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CLERK OF SUPREME COURT
OF WISCONSIN

STATE OF WISCONSIN
IN THE SUPREME COURT

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST MARK ALAN RUPPELT,
ATTORNEY AT LAW;

OFFICE OF LAWYER REGULATION,

CASE NO. 15AP89D
CASE CODE 30912

Complainant;

MARK ALAN RUPPELT,

Respondent.

COMPLAINT

NOW COMES the Office of Lawyer Regulation (“OLR”) by its undersigned Retained Counsel, and for its complaint for discipline against the respondent, Attorney Mark A. Ruppelt, alleges as follows:

PARTIES AND PROCEDURAL BACKGROUND

1. The Office of Lawyer Regulation is an arm of the Wisconsin Supreme Court established to assist in the discharge of the Court’s constitutional responsibility to supervise the practice of law and protect the public from professional misconduct by attorneys licensed to practice law in Wisconsin. This Complaint is filed pursuant to Supreme Court Rule (“SCR”) 22.11.

2. The respondent, Mark Alan Ruppelt (herein, "Ruppelt"), is an attorney admitted to practice law in the State of Wisconsin on May 23, 1994. Ruppelt's business address is Ruppelt Law Office, 500 W. Silver Spring Dr., Ste. K200, Milwaukee, WI 53217-5052.

3. Ruppelt's disciplinary history consists of a public reprimand imposed by the Supreme Court of Wisconsin for engaging in improper sexual relations with a client, and providing false information to his then-firm and to OLR regarding the nature and timing of his relationship with the client. *Disciplinary Proceedings Against Ruppelt*, 2014 WI 53.

REGARDING \$50,000
(OLR MATTER NO. 2010MA64)

4. At all times material, Ruppelt practiced law as a shareholder in the law firm of Gatzke & Ruppelt, S.C. (the "Firm"). At all times material, Attorney James E. Gatzke ("Gatzke") was the only other shareholder in the Firm.

5. At all times material, Ashley Vitale ("Vitale") was the Office Manager for the Firm.

6. In or about August 2006, Steve Johnson ("Johnson") hired the Firm to represent him in a criminal matter, *State of Wisconsin vs. Steven Johnson*, Waukesha County Case No. 2006-CF-0770.

7. Johnson also hired the Firm to represent him in a related civil action, *Amy L. Orlando et al. vs. Steven. J Johnson et al.*, Waukesha County Case No. 2008-CV-1104.

8. Ruppelt was counsel of record for Johnson in both the criminal and civil cases (collectively, "Johnson Matters").

9. Johnson paid the Firm a total of at least \$151,553.04 for fees and expenses in relation to the representation in the Johnson Matters, which funds were deposited into the Firm's trust account.

10. In or about May of 2007, Ruppelt needed money in connection with the purchase of a new home by himself and his then wife, Susan M. Ruppelt. Gatzke and Ruppelt agreed that the Firm would loan \$50,000 to Ruppelt for that purpose.

11. On May 17, 2007, Ruppelt directed Vitale to prepare and issue a check in the sum of \$50,000 drawn on the Firm's trust account and made payable to the Firm. Ruppelt also directed Vitale to indicate that the purpose of the disbursement was for "Expert Fees/Trial Testimony" in the Johnson Matters.

12. Vitale prepared and issued Trust Account Check No. 2797 payable to Gatzke & Ruppelt, S.C., in the sum of \$50,000 using Gatzke's

signature stamp. The check's memo line stated "Expert Fees/Trial Testimony." Trust Account Check No. 2797 did not identify a client.

13. At that time Trust Account Check No. 2797 was issued, there was a balance of \$16,084.98 in the Firm's business account.

14. On May 17, 2007, Vitale mistakenly deposited Trust Account Check No. 2797 to the trust account rather than the business account.

15. Both the disbursement and the deposit of Trust Account Check No. 2797 appear on the firm's client ledger for Johnson.

16. Both before the issuance and following the deposit of Trust Account Check No. 2797, the balance in the trust account client ledger for Johnson was shown as \$55,347.88.

17. Shortly after depositing Check No. 2797 to the trust account rather than the business account, Vitale discovered the deposit error and prepared and issued Trust Account Check No. 2798 payable to Gatzke & Ruppelt, S.C., in the sum of \$50,000 using Gatzke's signature stamp. The check's memo line again stated, "Expert Fees/Trial Testimony."

18. As previously directed by Ruppelt, Vitale deposited the \$50,000 Trust Account Check (No. 2798) to the Firm's business account on May 17, 2007, and the deposit was posted to the business account on May

18, 2007. Prior to that deposit, the balance in the Firm's business account was \$16,084.98.

19. The deposit slip for the May 17, 2007 deposit of \$50,000 to the Firm's business account identifies the transaction as relating to "Johnson, S." The transaction does not appear on the Firm's client ledger for Steve Johnson.

20. As of May 17, 2007, at the time Ruppelt directed Vitale to issue a \$50,000 check from the Trust Account regarding the Johnson Matters, there was no balance due and owing to the Firm for services and expenses in those matters.

21. Following the deposit of Trust Account Check No. 2798 and other transactions on May 18, 2007, the balance in the Firm's business account was \$67,096.61.

22. On May 18, 2007, Ruppelt directed Vitale to prepare and issue a check in the amount of \$50,000 drawn on the Firm's business account and made payable to Ruppelt.

23. As directed by Ruppelt, Vitale prepared and issued Business Account Check No. 10887 payable to Ruppelt in the sum of \$50,000 using Gatzke's signature stamp.

24. The purpose of Business Account Check No. 10887 was to fund the loan from the Firm to Ruppelt to facilitate the Ruppelts' purchase of a home, as previously agreed by Ruppelt and Gatzke.

25. On May 21, 2007, Ruppelt deposited Business Account Check No. 10887 to his personal checking account at US Bank ("US Bank Account").

26. On July 16, 2007, Ruppelt disbursed a \$50,626.03 check from his US Bank Account to "Closing Services" in relation to the purchase of a home by himself and his then-wife Susan.

27. On August 15, 2007, Ruppelt deposited a 101,177.94 check from Land Closing Services, Inc. to an account at M&I Bank ("M&I Account") held jointly by Ruppelt and his then-wife Susan.

28. On August 21, 2007, Ruppelt issued Check No. 131 drawn on the M&I Account in the sum of \$50,000 payable to "Gatzke & Ruppelt Client Trust Account." The check did not identify the purpose of the payment.

29. On August 21, 2007, Ruppelt directed Vitale to deposit his M&I Check No. 131 to the Firm's trust account.

30. Ruppelt's purpose in directing Vitale to deposit M&I Check No. 131 in the sum of \$50,000 to the Firm's trust account was to repay the

\$50,000 loan from the Firm funded by monies held in the trust account.

31. On April 30, 2014, Ruppelt provided testimony under oath to OLR in the context of an OLR trust account overdraft investigation (OLR Matter No. 2010MA0064).

32. When asked by OLR about the \$50,000 disbursement evidenced by Check Nos. 2797 and 2798 and the client ledgers, Ruppelt testified under oath that the disbursement was for legal fees earned by the firm in the Johnson Matters.

33. Ruppelt's testimony was a misrepresentation.

34. Johnson never consented to the May 2007 \$50,000 disbursement made from his funds held in the Firm's trust account.

COUNT ONE

35. By directing Ashley Vitale to disburse \$50,000 from the Firm's trust account to the Firm; to attribute that payment to the Steve Johnson matter; and to disburse that \$50,000 to Ruppelt, Ruppelt failed to hold \$50,000 belonging to Johnson in trust, in violation of SCR 20:1.15(b)(1).¹

¹ SCR 20:1.15(b)(1) provides that "[a] lawyer shall hold in trust, separate from the lawyer's own property, that property of clients and 3rd parties that is in the lawyer's possession in connection with a representation. All funds of clients and 3rd parties paid to a lawyer or law firm in connection with a representation shall be deposited in one or more identifiable trust accounts."

COUNT TWO

36. By directing Ashley Vitale to disburse \$50,000 from the Firm's trust account to the Firm; to attribute that payment to the Steve Johnson matter; and to disburse that \$50,000 to Ruppelt, Ruppelt converted those funds to his own purposes, in violation of SCR 20.8.4(c).²

COUNT THREE

37. By directing Ashley Vitale to deposit his \$50,000 in personal funds to the Firm's trust account on August 21, 2007, Ruppelt violated SCR 20:1.15(b)(3).³

COUNT FOUR

38. By directing Ashley Vitale to deposit his \$50,000 in personal funds to the Firm's trust account on August 21, 2007, thereby concealing his conversion of funds belonging to Johnson, Ruppelt violated SCR 20.8.4(c).

COUNT FIVE

39. By stating to OLR under oath that the \$50,000 disbursement

² SCR 20:8.4(c) provides that "[i]t is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

³ SCR 20:1.15(b)(3) provides that "[N]o funds belonging to the lawyer or law firm, except funds reasonably sufficient to pay monthly account service charges, may be deposited or retained in a trust account."

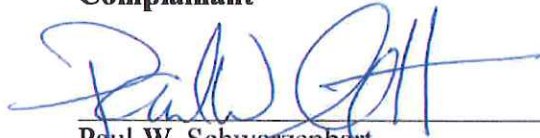
that appears on the Firm's client ledger for Johnson in May of 2007 was for legal fees that had been earned by the Firm in the Johnson Matters, when Johnson did not owe the firm \$50,000 at that time, Ruppelt made a misrepresentation in a disclosure to OLR, in violation of SCR 22.03(6), enforceable via SCR 20:8.4(f) and SCR 20:8.4(h).⁴

WHEREFORE, the Office of Lawyer Regulation asks that Attorney Mark A. Ruppelt be found in violation of the Supreme Court Rules as alleged in connection with Counts One through Five of this complaint, that Ruppelt's license to practice law in Wisconsin be suspended for a period of six (6) months, and that the Supreme Court of Wisconsin order such other and further relief as may be just and equitable, including an assessment of the costs of the proceeding against Ruppelt.

⁴ SCR 22.03(6), which is enforced via SCR 20:8.4(f), provides that "[i]n the course of the investigation, the respondent's wilful failure to provide relevant information, to answer questions fully, or to furnish documents, and the respondent's misrepresentation in a disclosure are misconduct, regardless of the merits of the matters asserted in the grievance." SCR 20:8.4(h) provides that "[i]t is professional misconduct for a lawyer to fail to cooperate in the investigation of a grievance filed with the office of lawyer regulation as required by SCR 21.15(4), SCR 22.001(9)(b), SCR 22.03(2), SCR 22.03(6), or SCR 22.04(1)."

Dated this 21st day of January 2015.

**OFFICE OF LAWYER REGULATION
Complainant**



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