

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST JAMES T.
RUNYON, ATTORNEY AT LAW.

CASE CODE 30912

OFFICE OF LAWYER REGULATION,

CASE NO. 2015AP 578-D

Complainant;

JAMES T. RUNYON,

RECEIVED

Respondent.

MAR 23 2015

COMPLAINT

**CLERK OF SUPREME COURT
OF WISCONSIN**

NOW COMES the Wisconsin Supreme Court – Office of Lawyer Regulation (OLR) by retained counsel, Attorney Brenda K. Sunby, and alleges as follows:

1. OLR was established by the Wisconsin Supreme Court and operates pursuant to Supreme Court Rules. This complaint is filed pursuant to SCR 22.11.

2. James T. Runyon (hereinafter “Runyon”) was admitted to the practice of law in Wisconsin on June 2, 1978. Runyon’s law license is active and in good standing. The most recent address furnished by Runyon to the State Bar of Wisconsin is Runyon Law Offices LLC, 1414 N. 4th Street, PO Box 519, Tomahawk, WI 54487.

3. Runyon’s disciplinary history consists of the following:

(a) In 1984, Runyon received a one-year suspension of his Wisconsin law for violations of SCR 11.01, SCR 20.04(3), (4) (pre-1988), SCR 22.28(4)(b) and SCR 40.13. *Disciplinary Proceedings Against Runyon (121 Wis. 2d 37, 357 N.W.2d 545 (1984).*

(b) In 2006, Runyon received a private reprimand for violation of SCR 20:8.4(c). *Private Reprimand of Runyon. 2006-11.*

**Regarding September and October 2013 Trust Account Violations
(OLR Matter No. 2013MA1956)
Counts One Through Four**

4. Runyon maintained an IOLTA trust account at the First Merit Bank in Kaukauna, Wisconsin.

5. On September 20, 2013, there was an overdraft in the amount of \$4,300.43 on Runyon's trust account at First Merit Bank, when trust account check #3826 in the amount of \$5,500 was presented and returned unpaid.

6. On September 25, 2013, there was an overdraft in the amount of \$1,871.32 on Runyon's trust account when trust account check #3826 in the amount of \$5,500 was presented a second time and again returned unpaid.

7. On September 26, 2013, there was an overdraft in the amount of \$15,382.22 on Runyon's trust account when trust account check #3821 in the amount of \$7,210.90 was presented and returned unpaid.

8. On October 1, 2013, there was an overdraft in the amount of \$16,371.32 on Runyon's trust account when trust account checks #3758 in the amount of \$3,000 and #3817 in the amount of \$840 were presented and returned unpaid.

9. At OLR's request, Runyon provided OLR with his transaction register, client ledger and bank statements. Runyon's transaction register consisted of his handwritten check stubs. Runyon did not provide copies of the trust account checks at issue.

10. Runyon's handwritten check stubs did not show a consistent, accurate running balance; they did not include the source and client matter for all deposits; and they did not include the purpose for all disbursements. OLR was unable to accurately track trust account activity or to determine the cause of the overdrafts based solely upon records provided by Runyon.

11. OLR obtained Runyon's bank statements, checks, and deposit records for 2013 directly from First Merit Bank. Using these documents, as well as the check stubs and client ledgers produced by Runyon, OLR reconstructed Runyon's trust account from June 27, 2013, through October 16, 2013.

12. OLR's reconstructed records indicate that Runyon's trust account first became overdrawn on the books, as opposed to the bank balance, by a total of \$16,651.33 at the end of the day on September 16, 2013. The largest overdraft was \$24,151.33, which occurred on September 19, 2013. The overdraft was not reflected in the bank balances until September 20, 2013 when trust account check #3826 in the amount of \$5,500 was presented to the bank for payment.

13. Client ledgers produced by Runyon showed the following as of June 27, 2013:

Client Name	Balance as of 6/27/2013
Albrecht, Zack	\$3,000.00
Bockholt, James	\$18,600.00
Dotter, Grant	\$3,874.00
Granberg, Michael	\$6,592.74
Ison, John	\$31,767.22
Lake Nakomis Concerned Citizens	\$15,986.02
Mondiek, Andrew	\$1,000.00

Morgan, Ronald	\$9,622.00
Omelina, Robert	\$40.00
Petta, Karen	\$707.56
Rynders, Robert	\$1,300.00
Salewski, Richard	\$306.00
Total Client Ledger Balance	\$92,795.54

14. Runyon's handwritten check stubs indicate that the balance in his trust account as of June 27, 2013 should have been \$134,924.09.

15. However, bank records show Runyon's actual trust account balance on June 27, 2013 was only \$5,944.86.

16. Neither Runyon's transaction register nor his client ledgers accurately reflected the activity in his trust account. Runyon did not perform complete and accurate monthly account reconciliations.

17. Prior to the overdrafts that began on September 20, 2013, Runyon deposited checks into his trust account which were drawn on his business account, entitled "Runyon Law Offices, LLC," at Northwoods National Bank. Between June 29, 2013 and September 19, 2013 Runyon deposited the following funds from his business account to his trust account:

Date	Check No.	Client Matter	Amount
06/29/13	13436	Chase, Heather	\$1,000
07/05/13	13438	Laszewski, Christine	\$1,000
07/08/13	13447	Langbecker, Felicia	\$750
07/11/13	13450	McKinney, Diane & Behling Family	\$1,300
07/17/13	13469	Egget, Amy	\$1,000
09/12/13	13616	Vanney, James	\$500
09/16/13	13624	Unidentified	\$5,000

09/19/13	13631	Unidentified	\$8,000
Total			\$18,550

18. Runyon maintained a client ledger for the Michael A. Pahls Guardianship matter which had significant activity but for which he kept no running balance. Between June 27 and October 16, 2013, Runyon disbursed \$13,155.16 for the Michael A. Pahls Guardianship when there were no funds in his trust account identifiable to that matter, and no deposits identified to it during that period.

19. Between June 27, 2013 and October 1, 2013, Runyon made disbursements in client matters that resulted in negative balances, indicating that Runyon had overdrawn the amounts he should have been holding in his trust account for these clients:

Client Name	Balance as of 10/1/2013
Albrecht, Zack	(\$2,304.27)
Bauernfeind Warehouse Properties	(\$1,396.50)
Dotter, Grant	(\$3,123.80)
Electronic Filing Acct Citizens Bank	(\$750.00)
Erickson, Gordon	(\$2,500.00)
Ison, John	(\$1,767.22)
Lake Nokomis Concerned Citizens	(\$16,488.52)
Laszewski, Christine	(\$500.00)
Michael A. Pahls Guardianship	(\$13,155.16)
Mondieck, Andrew	(\$1,000.00)
Morgan, Ronald	(\$9,662.00)
Omelina, Robert	(\$40.00)
Petta, Karen	(\$707.56)
Potter, David	(\$417.70)
Total Client Ledger Balances	(\$53,772.73)

20. Five client matters became overdrawn for which Runyon later made deposits to the trust account to correct the overdraft:

Date	Client Matter	Balance	Deposit Date	Amount
07/05/13	Ison, John	(\$1,767.22)	07/30/13	\$30,000.00
08/03/13	Boyer, Elliott	(\$1,500.00)	08/07/13	\$1,500.00
08/07/13	Harding, John	(\$2,007.06)	08/19/13	\$2,007.06
08/07/13	Potter, David	(\$750.20)	08/20/13	\$15,000.00
08/28/13	Bauernfeind Warehouse	(\$734.88)	08/29/13	\$5,000.00
	Total	\$6,759.36		

21. Numerous deposits, totaling \$38,570.64, were made to Runyon's trust account that were not identified with any particular client but rather were made to address overdrafts in the account:

Date	Deposit Source	Memo	Amount
09/16/13	Runyon Law Offices	RLO, LLC ck 13624	\$5,000.00
09/16/13	Unidentified	Desal v. ADT settlement fund	\$48.04
09/16/13	Unidentified	Cash deposit	\$3,000.00
09/19/13	Runyon Law Offices	RLO, LLC ck 13631	\$8,000.00
09/23/13	Runyon Law Offices	RLO, LLC ck 13643	\$5,000.00
09/23/13	Runyon Law Offices	RLO, LLC ck 13638	\$5,000.00
09/23/13	Runyon Law Offices	RLO, LLC ck 13639	\$2,000.00
09/23/13	Peter & Catherine Rudquist		\$1,000.00
09/23/13	Jeremiah Rudquist		\$500.00
09/25/13	Runyon Law Offices	RLO, LLC ck 13649	\$8,000.00
10/02/13	Runyon Law Offices	James Runyon ck 4334	\$900.00
10/02/13	Unidentified	Scotch whisky rebate	\$3.00
10/02/13	Metlife		\$17.60
10/02/13	Lincoln County Clerk Court		\$2.00
10/02/13	Unidentified	Cash Deposit	\$100.00
Total			\$38,570.64

22. After the overdraft occurred, there were at least six clients for whom Runyon should have been holding funds in the trust account, but Runyon failed to do so, instead allowing his trust account to become overdrawn:

Client Name	Balance as of 10/1/2013
Brazzle, LLC	\$9,000.90
Granberg, Mike	\$6,000.00
Henricks, John	\$2,500.00
James T. Runyon Insurance Claim	\$649.50
Kaputska, Edward	\$829.11
Moorhouse, Marjorie	\$75.00
Total Client Ledger Balances	\$19,053.61

23. As of October 1, 2013, OLR's reconstructed records show a final balance of (\$18,371.32), while the October bank statement shows a balance of (\$16,371.32). The difference is explained by check #3820 issued on September 16, 2013 in the amount of \$2,000 which was never presented for payment. Otherwise, OLR's reconstructed records balance with the bank records for all of the activity in Runyon's trust account between June 27, 2013 and October 1, 2013.

COUNT ONE

24. By failing to hold in trust and account for at least \$19,053.61 and as much as \$86,850.68 in client and third party funds between June 27, 2013 and October 1, 2013, **Runyon violated SCR 20:1.15(b)(1)¹**.

¹ **SCR 20:1.15(b)(1) provides:** "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

25. By failing to hold in trust and account for at least \$19,053.61 and as much as \$86,850.68 in client and third party funds between June 27, 2013 and October 1, 2013, and on numerous occasions by converting funds from client matters in order to cover checks he issued in other client matters for which there was not sufficient funds on deposit in the trust account, **Runyon violated SCR 20:8.4(c)²**.

COUNT THREE

26. Prior to his trust account becoming overdrawn, by depositing eight checks to his trust account totaling \$18,550 that were drawn upon Runyon's business account, **Runyon violated SCR 20:1.15(b)(3)³**.

COUNT FOUR

27. (a) By failing to maintain a transaction register that accurately reflected the activity in his trust account and that included the balance after each transaction, the source and client matter for all deposits, and the purpose for all disbursements, **Runyon violated SCR 20:1.15(f)(1)a⁴**.

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

³ **SCR 20:1.15(b)(3)** provides: "No 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."

⁴ **SCR 20:1.15(f)(1)a** provides: "The transaction register shall contain a chronological record of all account transactions, and shall include all of the following: 1. the date, source, and amount of all deposits; 2. the date, check or transaction number, payee and amount of all disbursements, whether by check, wire transfer, or other means; 3. the date and amount of every other deposit or deduction of whatever nature; 4. the identity of the client for who funds were deposited or disbursed; and 5. the balance in the account after each transaction."

(b) By failing to maintain client ledgers that accurately reflected the activity in his trust account, and by making disbursements of funds from his trust account that created final total negative balances of \$53,772.73 in 14 client ledgers as of October 1, 2013, and by allowing five client ledgers to become overdrawn temporarily in July and August 2013 by a total amount of \$6,759.36, **Runyon violated SCR 20:1.15(f)(1)b⁵**.

**Regarding December 2013 Trust Account Violations
(OLR Matter No. 2014MA132)
Counts Five and Six**

28. Following several overdrafts in September and October 2013 on his trust account at First Merit Bank, Runyon opened a new trust account at River Valley Bank, and later closed the First Merit Bank trust account.

29. On November 4, 2013, Runyon made an initial deposit of \$20,000 to the River Valley Bank trust account. According to Runyon, the initial deposit of \$20,000 was broken down as follows: Jack Henricks \$15,500, Alyson Manninen \$2,000, and Patrick Lundberg \$2,500.

30. On November 12 and 14, 2013, River Valley Bank charged Runyon \$18.93 for the deposit stamp on the account and \$140.38 for checks. Runyon did not

⁵ SCR 20:1.15(f)(1)b., provides: "A subsidiary client ledger shall be maintained for each client or 3rd party for whom the lawyer receives trust funds that are deposited in an IOLTA account or any other pooled trust account. The lawyer shall record each receipt and disbursement of a client's or 3rd party's funds and the balance following each transaction. A lawyer shall not disburse the funds from an IOLTA account or any pooled trust account that would create a negative balance with respect to any individual client matter."

account for such fees and did not keep any firm funds designated to cover account fees and charges in the trust account.

31. On December 31, 2013, there was an overdraft in the amount of \$1,518.75 on Runyon's River Valley Bank trust account when trust account check #1029 payable to Runyon Law Offices in the amount of \$2,500 was presented and returned unpaid.

32. On November 7, 2013, Runyon issued an un-numbered "starter" check in the amount of \$6,592.74 to the Taylor County Clerk of Circuit Court in connection with the Michael Granberg client matter. The memo line of the check indicates it was for restitution in the Granberg matter. Runyon's client ledger for Granberg reflects the \$6,592.74 disbursement issued on November 7, 2013. This check cleared the trust account on November 12, 2013.

33. Runyon's check stubs, which he uses as his transaction register for this trust account, did not have the \$6,592.74 recorded in it.

34. When Runyon closed the First Merit Bank trust account on December 2, 2013, he withdrew its remaining balance of \$8,072.60 and deposited it into his River Valley Bank trust account. The \$8,072.62 belonged to Runyon either as earned fees or personal funds.

35. On December 29, 2013, Runyon issued check #1029 payable to Runyon Law Offices, LLC in the amount of \$2,500. Runyon did not include any notation on the memo line of such check to indicate the client matter or purpose of the disbursement.

36. Runyon provided OLR with a subsidiary ledger entitled "James T. Runyon" in which he indicated that he deposited to his River Valley Bank trust account \$8,072.60 in funds belonging to Runyon from his First Merit Bank trust account. Runyon also provided a subsidiary client ledger for Tyler Ludberg. Together, these ledgers reflect that Runyon issued check #1029 in the amount of \$2,500, with \$500 of such funds coming from Ludberg's account and \$2,000 of such funds coming from Runyon's account.

37. As of October 9, 2014, Runyon had not obtained or maintained canceled checks from River Valley Bank except for checks issued between November 2013 and January 2014, which the bank provided in response to OLR's investigation.

38. In response to the December 31, 2013 overdraft, Runyon provided copies of various records requested by OLR, including his transaction register (that he maintains on handwritten check stubs), bank statements, images of the canceled checks (that he only obtained from his bank in response to OLR's investigation), deposit slips, and copies of the client ledgers at issue.

39. A number of the canceled checks that Runyon produced, including check numbers 1002, 1007, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1017, 1018, 1024, 1025, 1028, 1029, 1030, 1033, 1035, 1041, 1042, 1043, 1045, 1046, 1047, 1048, 1050, 1051, 1052, and 1053, did not include the client matter and purpose of the check on the memo line.

40. A number of the original deposit slips which were submitted to the bank by Runyon did not include client information. Instead, client information was added to

the copies of the deposits dated 12/2/13, 12/9/13, 12/16/13, 12/18/13, 12/19/13, 1/2/14, 1/9/14, 1/14/14, 1/16/14, 1/17/14, 1/21/14, and 1/29/14, in pen prior to being produced to OLR.

COUNT FIVE

41. By depositing \$8,072.60 in personal funds into his River Valley Bank trust account on December 2, 2013, **Runyon violated SCR 20:1.15(b)(3)**.

COUNT SIX

42. (a) By failing to identify the client matter on his trust account deposit slips submitted to the bank, **Runyon violated 20:1.15(f)(1)d**⁶.

(b) By issuing checks from his River Valley Bank trust account without including the client matter and purpose on the memo lines of such checks, **Runyon violated 20:1.15(f)(1)e.1**⁷.

(c) By failing to obtain and maintain with his trust account records imaged checks or copies of the canceled checks issued from his trust account, **Runyon violated 20:1.15(f)(1)e.2**⁸.

⁶ **20:1.15(f)(1)d provides in relevant part:** "Deposit slips shall identify the name of the lawyer or law firm, and the name of the account. The deposit slip shall identify the amount of each deposit item, the client or matter associated with each deposit item, and the date of the deposit. The lawyer shall maintain a copy or duplicate of each deposit slip."

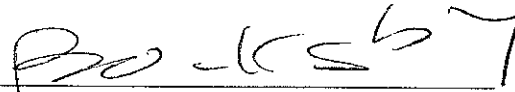
⁷ **20:1.15(f)(1)e.1 provides in relevant part:** "Each check disbursed from the trust account shall identify the client matter and the reason for the disbursement on the memo line."

⁸ **20:1.15(f)(1)e.2 provides:** "Canceled checks shall be obtained from the financial institution. Imaged checks may be substituted for canceled checks."

WHEREFORE, the Office of Lawyer Regulation asks that Attorney James T. Runyon be found in violation of the Supreme Court Rules as alleged in connection with Counts One through Six of this Complaint; that the Court suspend Attorney Runyon's license to practice law in Wisconsin for 60 days and that the Court order such other and further relief as may be just and equitable, including an award of costs.

Dated this 18th day of March, 2015.

OFFICE OF LAWYER REGULATION



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