal his use of funds to buy drugs.

14. For example, Respondent produced as evidence bank statements that he had altered to conceal his withdrawals of cash that he used to buy drugs. Respondent provided the altered bank statements, knowing that they falsely represented the transactions shown in the actual statements.

15. Respondent also produced as evidence at least one credit card statement that he had altered to conceal his purchase and receipt of marijuana. Respondent provided the altered credit card statement knowing that it falsely represented the transactions shown in the actual statements.

16. By January 2018, counsel for Ms. Noguchi had learned that Respondent had been falsifying his drug tests. Ms. Noguchi, through counsel, filed an emergency motion with the court which she supplemented with evidence of Respondent's alteration of drug-testing reports and financial records.

17. Respondent continued to deceive the court, Ms. Noguchi, and opposing counsel after the emergency motion was filed. At a February 2018 hearing, Respondent represented to the court that he had made enormous strides in dealing with his drug addiction. Yet, days later, he missed a saliva test and then testified positive for cocaine. Respondent continued to use cocaine after February 2018.

18. Respondent missed seven more drug tests between June 14 and

November 15, 2018.

19. At his deposition in October 2018 and at another court hearing in late November 2018, Respondent testified falsely about when he last used cocaine. In October 2018, Respondent testified he had not used cocaine since May or June 2018. In November 2018, he testified that he last used cocaine in August 2018. Yet, the test results for the week of the November hearing showed that Respondent tested positive for cocaine based on a specimen taken on November 20, 2018.

20. In February 2019, the court issued an oral opinion in which it found that Respondent had “lied, manipulated, and deceived” the court, his former wife and her counsel.

21. In March 2019, after issuing an order further restricting Respondent’s access to his children, the Maryland court referred Respondent’s conduct to Disciplinary Counsel.


22. Respondent’s conduct violated the following Rules of the District of Columbia Rules of Professional Conduct and/or the Maryland Rules of Professional Conduct as made applicable under Rule 8.5(b):

a. Rule 3.3(a)(1), in that Respondent made false statements of fact to a tribunal and failed to correct false statements of material facts;

b. Rule 3.3(a)(4), in that Respondent offered evidence that he knew to be false;

- c. Rule 3.4(a), in that Respondent unlawfully altered evidence;
- d. Rule 3.4(b), in that Respondent falsified evidence;
- e. Rule 8.4(b), in that Respondent engaged in criminal acts that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects, including perjury (in violation of Maryland Code § 9-101), when he willfully and falsely testified while under oath to material facts including, but not limited to, on October 18, 2018, when he testified falsely that he had three months of continuous negative drug tests and had last used cocaine in May or June 2018, and when he testified on November 28, 2018, that he had not used cocaine for the last three and a half months;
- f. Rule 8.4(c), in that Respondent engaged in conduct involving dishonesty, fraud deceit, and/or misrepresentation; and
- g. Rule 8.4(d), in that Respondent engaged in conduct that seriously interfered with the administration of justice.

Respectfully submitted,


Hamilton P. Fox, III
Disciplinary Counsel



Julia Porter
Deputy Disciplinary Counsel

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VERIFICATION

I verify under penalty of perjury that the foregoing is true and correct.

Executed on May 27th, 2020.



Julia L. Porter
Deputy Disciplinary Counsel

**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**

In the Matter of	:	
	:	
	:	
CHRISTOPHER D. LIBERTELLI,	:	Disciplinary Docket No. 2019-D072
	:	
Respondent	:	
	:	
Member of the Bar of the District of:	:	
 Columbia Court of Appeals	:	
	:	
(Bar Registration No. 451351)	:	
	:	

PETITION INSTITUTING FORMAL DISCIPLINARY PROCEEDINGS

A. This Petition (including the attached Specification of Charges which is made part of this Petition) notifies Respondent that disciplinary proceedings are hereby instituted pursuant to Rule XI, § 8(c), of the District of Columbia Court of Appeals' Rules Governing the Bar (D.C. Bar R.).

B. Respondent is an attorney admitted to practice before the District of Columbia Court of Appeals on the date stated in the caption of the Specification of Charges.

C. A lawyer member of a Hearing Committee assigned by the Board on Professional Responsibility (Board) pursuant to D.C. Bar R. XI, § 4(e)(5), has approved the institution of these disciplinary proceedings.

D. Procedures

(1) **Referral to Hearing Committee** -- When the Board receives the Petition Instituting Formal Disciplinary Proceedings, the Board shall refer it to a Hearing Committee.

(2) **Filing Answer** -- Respondent must respond to the Specification of Charges by filing an answer with the Board and by serving a copy on the Office of Disciplinary Counsel within 20 days of the date of service of this Petition, unless the time is extended by the Chair of the Hearing Committee. Permission to file an answer after the 20-day period may be granted by the Chair of the Hearing Committee if the failure to file an answer was attributable to mistake, inadvertence, surprise, or excusable neglect. If a limiting date occurs on a Saturday, Sunday, or official holiday in the District of Columbia, the time for submission will be extended to the next business day. Any motion to extend the time to file an answer, and/or any other motion filed with the Board or Hearing Committee Chair, must be served on the Office of Disciplinary Counsel at the address shown on the last page of this petition.

(3) **Content of Answer** -- The answer may be a denial, a statement in exculpation, or a statement in mitigation of the alleged misconduct. Any charges not answered by Respondent may be deemed established as provided in Board Rule 7.7.


(4) **Mitigation** -- Respondent has the right to present evidence in mitigation to the Hearing Committee regardless of whether the substantive allegations of the Specification of Charges are admitted or denied.

(5) **Process** -- Respondent is entitled to fifteen days' notice of the time and place of hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

E. In addition to the procedures contained in D.C. Bar R. XI, the Board has promulgated Board Rules relating to procedures and the admission of evidence which are applicable to these procedures. A copy of these rules is being provided to Respondent with a copy of this Petition.

WHEREFORE, the Office of Disciplinary Counsel requests that the Board consider whether the conduct of Respondent violated the District of Columbia Rules of Professional Conduct, and, if so, that it impose/recommend appropriate discipline.

OFFICE OF DISCIPLINARY COUNSEL

BY: 
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