

No. 1-14-1935

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<i>In re</i> MARRIAGE OF)	Appeal from the
SAY T. LIOU,)	Circuit Court of
)	Cook County.
Petitioner-Appellee,)	
)	
and)	No. 11 D 4136
)	
TIMOTHY K. LIOU,)	Honorable
)	Gregory E. Ahern, Jr.,
Respondent-Appellant.)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Hoffman and Justice Delort concurred in the judgment.

ORDER

¶ 1 *Held:* In a divorce action where a receiver was appointed to manage the assets of the former husband's law firm, the former husband was entitled to conduct an evidentiary hearing to test the veracity of billing statements from the receiver's law firm prior to the court's approval of the receiver's fee applications or entry of an order discharging the receiver.

¶ 2 This appeal concerns a law firm receivership coincident to the divorce action between respondent-appellant Timothy K. Liou (Liou) and his ex-wife, petitioner-appellee Say T. Liou

(Say)¹ and the suspension of Liou's law license. Liou challenges various trial court orders, including orders approving the receiver's requests for compensation that were entered after denial of Liou's request to conduct an evidentiary hearing concerning the fees and expenses billed by the receiver. For the following reasons, we reverse and remand to the trial court to permit Liou to conduct an evidentiary hearing.

¶ 3

BACKGROUND

¶ 4 The parties were married in 1996. Liou, an attorney, was the sole proprietor of a law practice, the Liou Law firm (the law firm), concentrating in consumer bankruptcy matters in the United States Bankruptcy Court for the Northern District of Illinois (bankruptcy court).

¶ 5 In April 2011, Say filed a petition for dissolution of marriage. In March 2012, disciplinary proceedings were initiated against Liou in the bankruptcy court. On August 8, 2013, the bankruptcy court entered an order permanently suspending Liou from practicing law before the bankruptcy court.² Say then filed an emergency motion to appoint a receiver for the law firm. Separately, Say filed a petition for Liou to contribute to her attorneys' fees.

¶ 6 Following a hearing on August 28, 2013, the court directed the parties "to enter an order appointing an attorney as receiver with experience in law firm receiverships." On the same date, the court granted Say's petition for interim fees, ordering Liou to pay Say's attorneys \$50,000. In

¹Although Say is nominally the appellee, the appellant's arguments are primarily directed to the receiver. The receiver has filed a response brief addressing those arguments. Say has not filed any brief in this appeal.

²Liou subsequently surrendered his Illinois law license.

the same order, the court directed Liou to tender a check in the amount of \$25,000 to his own counsel, Bradford & Gordon, LLC (B&G).³

¶ 7 On August 30, 2013, the trial court appointed Neal H. Levin (the receiver), an attorney at Freeborn & Peters, LLP (Freeborn), to serve as the receiver for the law firm. The corresponding order specified that the receiver would "take over all aspects of the management and operations" of the law firm and "take actions consistent with Supreme Court Rule 776(b)." Among other powers, the August 30, 2013 order authorized the receiver to "[e]mploy or engage agents, vendors, employees and/or accountants to provide products and/or services in connection with the management and preservation" of the law firm. The receiver was "authorized to take such steps as deemed reasonably prudent to accomplish his duties." The order specified that the receiver was entitled to compensation at the rate of "\$595/hour plus necessary costs."

¶ 8 The receiver took possession of the law firm and began winding down the law firm's operations. On September 12, 2013, the receiver filed a report with the court recommending that the law firm's assets be prepared for marketing and sale. Those assets included real property at the law firm's office at 900 W. Washington Boulevard in Chicago (the Washington property), which was owned by a land trust of which Liou was the sole beneficiary. The receiver reported that a July 2013 appraisal valued the Washington property at \$2.5 million. On September 12, the court entered an order approving the receiver's plan to sell the law firm's assets.

¶ 9 In the meantime, B&G had moved to withdraw as Liou's counsel. Following a September 18, 2013 hearing (for which no transcript is contained in the record), the court entered an order granting the motion to withdraw. The same court order approved the amount of

³As the record does not contain a transcript of the August 28 hearing, it is not entirely clear why the court directed this payment to B&G. However, the record indicates that B&G had first appeared on behalf of Liou less than a month earlier, on July 31, 2013.

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\$10,000 as the outstanding balance of fees owed to B&G, and thus allowed B&G to retain \$10,000 from the \$25,000 check previously tendered by Liou.

¶ 10 According to the receiver, Liou's efforts to resist any sale of the Washington property delayed its eventual sale. The record indicates that after an October 11, 2013 court order granted the receiver power of direction over the land trust in order to effect the sale to a prospective purchaser, Liou responded on October 13 by filing an emergency motion to vacate that order. The receiver then filed his own emergency motion to clarify his authority to sell the law firm. On October 18, the court entered an order specifying the receiver's authority sell the property to the highest bidder. According to the receiver, the delay caused by Liou led to the withdrawal of a prospective purchaser's \$3.2 million offer.

¶ 11 On December 23, 2013, the receiver filed his first fee application, which described work performed in winding down the law firm's affairs and marketing the property. The application noted that his efforts to sell the Washington property had been hindered by Liou's efforts "to frustrate and delay" and Liou's insistence that the property is "worth millions more than its appraised value."

¶ 12 The first fee application sought approval of \$174,925.50 for services rendered by the receiver and other Freeborn employees from August 28, 2013 through October 31, 2013, as well as \$637.55 in expenses for that period. The first fee application attached billing statements describing work performed by each Freeborn timekeeper, totaling the time worked by each individual per day in increments of tenths of an hour.

¶ 13 On December 26, 2013, the receiver filed an emergency motion for approval to sell the Washington property under a proposed contract to its eventual buyer, Torikago, LLC. A hearing on that motion occurred on December 30, 2013. Liou did not attend, and no transcript of the

hearing is included in the record. On that date, the court entered an order authorizing the receiver to sell the Washington property under the proposed contract. The December 30, 2013 order included a provision authorizing the receiver to "include as part of the sale all remaining personal property on-site at the [Washington] Property, including office supplies, monitors and non-CPU computer equipment, office machinery, furnishings, racks and cabinets and other miscellaneous personalty that the Receiver deems to be of insignificant value." The order specified that the personal property to be sold shall not include "any other item that the Receiver deems to be of value to the Estate or unrelated to the use and operation of the Property." On January 2, 2014, the Washington property (including the personal property described in the December 30 order) was sold to Torikago, LLC for \$3 million.

¶ 14 In February 2014, Liou filed his objection to the first fee application. Among his objections, he claimed that the receivership was governed by Illinois Supreme Court Rule 776, which permits appointment of a receiver in the event of an attorney's "disability," and that the receiver was not entitled to compensation under that rule.

¶ 15 Liou also raised numerous objections to the Freeborn billing statements submitted in support of the first fee application. Liou claimed that Freeborn's time entries were vague, improperly "block-billed," and improperly billed for "secretarial or clerk-type activities." He urged that the receiver should not be paid for various other reported tasks including time spent cooperating with federal authorities' prosecution of Liou.

¶ 16 In March 2014, the parties entered into a marital settlement agreement (MSA),⁴ which discussed disposition of the law firm's assets, including the sale proceeds from the Washington property. The MSA specified that up to \$220,000 of the law firm's available funds would be

⁴The MSA is not in the record but was in an appendix to the receiver's brief.

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applied to the receiver's fees and expenses. Thus, the MSA limited the marital estate's obligation for the receiver's compensation to \$220,000. The MSA also provided that Liou would otherwise "be responsible for all remaining debts and liabilities related to Liou Law Firm."

¶ 17 On April 3, 2014, the receiver filed his "final fee application" corresponding to work performed from October 31, 2013 through March 31, 2014; the final fee application sought an additional \$190,081 in fees and \$3,574.12 in expenses. Also on April 3, 2014, the receiver filed a "Motion to Approve Final Receiver's Report and Accounting and for Order of Discharge" (the motion for discharge) that sought findings that the receiver had acted within the scope of the receivership and did not breach fiduciary duties to the marital estate.

¶ 18 On April 14, 2014, Liou filed objections to both the final fee application and motion for discharge. Liou's objection to the final fee application repeated the objection that the receiver failed to comply with Supreme Court Rule 776. Liou's objections further argued that billing rates for Freeborn's attorneys and paralegal were unreasonably high and the billed amounts were "outrageous." Liou claimed the receiver had billed for "excessive time on internal conferences" and emails as well as for administrative and clerical tasks. Liou asserted that Freeborn engaged in "fee padding," included vague descriptions of tasks performed, and "billed timekeepers' services in the aggregate to fraudulently avoid detection of illegitimate entries." The objections specifically asserted that entries by F. Scott Fishman identified as Freeborn's "Intelligence Director," and Freeborn paralegal Jacqueline Hazdra were fraudulent or otherwise improper.

¶ 19 The objections also claimed that the receiver had "unilaterally expanded his duties without court authorization" by participating in the bankruptcy court proceedings concerning Liou, and communicating with federal prosecutors and the Attorney Registration and Disciplinary Commission (ARDC) in connection with their investigations. Liou also opposed

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any compensation to the receiver concerning the sale of the Washington property, claiming that the receiver had breached his fiduciary duties to the estate because he intentionally "drove the sale price to an unacceptable low level." Liou also urged that, if the court decided to award over \$220,000 in compensation to the receiver, it would be inequitable to place all such costs upon Liou "since he has no available marital estate proceeds from which to make payment."

¶ 20 Liou separately filed objections to the motion for discharge which repeated many of the objections to the final fee application, and made additional claims of misconduct by the receiver, including allegations that the receiver had made last-minute changes to the December 30, 2013 order to include Liou's personal property in the sale of the Washington property, and that the receiver had falsely represented to the court that Liou did not object to such terms. Liou claimed that the receiver breached his fiduciary duty by failing to separately sell such personal property, which Liou claimed was worth \$315,147.82.

¶ 21 Liou's objection to the motion for discharge accused the receiver of other misconduct with respect to the sale, including that he relied upon an appraisal that significantly undervalued the Washington property; that the receiver's listing agent had refused to show the Washington property to qualified buyers; and that the receiver drove away other potential buyers. Liou also claimed that the eventual buyer had initially been "ready to write a check" for \$3.895 million, but that the receiver "negotiate[d] the sale price downward in bad faith" to \$3 million.

¶ 22 Apart from the sale, Liou also claimed the receiver breached his duty to safeguard Liou's books and records by providing them to the United States Trustee in response to a subpoena. He also alleged the receiver improperly communicated directly with Liou while Liou was represented by counsel, and that the receiver had examined Liou's personal emails, including privileged communications with Liou's counsel.

¶ 23 Prior to the hearing on the fee application and motion to discharge, Liou issued a total of four subpoenas to the receiver and certain Freeborn employees. On April 29, 2014, Liou subpoenaed Brian Smith, an attorney at Freeborn who had billed 0.6 hours for advice to the receiver regarding the tax implications of the cancelation of an outstanding law firm debt. On May 8, 2014, the receiver moved to quash the Smith subpoena. Liou subsequently issued three other subpoenas, directed to the receiver himself, as well as to Jacqueline Hazdra, a Freeborn paralegal, and F. Scott Fishman, Freeborn's "director of intelligence." The subpoenas are not included in the record on appeal.

¶ 24 On May 14, 2014, the trial court held a hearing addressing the first and final fee application, the motion for discharge, and the motion to quash Smith's subpoena. At the hearing, the receiver also orally moved to quash the three additional subpoenas.

¶ 25 The court first heard argument regarding the subpoenas. With respect to the Smith subpoena, Liou argued that communications between the receiver and Smith were relevant to the receiver's credibility, since the receiver had represented that the cancelation of a law firm debt would not result in taxable imputed income. The receiver argued that the content of Smith's 0.6 hours of tax advice was irrelevant to whether the receiver's fees should be approved. The court agreed and granted the motion to quash the subpoena for Smith.

¶ 26 With respect to the remaining subpoenas, the receiver argued that further evidence would not be relevant, insofar as the objections did not raise disputed factual issues. For example, the receiver explained that testimony from paralegal Hazdra would not be helpful, since all relevant information describing her work was already included in the supporting billing statements. With respect to Fishman, the receiver explained that Fishman provided "intelligence and security" for the receiver at the law firm at the beginning of the receivership and that his total billings were a

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small fraction of the total billed. Although Liou had challenged whether the receiver should receive compensation for certain of Fishman's tasks, the receiver argued there was no basis "to bring [Fishman] in to discuss any of those items" and that Liou had not shown how any requested document would be relevant. With respect to the subpoena directed to the receiver, the receiver stated that he could testify as to the contents of any relevant documents and thus there was no need to compel their production. The court agreed with the receiver and quashed all four subpoenas.

¶ 27 After quashing the subpoenas, the court heard lengthy additional arguments, consisting primarily of Liou's objections to the receiver's fee applications and the motion for discharge. Liou argued that he was entitled to conduct a full evidentiary hearing, including a direct examination of the receiver. The court responded by allowing Liou an opportunity to examine the receiver, asking Liou to "show me something that is going to shock me, that's going to sway me in any way" in approving the receiver's motions.

¶ 28 Liou proceeded to examine the receiver at length about the receiver's supposed delay in releasing law firm funds to be applied to a \$168 tax bill to the law firm. In response to Liou's questioning, the receiver said he had paid \$168 to Liou, based on Liou's representation that this amount was owed to the IRS. Liou confirmed that he had eventually received the \$168 from the receiver, but claimed that, due to the receiver's delay, \$11.02 in late charges and penalties had accrued. Liou argued this was "shocking because it goes to [the receiver's] credibility." The court disagreed and remarked that "if we had to do a day of testimony about things like that, it would be a waste of the Court's time and everyone's time."

¶ 29 The court again gave Liou an opportunity to identify a "shocking point" that would justify a full evidentiary hearing. Liou responded by stating that, in selling the Washington

property, the receiver had also included Liou's personal property, which Liou claimed was worth over \$342,000.⁵ Liou argued that this action violated the receiver's duty not to include in the sale of the Washington property, any personal property of significant value. In response, the receiver argued that the December 30, 2013 order had provided for the inclusion of such personal property with the sale and that Liou had not submitted any evidence of the value of such items.

¶ 30 The court agreed that its prior order clearly authorized the inclusion of such property with the sale. At that point, the court then denied Liou any further opportunity to examine the receiver, stating "I am not going to let you waste this Court's time with petty questions *** because the examples you have given me have been really horrible."

¶ 31 Having denied Liou's request to continue with an evidentiary hearing, the court heard additional argument by Liou with respect to his objections. Liou argued his claim that the case was governed by Supreme Court Rule 776(e)(2) because he was a "disabled lawyer," (Ill. S. Ct. R. 776(e)(2) (eff. March 25, 1991)), but admitted he had no case law applying Rule 776(e)(2) to a lawyer suspended from practice. He also claimed that the receiver had failed to make a motion to employ an attorney and thus violated Circuit Court of Cook County Rule 8.2, which states that "An attorney for the receiver shall be employed only upon order of the court, upon written motion." Cook Co. Cir. Ct. R. 8.2(a) (July 1, 1976).

¶ 32 Liou also claimed that, if he were allowed to further examine the receiver, he would demonstrate misconduct by the receiver with respect to the marketing and sale of the Washington property and that the receiver used improper billing practices and excessive rates for his own services. Liou also argued that the receiver breached fiduciary duties owed to both the law firm

⁵At various points in his trial court submissions and oral argument, Liou asserted different figures ranging from approximately \$315,000 to \$400,000 for the value of the personal property included with the sale of the Washington property.

and Liou personally, by cooperating with federal authorities that were investigating Liou, and by sharing the law firm's records with government authorities in response to subpoenas.

¶ 33 In response, the receiver argued that "Most of the facts are not in dispute" but that Liou "just doesn't like the outcome." The receiver argued that his actions were authorized and that he owed no duty to Liou individually. He argued the receivership was equitable in nature and not governed by Supreme Court Rule 776, despite the fact that the order had referred to that rule. The receiver argued that he did not need to make a separate motion to employ counsel, since the August 30, 2013 order already permitted him to employ agents. He denied any breach of fiduciary duty with respect to the sale, noting the \$3 million sale price was "\$500,000 more than the appraised value."

¶ 34 With respect to Freeborn's bills, the receiver argued they included "substantial itemization of the tasks" and "more than enough information" to determine if the work was reasonable and necessary. The receiver acknowledged that the fees were high but claimed this was because Liou had "interfered with almost every aspect of the receivership."

¶ 35 In its ruling, the court noted that it had "been involved in this case a long time" and noted that the receiver "did a very good job on this case in everything and that's why we don't need to call a hundred witnesses." The court found "nothing that is factually disputed," noting the lack of an affidavit that Freeborn's billing rates were above market rate. The court remarked that Liou had "stonewalled the action taken by the receiver throughout this receivership" and found that the actions taken by the receiver were proper at all times.

¶ 36 The court thus entered a written order on May 14, 2014, which approved the \$175,531.55 requested in the receiver's first fee application; as well as the fees of \$190,081 and expenses of \$3754.12 requested by the receiver's final fee application. In the same order, the court granted

the receiver's request for leave to file a supplemental application for fees and costs incurred since the final fee application.

¶ 37 Also on May 14, 2014, the court entered an order granting the receiver's motion for discharge. That order specified that all actions taken by the receiver were necessary and reasonable, that there was no evidence that the receiver breached any fiduciary duty to the marital estate, and authorized the receiver to retain all funds in its possession to satisfy its outstanding fees and costs, "subject to the terms of the [MSA]."

¶ 38 After the May 14, 2014 order (but prior to the decision on the receiver's supplemental fee application), Liou filed a total of three notices of appeal. On June 13, 2014, Liou filed his first notice of appeal as well as an amended notice of appeal. On June 16, Liou filed a second amended notice of appeal, specifying challenges to the May 14, 2014 orders to the extent that they (1) granted the motions to quash the subpoenas; (2) granted the first fee application and final fee application; and (3) granted the motion to approve the receiver's final report and accounting and discharged the receiver. The notice of appeal also challenged the trial court's August 28, 2013 order which, *inter alia*, had directed Liou to pay \$50,000 to his ex-wife's counsel, and which called for Liou to pay \$25,000 to his former counsel, B&G. The notice of appeal did not specify any other challenged court order.

¶ 39 The receiver's supplemental fee application was filed on May 21, 2014, and sought fees and costs totaling \$41,203.90. On June 14, Liou filed his objection to the supplemental fee application, which repeated many of his objections to the prior fee applications.

¶ 40 The parties argued the supplemental fee application at a hearing on July 16, 2014. The trial court noted it had been "intimately involved in this case" and found Liou's objections to be without merit. The court remarked that in light of Liou's actions this case took "50 times more

hours than it probably should have." In a written order dated July 16, 2014, the trial court approved the \$41,203.90 in additional compensation, such that the total compensation awarded to the receiver amounted to \$410,570.57. As the MSA limited the marital estate's obligation for the receiver's compensation to \$220,000, the July 16, 2014 court order specified that Liou personally owed a "deficiency amount" of \$190,570.57 and entered a corresponding final judgment.

¶ 41

ANALYSIS

¶ 42 On appeal, Liou challenges: (1) the award of attorney fees to his former counsel, B&G; (2) the quashing of his four subpoenas; (3) the orders approving the receiver's first, final, and supplemental fee applications; and (4) the separate order granting the motion for discharge. Finally, he additionally argues the trial court erred by denying Liou funds from the marital estate to pay his own counsel.

¶ 43 Before addressing the merits, we note that we lack jurisdiction to consider certain of Liou's challenges. Liou's second amended notice of appeal preserved our jurisdiction to consider his challenges to the orders entered on May 14, 2014. See Ill. S. Ct. R. 303(a), 303(b)(2) (eff. May 30, 2008). However, we find we lack jurisdiction to decide Liou's challenge to the compensation awarded to his former counsel by the trial court's September 18, 2013 order, as it was not cited in his notice of appeal.

¶ 44 Specifically, Liou's appellate brief challenges the part of the court's September 18, 2013 order permitting B&G to retain \$10,000 from the \$25,000 check previously submitted to B&G by Liou. Liou contends that at the time, the trial court was not aware that he had already paid to B&G a separate retainer of \$7,500. He also asserts that, at the same hearing, the court

improperly denied his requests for an evidentiary hearing on B&G's fees and for B&G to produce a billing statement.

¶ 45 Liou did not preserve any challenge to the September 18, 2013 order. Supreme Court Rule 303(b)(2) provides that a notice of appeal "shall specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court." Ill. S. Ct R. 303(b)(2) (eff. May 30, 2008). Liou's notice of appeal refers only to orders of August 28, 2013 and May 14, 2014. Our supreme court has made clear that "A notice of appeal confers jurisdiction on a court of review to consider only the judgments or parts of judgments specified in the notice of appeal." *General Motors Corp. v. Pappas*, 242 Ill. 2d 163, 176 (2011). Thus, we do not have jurisdiction to review the September 18, 2013 order, including the fees awarded to B&G.⁶

¶ 46 Similarly, although we have jurisdiction to consider the first and final fee applications granted on May 14, 2014, we must decline to address Liou's challenges to the July 16, 2014 order awarding compensation pursuant to the supplemental fee application, as it was not mentioned in his notice of appeal. Liou's reply brief acknowledges that his notice of appeal preceded the July 2014 judgment and was not amended to reference that judgment. However, he urges that since the July 2014 judgment stemmed from the portion of the May 2014 order allowing the receiver to file a supplemental fee application, the July 2014 order "relates back" to the previously filed notice of appeal, allowing us jurisdiction. We reject that argument, as the rules of our supreme court and case law make clear that the notice of appeal must specify the

⁶Even if we had jurisdiction, we would find that Liou has not provided a sufficient factual record to assess his argument. An "appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). "Where the issue on appeal relates to the conduct of a hearing or proceeding, this issue is not subject to review absent a report or record of the proceeding." *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001) (quoting *Foutch*, 99 Ill. 2d at 392). Liou has failed to include any transcript or report of proceeding from the September 18, 2013 hearing.

judgment from which the appeal is taken. In order to challenge the July 2014 supplemental fee award, Liou could have amended his notice of appeal or filed a new notice of appeal. See *Pappas*, 242 Ill. 2d at 178. Liou's failure to take either one of those actions deprives us of jurisdiction to review the July 2014 order.

¶ 47 Furthermore, we also lack jurisdiction to address Liou's claims that the trial court erred by denying Liou the right to use funds from the marital estate to hire counsel. Citing the July 16, 2014 order, he argues that the receiver should not have been allowed "to take the marital estate's funds as payment for his fees until the case and its remaining legal issues were completed, including the appeal of these issues." Liou also complains that, between September 2013 and May 14, 2014, the trial court denied "multiple requests" for release of funds from the marital estate for him to pay his counsel, resulting in the withdrawal of his counsel and forcing him to represent himself.

¶ 48 Again we note that Liou's notice of appeal was filed prior to the order of July 16, 2014, and he did not amend his notice of appeal to add any challenge to that judgment. Moreover, his notice of appeal fails to identify any order in which the trial court specifically denied a request to release funds from the marital estate for Liou to hire counsel. Thus, we do not have jurisdiction to address his arguments on this issue. See Ill. S. Ct. R. 303(b)(2) (eff. May 30, 2008).

¶ 49 We turn to Liou's challenges to the trial court's May 14, 2014 rulings, which (1) granted the receiver's motions to quash the four subpoenas; (2) approved the amounts sought in the first and final fee applications; and (3) granted the receiver's motion for discharge upon finding that the receiver's conduct was proper. Although Liou raises many arguments related to these rulings, we agree with his primary contention that the court erred in failing to grant Liou's

request for an evidentiary hearing. We find that this warrants reversal of each of these rulings, and we remand for the court to conduct such a hearing.

¶ 50 Each of the challenged May 14, 2014 rulings is directly related to Liou's contention that he was entitled to an evidentiary hearing with respect to the reasonableness of the amount of the receiver's requested compensation, as reflected by the Freeborn billing statements. That is, Liou's subpoenas sought to compel testimony of Freeborn professionals in connection with the work they performed, as recorded in Freeborn's billing records. It is apparent that Liou sought to elicit testimony from these timekeepers in order to support his claims that Freeborn had engaged in fraudulent billing practices, or otherwise improperly billed the marital estate for tasks that were unnecessary or irrelevant to the receiver's authorized duties.

¶ 51 In turn, had Liou been permitted to elicit testimony undermining the billing statements, this could have affected the court's determination as to whether the receiver was entitled to the full amount of fees and expenses requested in the first and final fee applications. This is particularly important in this case, given the very large amounts of fees billed in the first and final fee applications, which totaled over \$365,000. Likewise, with respect to the receiver's motion for discharge, an evidentiary hearing with testimony from the Freeborn timekeepers could potentially have affected the court's factual determinations that all of the receiver's actions were reasonable and necessary for the benefit of the marital estate.

¶ 52 While acknowledging the receiver's argument and the court's obvious frustration with how Liou conducted himself, nevertheless, we find that Liou was entitled to an evidentiary hearing with the opportunity to examine the subpoenaed Freeborn timekeepers. Thus, we reverse the rulings of the trial court quashing the subpoenas; approving the first and final fee applications, and the court's order granting the motion for discharge of the receiver.

¶ 53 There is no definitive case law regarding whether a hearing upon a receiver's fee petition must be granted upon request. Rather, case law suggests that the trial court must make a reasoned decision based on factors such as the reasonableness of the fees.

¶ 54 We are persuaded that Liou was entitled to the requested hearing under the facts of this case. As Liou's brief points out, a number of divorce decisions hold that a party contesting an award of attorney's fees is entitled to an evidentiary hearing upon request. See *Hogan v. Hogan*, 58 Ill. App. 3d 661, 668 (1978) ("While a hearing on the reasonable nature of attorney's fees is not necessary in every case, *** the party contesting the award is entitled to a hearing upon request. [Citation.]"); *Kaufman v. Kaufman*, 22 Ill. App. 3d 1045, 1051 (1974) (stating that "A trial judge can award attorney fees in a divorce case without hearing evidence as to reasonableness of the fee" but that "a party resisting an application for attorney fees in a divorce suit can request a hearing and is entitled to an opportunity to present evidence."); *Jones v. Jones*, 48 Ill. App. 2d 232, 239 (1964) ("[I]t is the rule in Illinois that if the opposite party has requested a hearing on the question of [attorney's] fees, the court must hear some evidence on that point."). We find these cases to be useful in the analysis of the instant case.

¶ 55 Similarly, in non-divorce cases, more recent precedent indicates that an evidentiary hearing is generally available upon request to test the reasonableness of an attorney's fee award. See, e.g., *Naperville South Commons, LLC v. Nguyen*, 2013 IL App 120382, ¶ 19 (in landlord-tenant forcible entry and detainer action, stating "Whether an award of attorney fees is reasonable is a matter of proof, and the party sought to be charged with such fees should be afforded an evidentiary hearing and ample opportunity to cross-examine as to the reasonableness of the amounts claimed and to present evidence in rebuttal."); *Bank of America National Trust and Savings Association v. Schulson*, 305 Ill. App. 3d 941, 952 (1999) (in reviewing attorney fee

award in lender's suit against loan guarantors, recognizing that "When a party who must pay attorney fees asks for an evidentiary hearing, he is entitled to one.").

¶ 56 The receiver's appellate brief argues that Liou cannot complain that he was denied an evidentiary hearing, since the trial court permitted him to commence an examination of the receiver, before concluding that Liou's lines of questioning failed to raise any "shocking" points. We recognize that the trial court permitted limited questioning of the receiver before telling Liou that he could not continue with a hearing, finding Liou had raised only "petty questions" that the court deemed to be a waste of time. Regardless, we find it significant that Liou was not permitted to examine the receiver — or any other Freeborn employees whose work was billed to the marital estate — about the contents of the time entries contained in the billing statements that formed the basis for the receiver's requested compensation. Therefore, the trial court erred in failing to afford Liou this opportunity.

¶ 57 We acknowledge the court's expressed frustration with Liou's "stonewalling" throughout the receivership, and recognize that Liou's conduct may indeed have contributed to the high amount of fees billed. The court's comments indicated its belief that a full evidentiary hearing would not yield any new or relevant information, and would waste the court's and the parties' time. We recognize the distinct possibility that, even after hearing testimony from the subpoenaed Freeborn personnel, the trial court may still conclude that the receiver should receive the full amount of compensation sought in the first and final fee applications. However, under the facts of this case, especially given the magnitude of the amounts billed, Liou was nonetheless entitled to the opportunity to examine the subpoenaed Freeborn timekeepers to test the accuracy and reasonableness of the supporting billing statements. Accordingly, we reverse the trial court's order quashing the four subpoenas.

¶ 58 Our conclusion that Liou was entitled to an evidentiary hearing likewise compels reversal of the May 2014 orders approving the first and final fee applications. The trial court should not have approved the fee awards without allowing Liou an opportunity to examine witnesses to challenge the accuracy and reasonableness of the receiver's supporting billing records. Upon remand, the court must reconsider the first and final fee applications *after* affording Liou that opportunity.

¶ 59 As we find that reversal of the first and final fee application awards is warranted on this basis, we need not separately analyze Liou's various procedural arguments contesting the fee awards. Likewise, given the necessity for an evidentiary hearing, we need not assess, on the record currently before us, Liou's independent claim that the court abused its discretion in awarding the fees and expenses requested.

¶ 60 We reach a similar conclusion with respect to Liou's challenge to the May 14, 2014 order granting the motion for discharge, which found that the receiver had acted properly for the benefit of the marital estate and had not committed fraud or breach of fiduciary duty. Such factual findings were premature without affording Liou an opportunity, through examination of the receiver and the other subpoenaed Freeborn witnesses, to attempt to elicit evidence supporting his allegations that the receiver had engaged in conduct detrimental to the marital estate.

¶ 61 As we reverse the trial court's ruling and remand the matter for the court to conduct an evidentiary hearing, we need not decide whether, on the record before us, the trial court's factual findings with respect to the motion for discharge were against the manifest weight of the evidence. See *Best v. Best*, 223 Ill. 2d 342, 338-49 (2006) ("When a trial court makes a finding by a preponderance of the evidence, this court will reverse that finding only if it is against the

manifest weight of the evidence."). Accordingly, as with the May 2014 fee awards, we reverse the trial court's May 2014 order granting the motion for discharge, and instruct the trial court to reconsider the motion *after* an evidentiary hearing.

¶ 62 In summary, in light of our conclusion that Liou was entitled to an evidentiary hearing, we reverse the May 14, 2014 orders which: (1) quashed Liou's four subpoenas; (2) granted the receiver's first and final fee applications; and (3) granted the receiver's motion for discharge. We remand this matter for the trial court to conduct an evidentiary hearing, at which Liou shall be permitted to examine the receiver and the other Freeborn individuals identified in his subpoenas, with respect to their work performed on behalf of the marital estate. After the conclusion of the evidentiary hearing, the court shall again consider the first and final fee applications, as well as the receiver's motion for discharge.

¶ 63 Separately, we conclude that we lack jurisdiction to consider Liou's challenges to the fee award to his own attorneys; as well as his challenge to the July 2014 supplemental fee award; and his claims that the trial court denied him funds from the marital estate to hire counsel.

¶ 64 For the foregoing reasons, we reverse the judgment of the circuit court of Cook County, and remand for the circuit court to conduct an evidentiary hearing consistent with this order.

¶ 65 Reversed and remanded.