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CLERK OF SUPREME COURT
OF WISCONSIN

STATE OF WISCONSIN

IN SUPREME COURT

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST CARL ROBERT
SCHOLZ, ATTORNEY AT LAW.

CASE CODE 30912

OFFICE OF LAWYER REGULATION,

CASE NO. 2020AP 1624D

Complainant;

CARL ROBERT SCHOLZ,

Respondent.

COMPLAINT

NOW COMES the Supreme Court of Wisconsin - Office of Lawyer Regulation (OLR) by Assistant Litigation Counsel John T. Payette, and alleges as follows:

1. The OLR was established by the Supreme Court of Wisconsin (Court) and operates pursuant to Supreme Court rules. This *Complaint* is filed pursuant to SCR 22.11.

2. Carl Robert Scholz (Scholz) was admitted to the practice of law in Wisconsin on May 23, 1994, State Bar No. 1023277. The most recent address furnished by Scholz to the State Bar of Wisconsin is 627 North Green Bay Road, Thiensville Wisconsin 53092-1300.

3. Scholz's disciplinary history consists of the following:

- a. A private reprimand for failing to hold client funds in trust when he deposited a client's advance fee payment directly into his business account without giving the requisite alternative fee notices and then used the funds to pay a personal tax obligation, and transferring client funds from his trust account to his business account without giving notice to the client at the time of the transfer that the funds represented a fee payment. *Private Reprimand*, 2011-OLR-21.
- b. Scholz is currently the subject of a pending Wisconsin disciplinary proceeding. *Disciplinary Proceedings against Scholz*, Sup. Ct. Case No. 2017AP2530-D.

**REGARDING CIANCIOLO
(OLR MATTER NO. 2018MA211)
COUNTS 1-7**

4. Scholz represented Sarah J. Cianciolo (Cianciolo) in *In Re the Marriage of Sarah J Cianciolo and John J. Cianciolo*, Waukesha County Circuit Court Case No. 2012FA92.

5. Scholz entered into a written fee agreement with Cianciolo dated May 28, 2014 stating that Scholz would be paid on an hourly basis at the rate of \$250 per hour.

6. Pursuant to the fee agreement, on May 28, 2014 Cianciolo paid Scholz an initial advanced fee of \$3,500.

7. The fee agreement complied with the requirements of former SCR 20:1.15(b)(4m)b., in effect through June 30, 2016, allowing Scholz to forgo holding the advanced fees in trust.

8. During times relevant to this matter, Attorney Cheryl A. Gemignani (Gemignani) was appointed to serve as Special Master and as the Guardian ad Litem for the Cianciolos' minor child in post-divorce proceedings.

9. In or about September 2015, Scholz discussed with Cianciolo filing a motion with the court for psychological evaluations of the parties.

10. On September 9, 2015, Scholz told Cianciolo that he needed \$4,000 that day to hire Dr. Christine Harness (Harness) to perform the psychological evaluations contemplated by the Motion for Psychological Evaluations.

11. Due to Scholz's expressed purpose and urgency, Cianciolo's parents agreed to pay the \$4,000 to Scholz to fund the psychological evaluations. On September 9, 2015, Scholz picked up a \$4,000 check from Cianciolos' parents' home.

12. As of September 9, 2015, Scholz owned some or all of the membership interests in MJ/C Investment Properties, LLC, a Wisconsin limited liability company.

13. Scholz maintained a bank account in the name of MJ/C Investment Properties, LLC at First Bank Financial Center. As of the opening of business on September 9, 2015, that account held only \$583.52 and check 1396 in the amount of \$5,000 was outstanding.

14. Scholz had issued check 1396 on September 1, 2015 to the United States Treasury to pay \$5,000 toward the tax obligations of another client and/or business partner unrelated to his representation of Cianciolo. On September 9, 2015, check 1396 was presented for payment against the account.

15. On September 9, 2015, Scholz deposited the \$4,000 check he received from Cianciolo's parents in the MJ/C Investment Properties account. Scholz also initiated two electronic funds transfers totaling \$450 into the MJ/C Investment Properties account. After those deposits, the MJ/C Investment Properties account would have held a total of \$5,033.52, sufficient to pay check 1396.

16. Also on September 9, 2015, however, an electronic funds debit transaction (loan payment) withdrew \$1,274.32 from the MJ/C Investment Properties account. After withdrawal of the loan payment and payment of check 1396, the account was overdrawn by \$1,240.80.

17. On or about October 6, 2015, Scholz drafted a *Motion for Psychological Evaluations* and an accompanying affidavit for Cianciolo's signature. Cianciolo signed the affidavit on October 6, 2015 and Scholz gave her a copy of the signed motion, also dated October 6, 2015. Nevertheless, Scholz never filed the motion with the court.

18. Scholz never hired Harness or paid any amounts to her.

19. Scholz did not refund the \$4,000 advance costs payment to Cianciolo or to her parents.

20. During a settlement conference at Gemignani's office on December 8, 2015, the Cianciolos reached agreement on several matters related to custody and placement of their minor child.

21. On January 7, 2016, the parties signed a *Stipulation and Order* that resolved all matters pending

before the court, including custody, placement, and child support. The stipulation also served to withdraw all motions then pending before the court. The court's order approving the stipulation required that the Cianciolos each pay one half of Gemignani's Guardian ad Litem fees within 10 days of receipt of her billing statement.

22. On January 8, 2016, the court discharged Gemignani as Special Master, but appointed her to continue to serve as Guardian ad Litem.

23. On January 14, 2016 and February 5, 2016, Gemignani sent Scholz billing statements showing a total balance due from Cianciolo of \$3,950.

24. On March 17, 2016, Cianciolo sent Scholz an email in which she asked Scholz to obtain from Gemignani itemized bills to support the amounts Gemignani was seeking from Cianciolo.

25. On April 12, 2016, Scholz issued check 7587 from his firm's business account at First Bank Financial Center in the amount of \$1,000 to pay a portion of Guardian ad Litem fees owed by Cianciolo to Gemignani. The source of the \$1,000 is unknown to OLR.

26. On May 2, 2016, Scholz met with Cianciolo, at which time they discussed Gemignani's billing statements and outstanding balance. Scholz did not, however, provide Cianciolo with an accounting of the funds he had paid to Gemignani on Cianciolo's behalf or provide her with documentation of the payment.

27. Scholz did not advise Cianciolo at the May 2, 2016 meeting that his representation was ended as of that date.

28. After the May 2, 2016 meeting, Scholz did not provide Cianciolo with a written accounting as required by paragraph 5 of the fee agreement and by former SCR 20:1.15(b)(4m)b., in effect through June 30, 2016, or any of the other written notices required by former SCR 20:1.15(b)(4m)b.

29. After the May 2, 2016 meeting, Scholz did not file a motion to withdraw as counsel in the Cianciolo post-divorce proceedings.

30. After May 2, 2016, Cianciolo believed that Scholz continued to represent her in the Cianciolo post-divorce proceedings.

31. After May 2, 2016, Cianciolo continued to send Scholz emails and to contact him by telephone regarding child support, and child custody and placement issues.

32. In or about July, 2016, Gemignani was discharged or otherwise ceased to act as Guardian ad Litem in the Cianciolo divorce proceeding.

33. Scholz notified Cianciolo that Gemignani had been discharged, but he did not provide Cianciolo with a copy of the court's order or other documentation that Gemignani was no longer appointed as Guardian ad Litem.

34. On December 26, 2016, Scholz issued check 7738 from his firm's business account at First Bank Financial Center in the amount of \$1,305 to pay a portion of Guardian ad Litem fees owed by Cianciolo to Gemignani. The source of the \$1,305 is unknown to OLR.

35. Between at least June 30, 2016 and August 27, 2017, Cianciolo asked Scholz several times for documentation of the amounts Scholz had paid to Gemignani on behalf of Cianciolo. Scholz failed to provide her with documentation of the amounts.

36. Between July 8, 2016 and August 27, 2017, Cianciolo asked Scholz several times for a copy of documentation showing that Gemignani was no longer serving as Guardian ad Litem. Scholz failed to provide Cianciolo with any such documentation or to tell her that he did not represent her and that she should pursue such documentation herself or through successor counsel.

37. Between May 2, 2016 and November 10, 2016, Scholz failed to respond to a number of Cianciolo's requests for information, including ongoing concerns over child support, custody and placement, and the status of the expected appointment of a parent mediator, which the parties had discussed during the December 2015 settlement conference. Scholz did not respond to Cianciolo's requests for information or notify her that he believed that his representation had ended on May 2, 2016, and that she should pursue such matters herself or through successor counsel.

38. On November 10, 2016, Cianciolo called Scholz from a third party's telephone. Scholz answered the call, but told Cianciolo that he was not able to speak to her at that time. Scholz promised to contact Gemignani regarding

information Cianciolo requested and then to contact Cianciolo, but Scholz failed to do so.

39. Between November 10, 2016 and May 2, 2017, Scholz did not respond to Cianciolo's requests for information or inform her that he believed that the representation had terminated.

40. Pursuant to the parties' Marital Settlement Agreement, John Cianciolo was obligated to give Cianciolo copies of his state and federal tax returns plus supporting attachments.

41. On May 2, 2017, Cianciolo requested from Scholz a copy of John's 2016 tax returns, which John advised her had been provided to Scholz.

42. On June 18, 2017, Cianciolo sent a second written request to Scholz for a copy of John's 2016 tax returns.

43. Scholz did not advise Cianciolo until July 26, 2017 that he did not receive the returns from John or his attorney.

44. In a June 18, 2017 letter to Scholz, Cianciolo stated that she had recently learned that John Cianciolo had filed for bankruptcy and was appearing on June 23, 2017

for a meeting with creditors. Cianciolo stated that since October 2016, John had not reimbursed Cianciolo for expenses he was required to reimburse. Cianciolo asked Scholz to contact her immediately to discuss "these urgent matters."

45. On July 26, 2017, Scholz met with Cianciolo. During that meeting Scholz discussed with Cianciolo that the funds that she had previously paid to him had been depleted, and that if he was going to continue to represent her he would require her to sign a new representation agreement. Scholz did not, however, explain to Cianciolo that he believed that the representation had ended on May 2, 2016, or that he had not represented her since that date, so that she could understand that he was not then her attorney and would not be her attorney unless and until she signed a new representation agreement.

46. During the July 26, 2017 meeting, Cianciolo asked for an accounting of the funds that had previously been paid to Scholz, including how much he had paid to Gemignani. Scholz told Cianciolo that he didn't then have access to that information. After the July 26, 2017 meeting, Scholz did not provide the requested information to Cianciolo.

47. By email dated August 27, 2017, Cianciolo again requested an itemized statement and accounting from Scholz. She asked to meet with Scholz prior to September 8, 2017, and asked that she be provided with itemized billing statements prior to that meeting. Scholz did not respond.

48. On September 20, 2017, Cianciolo sent Scholz a letter in which she stated that she was terminating Scholz's representation. In that letter, Cianciolo again asked for an accounting and itemized statements, as well as a refund of the \$4,000 that was intended to be used for psychological evaluations, and a copy of her file. Cianciolo requested she be allowed to pick up her file and the \$4,000 refund by October 6, 2017.

49. By letter dated October 6, 2017, Scholz provided Cianciolo with a check for \$500, which he described as a refund of the "disputed portion of the supplemental retainer that was paid to me in September 2015." Scholz promised to provide her file "in the short term under separate cover." Scholz did not, however, provide Cianciolo with an accounting. Cianciolo did not immediately deposit the check

due to Scholz's characterization of it in the accompanying letter.

50. On October 21, 2017, Cianciolo again requested a copy of her file no later than November 7, 2017.

51. On October 24, 2017, Scholz sent Cianciolo an electronic copy of her file on a CD.

52. As of November 15, 2017, Scholz had not provided Cianciolo with an accounting. By email dated November 15, 2017, Cianciolo again requested an accounting and itemized billing statements.

53. By email dated November 22, 2017, Scholz provided Cianciolo with copies of invoices purportedly for "my representation of you from May 18, 2014 through our wrap-up meeting on May 2, 2016." Scholz did not provide Cianciolo with an accounting. While the email included a list of payments he had received from Cianciolo or her family, he did not account for when and how those payments were applied to his fees or for any payments made to Gemignani, the court, or any third parties on Cianciolo's behalf.

54. Scholz never provided Cianciolo in writing with the notices required by former SCR 20:1.15(b)(4m)b., in

effect through June 30, 2016, or current SCR 20:1.5(g)(2), in effect as of July 1, 2016.

55. On February 13, 2018, Cianciolo filed a grievance with OLR against Scholz.

56. By letter dated May 31, 2018, OLR notified Scholz of the investigation of Cianciolo's grievance and requested that he provide certain information. Scholz's response was due by June 25, 2018. Scholz did not respond.

57. On June 27, 2018, OLR sent Scholz a second request for a response to the investigation of Cianciolo's grievance. Scholz was required to respond no later than July 7, 2018. Scholz did not respond.

58. On July 23, 2018, OLR filed with the Supreme Court of Wisconsin a motion for an order to show cause pursuant to SCR 22.03(4) due in part to Scholz's failure to cooperate in OLR's investigation of Cianciolo's grievance.

59. On July 23, 2018, the Court issued an order requiring Scholz to show cause by August 15, 2018 as to why OLR's motion should not be granted and his license to practice law in Wisconsin should not be suspended.

60. After an August 14, 2018 telephone call with Attorney Raymond Dall'Osto, who then represented Scholz in the investigation of Cianciolo's grievance, OLR filed a status report with the Court asking the Court to hold OLR's motion in abeyance until September 11, 2018.

61. On September 11, 2018, OLR received a partial response from Scholz to Cianciolo's grievance, and on September 12, 2018, OLR received by FedEx a box of additional materials. On September 12, 2018, OLR withdrew its motion.

62. On or about May 21, 2018, Cianciolo deposited Scholz's October 2017 \$500 check, but it was returned unpaid because Scholz had since closed the account from which it was issued.

63. Scholz has not refunded to Cianciolo any of the \$4,000 advanced costs paid to him.

64. In his response to the grievance, Scholz misrepresented to OLR that the \$4,000 provided to him on September 9, 2015 represented \$381.16 of previously paid costs and/or earned fees and \$3,616.84 of advanced fees. Scholz also misrepresented to OLR his communications with

Cianciolo to induce her and her family to pay him \$4,000 on September 9, 2015.

COUNT 1

65. By failing to safeguard advanced costs paid by Cianciolo or on her behalf, and to hold those funds in trust separate from his own funds, **Scholz violated SCR 20:1.15(b)(1)**.¹

COUNT 2

66. By converting money paid by Cianciolo or on her behalf for advance costs to his own use or for the benefit of another client, entity, and/or third party, **Scholz violated SCR 20:8.4(c)**.²

COUNT 3

67. By failing after May 2, 2016 to promptly comply with Cianciolo's reasonable requests for information related to Waukesha County Circuit Court Case No. 2012FA92,

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."

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

Gemignani's bills, and payments made by Scholz toward those bills, **Scholz violated SCR 20:1.4(a)(4)**³.

COUNT 4

68. By failing upon termination of his representation to deliver to Cianciolo in writing: a final accounting, or an accounting from the date of his most recent statement to the end of the representation; notice that, if Cianciolo disputed the amount of his fee and wanted that dispute to be submitted to binding arbitration, she must provide written notice of the dispute to Scholz within 30 days of the mailing of the accounting; and, notice that, if Scholz is unable to resolve the dispute to the satisfaction of Cianciolo within 30 days after receiving notice of the dispute from Cianciolo, Scholz shall submit the dispute to binding arbitration, **Scholz violated SCR 20:1.5(g)(2)**⁴.

³ **SCR 20:1.4(a)(4)** provides: "A lawyer shall...promptly comply with reasonable requests by the client for information."

⁴ **SCR 20:1.5(g)(2)**, in effect as of July 1, 2016, provides: "Upon termination of the representation, the lawyer shall deliver to the client in writing all of the following: a. A final accounting, or an accounting from the date of the lawyer's most recent statement to the end of the representation, regarding the client's advanced fee payment. b. A refund of any unearned advanced fees and costs. c. Notice that, if the client disputes the amount of the fee and wants that dispute to be submitted to binding arbitration, the client must provide written notice of the dispute to the lawyer within 30 days of the mailing of the accounting. d. Notice that, if the lawyer is unable to resolve the dispute to the satisfaction of the client within 30 days after receiving notice of the dispute from the client, the lawyer shall submit the dispute to binding arbitration."

COUNT 5

69. By failing to promptly refund the unused \$4,000 of advanced costs upon termination of his representation, **Scholz violated SCR 20:1.5(g)(2)(b)⁵ and 20:1.16(d)⁶**

COUNT 6

70. By failing to timely provide all information and records requested by OLR's May 31, 2018 letter and by providing the information and records only after the Court had issued an order to show cause why his license should not be suspended for failure to provide the requested information and records, **Scholz violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h)⁷.**

⁵ **SCR 20:1.5(g)(2)b provides:** "Upon termination of the representation, the lawyer shall deliver to the client...A refund of any unearned advanced fees and costs."

⁶ **SCR 20:1.16 provides:** "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. . ."

⁷ **SCRs 22.03(2) and (6), enforceable via SCR 20:8.4(h) provide: (2)** "Upon commencing an investigation, the director shall notify the respondent of the matter being investigated unless in the opinion of the director the investigation of the matter requires otherwise. The respondent shall fully and fairly disclose all facts and circumstances pertaining to the alleged misconduct within 20 days after being served by ordinary mail a request for a written response. The director may allow additional time to respond. Following receipt of the response, the director may conduct further investigation and may compel the respondent to answer, furnish documents, and present any information deemed relevant to the investigation." **(6)** "In 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)** "It 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 22.03(6)."

COUNT 7

71. By making misrepresentations to OLR regarding the \$4,000 provided to him on September 9, 2015, **Scholz violated SCR 22.03(6) enforceable via SCR 20:8.4(h)**.

**REGARDING MULTIPLE CLIENT MATTERS
(OLR MATTER NO. 2017MA1627)**

Scholz's Business Names

72. In or before 1997, Scholz began practicing law through Carl Robert Scholz, S.C. (the Firm).

73. On February 9, 2018, Scholz changed the name of the Firm to Estate Pro Wisconsin, S.C.

74. On April 16, 2019, Scholz filed Articles of Dissolution, dissolving the corporate identity of the Firm effective April 8, 2019.

75. In or about 2014, Scholz began to also offer legal services through DivorcePro Wisconsin, L.L.C. (renamed in 2018 as Divorce Pro Wisconsin, L.L.C.) and the website www.divorcepro-wi.com (collectively, Divorce Pro).

76. Scholz also owned some or all of the interests in, and managed several other entities, including the following entities involved in real estate investment and/or management:

- a. MJ/C Investment Properties, LLC, which was organized on or about January 1, 2015;
- b. Thomas Nemetz Properties LLC, which was organized on or about January 1, 2014; and
- c. Assured Property Investors LLC, which was organized on or about January 15, 2018.

Scholz's Trust and Non-Trust Accounts

77. Scholz maintained two IOLTA client trust accounts in the name of the Firm:

- a. an IOLTA client trust account at First Bank Financial Center (FBFC) titled as the Carl Robert Scholz S.C. IOLTA Trust Account (the FBFC Trust Account); and
- b. an IOLTA client trust account at BMO Harris Bank N.A. titled as Carl Robert Scholz, S.C. Client Trust--IOLTA (the BMOH Trust Account).

78. Scholz also maintained an e-banking trust account at FBFC titled as DIVORCEPRO Wisconsin LLC IOLTA Credit Card Trust Account, later titled as Divorce Pro Wisconsin LLC E-Banking Trust Account.

79. Scholz also maintained a number of non-trust accounts at several different banks in his own name and in the name of the Firm, Divorce Pro, MJ/C Investment Properties, LLC, Thomas Nemetz Properties LLC, Assured Property Investors LLC, and other entities.

80. The non-trust accounts most relevant to this proceeding, include:

- a. The Carl Robert Scholz S.C. business account at FBFC (the FBFC Business Account);
- b. The Carl R. Scholz MJ/C Investment Properties LLC account at FBFC (the FBFC MJ/C Account);
- c. The DivorcePro Wisconsin LLC account at FBFC (the FBFC DivorcePro Account);
- d. The Carl Robert Scholz, S.C. business account at BMO Harris Bank, N.A. (the BMOH Business Account); and
- e. The Estate Pro Wisconsin S.C. business account at Johnson Bank (JB Estate Pro Account).

**Representation of Nunez
COUNTS 8-14**

81. Scholz represented Pamela Sue Nunez in *In Re the Marriage of Pamela Sue Nunez and David J Nunez*, Washington County Circuit Court Case No. 2012F183.

82. On or about May 17, 2012, Scholz received a check for \$39,054.35, representing the proceeds from the sale of the Nunezes' marital home. As of May 17, 2012, the proceeds were disputed funds or funds in which both Nunezes held undivided, unresolved interests.

83. As of the opening of business on May 17, 2012, Scholz's BMOH Business Account held \$1,600.59 and had outstanding checks of at least \$7,778.68, not including checks Scholz had written to himself prior to May 17, 2012.

84. On May 17, 2012, Scholz deposited the Nunez check for \$39,054.35 in his BMOH Business Account.

85. Despite other deposits unrelated to the Nunezes, on May 18, 2012 the balance in Scholz's BMOH Business Account fell to \$22,744.94. Scholz, therefore, had converted to his own use or the use of other clients, entities, or third parties at least \$16,309.41 of the Nunezes' proceeds by the close of business on May 18, 2012.

86. Between May 18 and June 13, 2012, Scholz converted an additional \$14,248.32 of the Nunezes' proceeds to his own use or the use of other clients, entities or third parties, leaving no more than \$8,496.62 of the Nunezes' proceeds in Scholz's BMOH Business Account.

87. On or about June 13, 2012, the Nunezes, through Scholz and Attorney Jeremy Przybyla (Przybyla), reached an agreement for a Stipulation for Temporary Order and Order

which required Scholz to hold the entire \$39,054.35 of proceeds in trust until the final property division.

88. Scholz prepared the *Stipulation for Temporary Order and Order* for signature of the parties and filing with the court.

89. On or about June 13, 2012, Scholz provided the stipulation and order to Przybyla for David Nunez's signature.

90. Scholz did not, at any time during the negotiations, at the time he and Przybyla reached the agreement, or at the time he provided the stipulation and order to Przybyla for David's signature, inform Przybyla that Scholz was not holding the Nunezes' proceeds in trust or that Scholz had already disbursed at least \$30,557.73 of the proceeds.

91. David Nunez signed the stipulation on June 14, 2012. Pamela Nunez signed the stipulation on June 25, 2012. Scholz then submitted the *Stipulation for Temporary Order and Order* to the court for the court's consideration.

92. Scholz did not advise the court or Przybyla that he was not holding proceeds in trust or that he had already disbursed at least \$30,557.73 of the proceeds.

93. On June 28, 2012, an assistant court commissioner signed the order adopting the stipulation signed by the parties.

94. Despite other deposits unrelated to the Nunezes, on August 2, 2012, Scholz's BMOH Business Account became overdrawn. Therefore, no later than August 2, 2012, Scholz had converted all \$39,054.35 of the Nunezes' proceeds for his own use or the use of other clients, entities or third parties.

95. On April 23, 2013, the Nunezes signed a *Partial Marital Settlement Agreement* in which they agreed that, upon the judgment of divorce, the Nunezes would each receive one-half of the proceeds from the marital home, roughly \$19,527 each. Scholz was required to hold the \$39,054.35 in trust until the judgment of divorce.

96. On April 23, 2013, Scholz and/or Przybyla filed the *Partial Marital Settlement Agreement* with the court.

97. During an April 23, 2013 hearing, Scholz and Przybyla presented the *Partial Marital Settlement Agreement* to the court, and each questioned their clients in court about the agreement.

98. Scholz did not disclose to the court or Przybyla at that hearing that he was no longer holding any of the Nunez proceeds.

99. On July 18, 2013, the day before the final divorce hearing, Scholz used \$19,527.18 of disputed funds related to his representation of another client to obtain a cashier's check payable to Przybyla's trust account, representing the amount owed to David Nunez from the proceeds that Scholz should have been holding in trust since May 17, 2012.

100. During a July 19, 2013 final divorce hearing, Scholz and Przybyla again questioned their respective clients on the record about the *Partial Marital Settlement Agreement*.

101. While questioning Pamela about the agreement and its provisions related to the division of the \$39,054.35, Scholz misrepresented to Pamela and to the court that he

was then holding in trust Pamela's one-half share of the proceeds.

102. Scholz never advised the court or Przybyla that he was not holding the entire \$39,054.35 in trust or that he had disbursed all of the \$39,054.35 by August 2, 2012.

COUNT 8

103. By failing to hold in trust the disputed Nunez funds until the dispute or ownership was resolved, **Scholz violated former SCR 20:1.15(d)(3)⁸.**

COUNT 9

104. By failing to hold in trust, separate from his own property, the Nunez funds that belonged to his client or a third party, **Scholz violated SCR 20:1.15(b)(1).**

COUNT 10

105. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties,

⁸ **Former SCR 20:1.15(d)(3), in effect in effect through June 30, 2016** : "When the lawyer and another person or the client and another person claim ownership interest in trust property identified by a lien, court order, judgment, or contract, the lawyer shall hold that property in trust until there is an accounting and severance of the interests. If a dispute arises regarding the division of the property, the lawyer shall hold the disputed portion in trust until the dispute is resolved. Disputes between the lawyer and a client are subject to the provisions of sub. (g)(2)."

the Nunez funds that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)**.

COUNT 11

106. By causing a document containing false information regarding the Nunez funds to be filed with the Washington County Circuit Court, **Scholz violated SCR 20:8.4(c)**.

COUNT 12

107. By failing to comply with a court order requiring him to hold the Nunez funds in trust until certain conditions were met, **Scholz violated SCR 20:3.4(c)**.⁹

COUNT 13

108. By misrepresenting to the Washington County Circuit Court that he was holding the Nunez funds in trust when he was not, **Scholz violated SCR 20:3.3(a)(1)**.¹⁰

COUNT 14

109. By misrepresenting to Pamela Nunez his handling of the Nunezes' funds, **Scholz violated SCR 20:8.4(c)**.

⁹ SCR 20:3.4(c) provides: "A lawyer shall not knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists."

¹⁰ SCR 20:3.3(a)(1) provides: "A lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer."

Representation of Merrill
COUNTS 15-17

110. Scholz represented Nicole Merrill (Merrill) in a child support enforcement action, *State of Wisconsin vs Nicole M. Merrill*, Ozaukee County Circuit Court Case No. 2010FA297.

111. As of the opening of business on December 5, 2013, Scholz's FBFC Business Account held only \$52.18, and Scholz had outstanding checks totaling at least \$150.72.

112. On December 5, 2013, Scholz deposited in his FBFC Business Account a check for \$1,684.48 from his client Merrill, which Merrill had made payable to "Carl Robert Scholz S.C. Trust," and on the memo line of which Merrill had written, "Jays Reimbursement."

113. The check represented funds Merrill owed to her former spouse Jay Morris and was entrusted to Scholz to pay to Morris.

114. As of the close of business on December 6, 2013, the balance in Scholz's FBFC Business Account fell to \$1,112.48. Scholz, therefore, had converted at least \$536 of the funds entrusted to him by Merrill.

115. On December 9, 2013, during a motion hearing in Ozaukee County Circuit Court Case No. 2010FA297, Scholz misrepresented to the court that he was holding in trust the funds Merrill owed to Morris. The court ordered Scholz to prepare a check for Morris.

116. On or about December 23, 2013, Scholz used \$1,684.48 from his FBFC Business Account to obtain a cashier's check for Morris, and sometime thereafter provided the check to Morris.

117. During a hearing on April 15, 2014, the court commissioner ordered the appointment of a Guardian ad Litem and ordered the parties to each pay \$1,000 as a deposit toward the Guardian ad Litem's fees. Merrill was ordered to submit her \$1,000 deposit by April 25, 2014.

118. On April 15, 2014, Merrill gave Scholz a check for \$1,000, on the memo line of which she wrote "GAL Payment."

119. As of the opening of business on April 16, 2014, Scholz's FBFC Business Account held \$783.63 and had outstanding checks totaling at least \$4,736.98.

120. On April 16, 2014, Scholz deposited in his FBFC Business Account Merrill's check for \$1,000.

121. On April 17, 2014, Scholz issued check 7017 from his FBFC Business Account to Ozaukee County Clerk of Courts to pay Merrill's Guardian ad Litem fees. Check 7017, however, was not paid from Scholz's account until April 23, 2017.

122. Despite deposits of funds unrelated to his representation of Merrill on April 17, 18, and 21, 2014, as of the close of business on April 22, 2014, the balance in Scholz's FBFC Business Account fell to \$89.39.

123. Scholz, therefore, converted at least \$910.61 of Merrill's \$1,000 to his own use or the use of other clients, entities, or third parties.

124. On April 23, 2014, Scholz deposited \$2,000 via a check from an account at BMO Harris Bank, N.A. titled JDW Rental Properties LLC, without which deposit there would have been insufficient funds to pay check 7017.

COUNT 15

125. By failing to hold in trust, separate from his own property, funds that belonged to Merrill or third parties, **Scholz violated SCR 20:1.15(b) (1)**.

COUNT 16

126. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, Merrill's funds that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)**.

COUNT 17

127. By misrepresenting to the Ozaukee County Circuit Court that he was holding funds in trust for Merrill that he was not holding in trust, **Scholz violated SCR 20:3.3(a) (1)**.

Representation of Roehrborn
COUNTS 18-19

128. Scholz represented Richard Roehrborn (Roehrborn) as personal representative in *In Re the Estate of Marcella A. Roehrborn*, Ozaukee County Circuit Court Case No. 2013PR134.

129. On or about February 4, 2014, Scholz received a check from Roehrborn for \$60,000, which represented estate

assets to be used to make three \$20,000 disbursements to the three beneficiaries of the estate -- Roehrborn and his two sisters.

130. Roehrborn did not give Scholz permission to use the funds for any purpose other than to make the distributions to the three beneficiaries.

131. As of the opening of business on February 4, 2014, Scholz's FBFC Business Account was overdrawn by \$11.55 and had outstanding checks totaling at least \$35,902.90.

132. On February 4, 2014, Scholz deposited the \$60,000 check in his FBFC Business Account.

133. On February 4, 2014, Scholz converted \$5,808.21 of the Estate's funds by:

- a. disbursing \$4,250 to himself via checks 6954 and 6955 from the FBFC Business Account;
- b. using \$11.55 to reimburse First Bank Financial Center for the negative balance from the day before;
- c. using \$30 to pay a bank charge related to the overdraft causing the negative balance; and
- d. using \$1,516.66 to pay four checks to third parties unrelated to the Roehrborn Estate.

134. As of the close of business on February 4, 2014, only \$54,191.79 of the Roehrborn estate's funds remained in the FBFC Business Account.

135. On February 5, 2014, Scholz converted another \$10,213.22 of the Estate's funds by:

- a. disbursing \$5,000 to himself via check 6956, and
- b. using \$5,213.22 to pay three checks unrelated to the Roehrborn Estate.

136. As of the close of business on February 5, 2014, only \$43,978.57 of the Roehrborn estate's funds remained in the FBFC Business Account.

137. Between February 6, 2014 and February 9, 2014, Scholz converted \$30,335.36 of the Estate's funds by:

- a. electronically transferring \$1,000 to his FBFC Divorcepro Account, and
- b. using \$29,335.46 to pay ten checks to third parties unrelated to the Roehrborn estate, including:
 - i. six checks totaling \$12,173.02 payable to Attorney Donald Fraker (with whom Scholz shares office space) or Fraker's firm, and
 - ii. a \$15,000 check to repay a personal loan Scholz had borrowed from a different client.

138. As of the close of business on February 9, 2014, only \$13,643.21 of the Roehrborn estate's funds remained in the FBFC Business Account.

139. On February 10, 2014, Scholz used \$1,462.56 of funds in the FBFC Business Account to pay two checks unrelated to the Roehrborn estate. Those two checks were either paid using funds from the Roehrborn estate or from \$2,090.88 Scholz deposited in the FBFC Business Account from other clients.

140. As of the opening of business on February 11, 2014, between \$12,180.65 and \$13,643.21 of the Roehrborn estate's funds remained in the FBFC Business Account.

141. On February 11, 2014, Scholz used \$60,000 of the disputed proceeds from the sale of the marital residence in *In Re the Marriage of Joanne L Micoley and Scott Howard Micoley*, Ozaukee County Circuit Court Case No. 2013FA328, to obtain three cashier's checks for \$20,000 payable to the three beneficiaries of the Roehrborn estate.

COUNT 18

142. By failing to hold in trust, separate from his own property, the Roehrborn funds that belonged to clients or third parties, **Scholz violated SCR 20:1.15(b) (1)**.

COUNT 19

143. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, the Roehrborn funds that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)**.

Representation of Micoley
COUNTS 20-25

144. Scholz represented Scott Micoley (Micoley) in *In Re the Marriage of Joanne L Micoley and Scott Howard Micoley*, Ozaukee County Circuit Court Case No. 2013FA328.

145. On February 7, 2014, a court commissioner entered an order adopting a *Temporary Stipulation and Order* signed by the Micoleys.

146. The stipulation and order required Scholz to hold in trust \$62,098.91, representing one-half of the proceeds from the sale of the Micoleys' marital home, and to disburse

funds from the proceeds to be held in trust only as authorized by the court.

147. Specifically, the stipulation and order directed, in relevant part:

The parties recently closed on the sale of their marital residence and the proceeds totaled \$124,197.82. The check for the proceeds shall initially be deposited in the trust account of Burbach & Stansbury, S.C., which will issue a check in the amount of one-half of the proceeds (\$62,098.91) to the trust account of Attorney Carl R. Scholz...Attorney Scholz shall pay the balance of the parties' credit card debt, including the Discover Card...and the Sears card..., the Chase credit card, and the Capital One credit card, from the husband's one-half of the proceeds and provide the wife with documentation of the balances paid. Attorney Scholz may also release funds necessary for the husband to pay \$500 per month in temporary maintenance to the wife pursuant to provision 2. below. The husband's remaining one-half of the proceeds shall be held in the trust account of Attorney Carl R. Scholz pending further orders of the court. The parties shall equalize the remaining proceeds at the time of the final hearing in this matter...The parties' respective counsel may release trust funds to cover the cost of [obtaining a second opinion regarding wife's disability claim]...The parties shall share equally any tax liabilities or refunds resulting from their 2013 tax filing.

148. As of the opening of business on February 7, 2014, Scholz's BMOH Trust Account held \$100.

149. On February 7, 2014, Scholz deposited in his BMOH Trust Account the check for \$62,098.91 from Burbach & Stansbury.

150. On February 11, 2014, Scholz used \$60,000 of the disputed Micoley proceeds to obtain three cashier's checks, each for \$20,000 and each payable to one of the three beneficiaries of the Estate of Marcella Roehrborn. *In Re the Estate of Marcella A. Roehrborn*, Ozaukee County Circuit Court Case No. 2013PR134.

151. After the purchase of the three cashier's checks, Scholz was holding in trust no more than \$2,198.91 of the Micoleys' proceeds, and Scholz had converted at least \$59,900 of the proceeds for purposes unrelated to his representation of Scott Micoley.

152. Between February 12, 2014 and March 4, 2014, Scholz disbursed three checks totaling \$18,127.25 from his FBFC Business Account to pay three of the Micoleys' credit cards. Scholz used funds remaining from his deposit of funds belonging to the Roehrborn estate, his own funds and/or funds belonging to other clients, entities, or third parties to cover the three checks.

153. On February 18, 2014, Scholz used \$500 of the Micoley proceeds remaining in his BMOH Trust Account to obtain a cashier's check payable to Joanne Micoley, as permitted by the court's February 7, 2014 order. After disbursement of the \$500 to Joanne Micoley, Scholz was holding no more than \$1,698.91 of the Micoleys' proceeds in his BMOH Trust Account.

154. As of the opening of business on March 13, 2014, Scholz's BMOH Trust Account held \$1,698.91, comprised of at least \$1,598.91 and as much as \$1,698.91 of the Micoleys' proceeds.

155. On March 13, 2014, Scholz deposited in his BMOH Trust Account a check for \$5,250.78 from Members Title Group LLC, representing the tax escrow credit due the Micoleys from the sale of their marital residence.

156. As of March 13, 2014, the \$5,250.78 constituted additional proceeds from the sale of the Micoleys' marital home, disputed funds, or funds in which both of the Micoleys had an undivided interest that had not yet been resolved.

157. Scholz concealed his receipt of the \$5,250.78 from Attorney Sarah Whiting (Whiting), counsel for Joanne Micoley.

158. Scholz was not authorized by the court or opposing counsel to disburse any of the proceeds from the sale of the marital home or the disputed tax escrow funds to himself. Nevertheless, On March 14, 2014, Scholz disbursed \$4,000 to himself from the BMOH Trust Account via check 1108, on the memo line of which he wrote "Micoley."

159. After disbursement of the \$4,000 to himself, Scholz held no more than \$2,949.69 of the Micoleys' funds in trust.

160. On March 15, 2014, Scholz disbursed \$500 to Joanne Micoley via check 1109, as authorized by the court's February 7, 2014 order.

161. After disbursement of check 1109, Scholz was holding no more than \$2,449.69 of the Micoleys' funds in trust.

162. On March 21, 2014, Scholz disbursed \$2,000 to himself via check 1110 from his BMOH Trust Account, thereby

converting to his own use another \$2,000 of the Micoleys' funds.

163. After disbursing \$2,000 to himself, Scholz was holding no more than \$449.69, and potentially as little as \$349.69, of the Micoleys' funds in trust.

164. On April 21, 2014, Scholz deposited in his BMOH Trust Account a check for \$150.31 drawn on his FBFC Business Account, the memo line of which read "Trust Reconciliation." After the deposit of the \$150.31, Scholz's BMOH Trust Account held \$600.

165. By check 1111, dated April 15, 2014, Scholz disbursed \$500 to Joanne Micoley, as authorized by the court's February 7, 2014 order. Check 1111 cleared the account on May 1, 2014. After the payment of check 1111, Scholz's BMOH Trust Account held \$100, the same balance as had been in the account on February 7, 2014, prior to Scholz's deposit of the Micoleys' funds.

166. On May 5, 2014, Scholz deposited in his FBFC Business Account two checks totaling \$6,203, representing the Micoleys' state and federal tax refunds for tax year 2013.

167. Per the court's February 7, 2014 order, each of the Micoleys owned an equal share of the tax refunds and, therefore, the checks represented disputed and/or client and third party funds.

168. On May 12, 2014, Scholz disbursed check 7041 from his FBFC Business Account in the amount of \$4,971.48 to pay the Micoleys' Sears credit card account, which was one of the credit cards Scholz was instructed in the February 7, 2014 order to pay from the proceeds from the sale of the home.

169. Scholz was not authorized to use any portion of the tax refunds to pay marital debts.

170. Check 7041 did not clear the FBFC Business Account until May 16, 2014.

171. On May 13, 2014, before check 7041 cleared, the overall balance in Scholz's FBFC Business Account fell to \$42.53.

172. As of May 13, 2014, therefore, Scholz had converted to his own use or the use of other clients, entities, or third parties at least \$6,160.47 of the Micoleys' tax refunds.

173. On May 12, 2012, Scholz also issued two checks from his BMOH Trust Account, the memo line of each reading "2013 Tax Refund Disbursement":

- a. check 1112 to Scott Micoley for \$4,135.33, and
- b. check 1113 to the law firm representing Joanne Micoley for \$2,067.67.

174. On May 14, 2014, Scholz deposited in his FBFC Business Account a \$15,000 check representing a personal loan to Scholz from a third party.

175. On May 15, 2014, Scholz transferred \$6,703 from his FBFC Business Account to his BMOH Trust Account. After the deposit, Scholz's BMOH Trust Account held \$6,803.

176. On May 15, 2014, Scholz disbursed from his BMOH Trust Account check 1114 in the amount of \$500 to Joanne Micoley, as authorized by the court's February 7, 2014 order. After the payment of checks 1112, 1113, and 1114, Scholz's BMOH Trust Account again held \$100.

177. As of May 16, 2014, Scholz was not holding any of the Micoleys' funds in trust, when he should have been holding at least \$42,250.96 of the Micoleys' funds in trust.

178. On or about June 25, 2014, Scholz and Whiting agreed to propose to the court a second *Temporary Stipulation and Order* to modify certain terms of the Court's February 7, 2014 *Temporary Stipulation and Order*.

179. The resulting proposed stipulation and order would permit Scholz and Whiting to release funds held in their respective trust accounts to pay legal fees for a third party who would be drafting a special needs trust for Joanne Micoley.

180. The newer stipulation and order also increased to \$597 the amount Scholz was authorized to disburse for Joanne Micoley's monthly maintenance payment.

181. The newer stipulation and order stated that all other orders not therein modified remained in full force and effect.

182. Scholz negotiated the *Temporary Stipulation and Order*, had his client sign it, and allowed or filed the Stipulation and Order with the court without informing Whiting or the court that Scholz was not holding any of the Micoleys' funds in trust or that he had used at least \$72,060.47 of the Micoleys' funds for purposes unrelated to

the Micoleys, and that after taking into account disbursements Scholz made on behalf of the Micoleys, at least \$42,250.96 of the Micoleys' funds remained unreimbursed and unaccounted for.

183. On July 14, 2014, a court commissioner signed the order adopting the newer *Temporary Stipulation and Order*.

184. Between July 15, 2014 and August 31, 2015, pursuant to the two stipulations and orders, Scholz paid a total of \$2,561.08 from his FBFC Business Account to two law firms for Scott Micoley's share of fees for services provided to or for the benefit of Joanne Micoley, and Scholz paid a total of \$4,776 to Joanne Micoley (or to a law firm or bank on her behalf) via monthly payments of \$597. Scholz used his own funds or funds belonging to other clients, entities, or third parties to make those payments.

185. Due to issues related to Joanne Micoleys' means of support, the parties were unable to move the divorce proceedings forward between July 2014 and April 6, 2015, resulting in the court dismissing Case No. 2013FA328 without prejudice on April 6, 2015.

186. In or about September 2015, the Micoleys agreed through Scholz and Whiting to sign a *Partial Marital Settlement Agreement Regarding Property Division* which stated that the Micoleys would equally divide the \$62,098.91 of proceeds from the sale of their marital residence that remained after the payment of four credit cards.

187. The agreement stated, "Each of the parties shall receive the sum of \$50,549.54 [from the proceeds], which shall hereafter be classified as his or her own property."

188. Scholz failed to include or cause Whiting to include the \$5,250.78 of tax escrow funds in the provisions of the *Partial Marital Settlement Agreement Regarding Property Division*.

189. Joanne Micoley and her counsel signed the agreement on September 17, 2015. Scott Micoley signed the agreement on October 12, 2015.

190. As of the opening of business on September 17, 2015, Scholz's FBFC Business Account held \$46.37 and had outstanding checks issued prior to September 17, 2015 totaling at least \$6,486.98.

191. On September 17, 2015, Scholz deposited in his FBFC Business Account a check from Burbach & Stansbury SC's client trust account for \$11,549.36, representing funds owed to Scott Micoley to equalize the Micoleys' respective shares of the proceeds from the sale of their marital home.

192. Despite other deposits unrelated to the Micoleys which Scholz made in his FBFC Business Account between September 17, 2015 and October 5, 2015, Scholz's FBFC Business Account balance fell to \$702.82 on September 28, 2015, and the account became overdrawn on October 5, 2015.

193. Scholz did not make any disbursements to Scott Micoley or on his behalf between September 17 and October 5, 2015.

194. No later than October 5, 2015, therefore, Scholz had converted all of the \$11,549.36 belonging to Scott Micoley to his own purpose or for the benefit of other clients, entities, or third parties.

195. Between October 21, 2015 and March 15, 2016, Scholz paid a total of \$3,582 to Joanne Micoley (or to a law firm or bank on her behalf) via monthly payments of \$597 from Scholz's FBFC Business Account. Scholz used his

own funds or funds belonging to other clients, entities, or third parties to make those disbursements. However, Scholz had not yet disbursed any of the proceeds to Scott Micoley.

196. On December 15, 2015, Scholz disbursed from his FBFC Business Account check 7515 in the amount of \$597 to Joanne Micoley and check 7516 in the amount of \$25,000 to Scott Micoley. On the memo line of check 7516 to Scott Micoley Scholz wrote "Disbursement."

197. On December 15, 2015, Scholz's FBFC Business Account held only \$266.77. In order to keep the account balance above \$25,597 so that checks 7515 and 7516 would clear the account, between December 15 and 28, 2015, Scholz deposited a total of \$29,750 in his FBFC Business Account, including:

- a. \$4,000 via a check drawn on a Citibank, N.A. account in Scholz's individual name;
- b. \$3,000 from Scholz and his wife's joint personal account at BMO Harris Bank, N.A.;
- c. \$3,250 in electronic transfers from the FBFC MJ/C Investments Account;
- d. \$2,000 via a counter withdrawal from the FBFC MJ/C Investments Account;
- e. \$5,750 in cash; and

f. deposits totaling \$15,000 from other clients or third parties, some or all of which may have represented earned fees or funds belonging to Scholz.

198. On December 29, 2015, check 7516 was paid from Scholz's FBFC Business Account, leaving \$1,392.91 in the account.

199. On December 30, 2015, check 7515 cleared the account. On December 30, 2015, Scholz electronically transferred \$100 to his FBFC MJ/C Investments Account and electronically transferred \$400 to his FBFC DivorcePro Wisconsin Account, leaving \$295.91 in his FBFC Business Account.

200. On April 5, 2016, Scholz and opposing counsel jointly filed a *Motion for Relief* from the court's April 6, 2015 order dismissing the Micoleys' divorce and sought a final hearing to finalize the divorce. They also filed a signed *Marital Settlement Agreement*, which included as an attachment the October 2015 *Partial Marital Settlement Agreement Regarding Property Division*.

201. Because Scholz concealed his receipt of the \$5,250.78 of tax escrow funds to Whiting or to cause it to be included in the *Marital Settlement Agreement* or *Partial*

Marital Settlement Agreement Regarding Property Division, Scholz deprived Joanne Micoley of her counsel's assistance to determine the best way to allocate those funds to Joanne without compromising Joanne's receipt of SSI benefits.

202. Scholz failed to deliver to Joanne Micoley or to a trust or agent on her behalf Joanne's share of the \$5,250.78, which according to the *Marital Settlement Agreement* and *Partial Marital Settlement Agreement Regarding Property Division* would have been \$2,625.39.

203. The *Marital Settlement Agreement* required Scott Micoley to pay \$2,985 to Joanne Micoley on the date of the final divorce hearing. The *Marital Settlement Agreement* also provided that from the date of the divorce, Scott Micoley would pay maintenance for the benefit of Joanne Micoley in the amount of \$2,300 per month.

204. On April 22, 2016, the court granted the judgment of divorce and incorporated the *Marital Settlement Agreement into the Findings of Fact, Conclusions of Law and Judgment of Divorce*.

205. Also on April 22, 2016, Scholz disbursed check 7600 from his FBFC Business Account in the amount of \$2,985,

which was disbursed to pay the Micoleys' Discover credit card account instead of to Joanne Micoley. Scholz used his own funds or funds belonging to other clients, entities, or third parties to make the disbursement.

206. On May 3, 2016, Scholz disbursed check 7606 from his FBFC Business Account in the amount of \$597 for the benefit of Joanne Micoley. Scholz used his own funds or funds belonging to other clients, entities, or third parties to make the disbursement.

207. On May 17, 2016, Scholz disbursed check 7611 from his FBFC Business Account in the amount of \$2,300 to pay Scott Micoley's May 2016 maintenance for Joanne Micoley. Scholz used his own funds or funds belonging to other clients, entities, or third parties to make the disbursement to Joanne Micoley.

208. On September 7, 2016, Scholz disbursed check 7679 in the amount of \$2,015.34 from his FBFC Business Account to Scott Micoley. On the memo line Scholz wrote "Disbursement." Scholz used his own funds or funds belonging to other clients, entities, or third parties to make the disbursement to Scott Micoley.

COUNT 20

209. By failing to hold in trust, separate from his own property, funds that belonged to Micoley or third parties, **Scholz violated SCR 20:1.15(b) (1)** .

COUNT 21

210. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, Micoley funds that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)** .

COUNT 22

211. By failing to hold in trust disputed Micoley funds and/or Micoley funds in which more than one person had unresolved and/or undivided interests until the dispute or ownership was resolved, **Scholz violated former SCR 20:1.15(d) (3)** .

COUNT 23

212. By concealing from opposing counsel his receipt of \$5,250.78 of disputed and/or client and third-party funds, **Scholz violated SCR 20:8.4(c)** .

COUNT 24

213. By failing to comply with court orders requiring him to hold the Micokey funds in trust, **Scholz violated SCR 20:3.4(c)**.

COUNT 25

214. By causing documents containing false information regarding whether he was holding Micokey funds in trust to be filed with the Ozaukee County Circuit Court, **Scholz violated SCR 20:8.4(c)**.

Representation of Hanson
COUNTS 26-27

215. Scholz represented Ann Marie Hanson (Hanson) in *In Re the Marriage of Gary Lee Hanson and Ann Marie Hanson*, Ozaukee County Circuit Court Case No. 2013FA152.

216. On January 31, 2014, the Hansons signed a *Marital Settlement Agreement*, which was approved by the court that day during a stipulated divorce hearing.

217. The court ordered the *Marital Settlement Agreement* to be incorporated into the findings of fact, conclusions of law and judgment of divorce.

218. *The Marital Settlement Agreement* stated that the Hansons would share equally in the net proceeds from the

sale of their marital residence after payment of the outstanding mortgage, their joint Chase credit card, three student loans in Gary's name, and their daughter's orthodontic bill.

219. The *Marital Settlement Agreement* also required Ann to make certain ongoing payments to Gary and to pay Gary \$1,065.88 by February 10, 2014. Gary would also be entitled to \$3,153.99 from either Ann's share of their 2013 tax refunds or her share of the proceeds from the sale of their marital home, whichever occurred first.

220. On February 10, 2014, Scholz deposited in his FBFC Business Account a check for \$2,065.88 from Ann, representing \$1,000 in attorney's fees Ann owed to Scholz and the \$1,065.88 Ann was required to pay to Gary pursuant to the *Marital Settlement Agreement*.

221. On February 10, 2014, Scholz disbursed check 6961 from the FBFC Business Account to Gary in the amount of \$1,065.88.

222. As of the opening of business on October 10, 2014, Scholz's FBFC Business Account held \$4,453.61. On October 10, 2014, Scholz deposited in his FBFC Business Account a

check for \$20,729.12, representing Ann's share of the proceeds from the sale of the Hansons' marital home.

223. Pursuant to the *Marital Settlement Agreement*, Ann was only entitled to receive the net, if any, after certain debts were paid. Scholz was required to hold the proceeds in trust until those debts were paid.

224. Between October 10 and 20, 2014, Scholz did not disburse any of the Hansons proceeds for any debt owed by the Hansons or for any other purpose authorized by the *Marital Settlement Agreement*, court, or opposing counsel.

225. As of the close of business on October 17, 2014, the balance in Scholz's FBFC Business Account fell to \$10,712.79. As of October 17, 2014, therefore, Scholz had converted to his own use or the use of other clients or third parties at least \$10,016.33 of the Hansons' funds.

226. On October 20, 2014, Scholz used \$6,355.12 from his FBFC Business Account to obtain a bank check for Gary to pay a debt Ann was required to pay from the proceeds.

227. Scholz did not make any other authorized disbursements until October 28, 2014.

228. As of the close of business on October 23, 2014, however, Scholz's FBFC Business Account held only \$215.26. Given that Scholz should have been continuing to hold \$14,374 of the \$20,729.12, as of October 23, 2014, Scholz had converted at least \$14,158.74 of the Hansons' proceeds.

229. Between October 28, 2014 and December 15, 2014, Scholz made three disbursements totaling \$8,438.40 from his FBFC Business Account related to his representation of Ann, including:

- a. a bank check disbursed on October 28, 2014 for \$100.60 to Gary;
- b. check 1006 on December 15, 2014 for \$2,021.03 to pay the Hansons' joint credit card; and
- c. check 1007 to Ann on December 15, 2014, in the amount of \$6,316.77.

230. On December February 18, 2015, Scholz disbursed check 7296 to Ann in the amount of \$800, on the memo line of which Scholz wrote "Credit Card SNAFU (Credit)."

COUNT 26

231. By failing to hold in trust, separate from his own property, funds that belonged to Hanson or third parties, **Scholz violated SCR 20:1.15(b) (1)**.

COUNT 27

232. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, Hanson funds that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)**.

Representation of Varney
COUNTS 28-29

233. Scholz represented Christopher Alfred-Holmes Varney (Varney) in *In Re the Marriage of Barbara Elizabeth Varney and Christopher Alfred-Holmes Varney*, Ozaukee County Circuit Court Case No. 2015FA85.

234. As of the opening of business on July 16, 2015, Scholz's FBFC Business Account held only \$91.36 and had outstanding checks of at least \$851.48.

235. On July 16, 2015, Scholz deposited in his FBFC Business Account a check from Varney for \$1,000 made payable to "Carl Robert Scholz SC Trust," on the memo line of which Varney wrote, "GAL deposit."

236. Scholz did not disburse any funds for payment of Varney's Guardian ad Litem deposit or fees until August 13, 2015.

237. By the close of business on July 16, 2015, Scholz's FBFC Business Account held only \$399.45. Scholz, therefore, had converted at least \$600.55 of the funds intended to pay Varney's Guardian ad Litem fees for his own use or the use of other clients or third parties.

238. On July 17, 2015, Scholz deposited in his FBFC Business Account a second check from Varney, made payable to "Carl Robert Scholz SC Trust" in the amount of \$6,000.

239. At least \$3,500 of the July 17, 2015 \$6,000 were intended to pay amounts to the Lumen Christi Catholic School (Lumen Christi) where one or more of Varney's children attended school.

240. Scholz did not disburse any of the funds to Lumen Christi until September 18, 2015.

241. The overall balance in Scholz's FBFC Business Account fell to \$126 on July 21, 2015, and \$20.64 on July 24, 2015. No later than July 24, 2015, therefore, Scholz had converted at least \$5,979.36 of the \$6,000, including at least \$3,479.36 of the funds intended to be paid to Lumen Christi.

242. On August 13, 2015, Scholz disbursed check 7423 from his FBFC Business Account to the Ozaukee County Clerk of Court to pay \$750 as a deposit toward Varney's Guardian ad Litem fees. Check 7423 was paid from the FBFC Business Account on August 17, 2015.

243. Scholz used his own funds and/or funds belonging to other clients, entities, or third parties to pay check 7423.

244. On September 18, 2015, Scholz disbursed check 7453 from his FBFC Business Account in the amount of \$3,500 to Lumen Christi. On the memo line Scholz wrote, "Varney."

245. On October 5, 2015, when check 7453 was presented for payment against Scholz's FBFC Business Account, there were insufficient funds in the FBFC Business Account to pay the check and it was returned unpaid.

246. On October 13, 2015, Scholz issued check 7468 to Lumen Christi in the amount of \$3,500, again writing "Varney" on the memo line. Check 7468 was paid from the account on October 20, 2015.

247. Scholz used his own funds and/or funds belonging to other clients, entities, or third parties to pay check 7468.

248. On June 15, 2016, Scholz deposited in his FBFC Business Account a \$582 check from the Ozaukee County Clerk of Court, representing a refund to Varney from his \$750 Guardian ad Litem deposit, less the \$168 actual costs paid to the Guardian ad Litem.

249. On June 20, 2016, Scholz disbursed check 7641 from his FBFC Business Account to Christopher Varney in the amount of \$291. On the memo line of the check Scholz wrote, "GAL Fees Reimbursement (Barbara's Share)".

250. Scholz misrepresented on check 7641 the nature of the funds and amount of the Guardian ad Litem refund actually owed to Varney.

251. During OLR's investigation, Scholz provided no evidence to OLR that he properly handled the remaining \$291 from the Ozaukee County Clerk of Court check or whether the remaining \$291 was ever delivered to Varney.

COUNT 28

252. By failing to hold in trust, separate from his own property, funds that belonged to Varney or third parties, **Scholz violated SCR 20:1.15(b) (1)**.

COUNT 29

253. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, Varney funds that he was required to hold in trust, and by misrepresenting on a check to Varney the nature of the funds and the amount owed to Varney, **Scholz, in each instance, violated SCR 20:8.4(c)**.

Representation of Kancius and Schoessow
COUNTS 30-31

254. Scholz represented Karen Kancius (Kancius) and Diane Schoessow (Schoessow) related to a dispute over how to terminate and distribute the remaining assets of a trust. *In the Matter of the Schoessow Revocable Trust*, Ozaukee County Circuit Court Case No. 2016PR8.

255. In or about early January 2017, the dispute was resolved, with some trust beneficiaries receiving a combination of money and interests in real estate and other beneficiaries receiving only money.

256. On March 6, 2017, Scholz deposited in his FBFC Business Account a check for \$33,754.51 from the Schoessow Trust, representing funds due Schoessow.

257. Scholz did not disburse the funds to Schoessow until April 20, 2017.

258. As of the close of business on March 6, 2017, the balance in Scholz's FBFC Business Account fell to \$17,320.76.

259. On March 6, 2017, therefore, Scholz converted to his own use or the use of other clients, entities or third parties at least \$16,433.75 of Schoessow's funds.

260. As of the close of business on March 9, 2017, the balance in Scholz's FBFC Business Account fell to \$5,990.05. As of March 9, 2017, therefore, Scholz had converted to his own use or the use of other clients, entities or third parties at least \$27,764.46 of Schoessow's funds.

261. As of the close of business on March 20, 2017, the balance in Scholz's FBFC Business Account fell to \$25.91. As of March 20, 2017, therefore, Scholz had converted to his own use or the use of other clients,

entities or third parties substantially all of Schoessow's funds.

262. On April 20, 2017, Scholz disbursed \$33,754.51 to Schoessow via check 7809 from his FBFC Business Account.

263. At the time Scholz issued check 7809, his FBFC Business Account held only \$2,596.34.

264. Check 7809 did not clear the FBFC Business Account until May 30, 2017. As of the close of business on May 26, 2017, the FBFC Business Account held only \$4,639.70, despite Scholz depositing \$75,000 in the FBFC Business Account via:

- a. a May 1, 2017 deposit of \$30,000 loaned to Scholz by a third party; and,
- b. a May 9, 2017 deposit of \$45,000 via check 1022 from his FBFC Trust Account, comprised of funds paid to Scholz by another client.

265. On May 30, 2017, Scholz deposited \$30,000 in the FBFC Business Account via check 1023 from his FBFC Trust Account. Scholz wrote on the memo line what appears to read "Client transfer." The source of the \$30,000 was also the client whose funds had been transferred to the FBFC Business Account via check 1022.

266. Scholz, therefore, used at least \$30,000 of the funds from another client and \$3,754.51 of his own funds

and/or funds belonging to other clients, entities, or third parties to pay check 7809 to Schoessow.

COUNT 30

267. By failing to hold in trust, separate from his own property, funds that belonged to Schoessow or third parties, **Scholz violated SCR 20:1.15(b)(1)**.

COUNT 31

268. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, Schoessow funds that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)**.

Representation of Hafemeister
COUNTS 32-33

269. Scholz represented Devin Hafemeister (Hafemeister) in *In Re the Marriage of Devin L. Hafemeister and Jennifer L. Hafemeister*, Ozaukee County Circuit Court Case No. 2003FA310. As of 2017, Jennifer Hafemeister was known as Jennifer Richter (Richter).

270. In or about April, 2017, Hafemeister and Richter reached a stipulation related to child support owed by Hafemeister to Richter for their daughter who had recently turned 18.

271. The terms of the stipulation were placed on the record by Scholz during an April 24, 2017 hearing, pursuant to which the parties agreed that Hafemeister's monthly child support obligation would terminate on June 4, 2017, when their daughter graduated high school.

272. A written order effectuating the stipulation was entered by the court on May 15, 2017.

273. As of June 4, 2017, Hafemeister owed Richter \$2,819.78 in child support arrears. In June 2017, Hafemeister and Richter each signed a *Stipulation to Change Child Support and Arrears Balance* which stated that they "desired to apply [Hafemeister's] child support arrearages toward the establishment of a college trust for their daughter."

274. Pursuant to the stipulation, Hafemeister's monthly arrears payment of \$636.63 would terminate and his arrears balance of \$2,819.78 would be eliminated.

275. Hafemeister signed the stipulation on June 14, 2017, Richter signed it on June 27, 2017, and an agent of the Child Support Agency signed it on June 29, 2017.

276. The proposed stipulation and order were not filed with the court until July 18, 2017. A court commissioner signed the order on July 24, 2017.

277. On June 14, 2017, the day Hafemeister signed the Stipulation, Hafemeister issued a check payable to "Carl Robert Scholz S.C. Trust" in the amount of \$2,819.78, the amount Hafemeister then owed in child support arrears.

278. On June 23, 2017, Scholz deposited Hafemeister's check in his FBFC Business Account.

279. As of the opening of business on June 23, 2017, Scholz's FBFC Business Account held \$791.08. As of the close of business on June 23, 2017, Scholz's FBFC Business Account held only \$2,173.17. On June 23, 2017, therefore, Scholz converted at least \$646.61 of the Hafemeister funds he should have been holding in trust.

280. By the close of business on June 30, 2017, the balance in Scholz's FBFC Business Account fell to \$10.06. As of June 30, 2017, therefore, Scholz had converted substantially all of the Hafemeister \$2,819.78 to his own use or for the benefit of other clients, entities, or third parties.

281. On September 5, 2017, Scholz disbursed check 7868 from the FBFC Business Account to Hafemeister in the amount of \$1,175.28. On the memo line of the check Scholz wrote, "Child Support Overpayments (Credit)."

282. Check 7868 cleared the account on September 7, 2017. Scholz used his own funds and/or funds belonging to other clients, entities, or third parties to pay check 7868.

283. On September 11, 2017, Scholz disbursed check 7872 from the FBFC Business Account to Richter in the amount of \$1,056.86, on the memo line of which Scholz wrote, "Support Arrearages (Settlement in Full)."

284. At the time Scholz issued check 7872 the FBFC Business Account held only \$844.93. As of the opening of business on September 14, 2017, the FBFC Business Account held only \$776.26.

285. On September 14, 2017, Scholz deposited in the FBFC Business Account a total of \$1,250, comprised of a \$250 payment from a client and a check for \$1,000 which Scholz disbursed from an account at Spring Bank in the name of Thomas Nemetz Properties, LLC.

286. Check 7872 cleared the account on September 14, 2017. Scholz used his own funds and/or funds belonging to other clients, entities, or third parties to pay check 7872.

287. Without Scholz's deposit of \$1,000 from Thomas Nemetz Properties LLC there would have been insufficient funds to pay check 7872.

COUNT 32

288. By failing to hold in trust, separate from his own property, Hafemeister funds that belonged to clients or third parties, **Scholz violated SCR 20:1.15(b)(1)**.

COUNT 33

289. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, Hafemeister funds that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)**.

Representation of Helbick
COUNTS 34-35

290. Scholz represented Mary Helbick (Helbick) in *In Re the Marriage of Mary A Helbick and Jeremy L Miller*, Ozaukee County Circuit Court Case No. 2015FA212.

291. As of the opening of business on April 24, 2017, Scholz's FBFC Business Account held \$1,834.21 and had outstanding checks of at least \$33,427.67.

292. On April 24, 2017, Scholz deposited in his FBFC Business Account a check from Helbick's former spouse Jeremy Miller (Miller) in the amount of \$11,876.66, representing funds due Helbick related to the divorce. The check was made payable to "Carl Robert Scholz, S.C. Trust."

293. As of April 24, 2017, Scholz was owed legal fees from Helbick of no more than \$875, \$425 of which he had not yet billed or invoiced to Helbick.

294. As of the close of business on April 25, 2017, Scholz's FBFC Business Account held only \$1,439.02, and by the end of business on April 26, 2017 the balance had fallen to \$62.71.

295. Between April 24, 2017 and April 26, 2017, Scholz had transferred all or substantially all of the \$11,876.66 from his FBFC Business Account to other accounts managed or owned by Scholz, including:

- a. a total of \$1,500 via telephone transfer to Scholz's FBFC personal account;
- b. \$1,100 to his FBFC DivorcePro Account; and

c. \$10,000 to his FBFC MJ/C Account.

296. Between April 24 and April 28, 2017, Scholz used substantially all of the funds transferred to those accounts for purposes unrelated to his representation of Helbick, including:

- a. a \$1,200 "loan settlement" payment from MJ/C Investment Properties, LLC or Scholz to Kancius and her husband;
- b. a total of \$6,568 to pay state and federal taxes owed by another client and/or business partner; and
- c. \$5,713.21 to make a loan payment to Spring Bank on behalf of Scholz, MJ/C Investment Properties LLC, and/or another entity owned or managed by Scholz.

297. As of April 28, 2017, Scholz had converted substantially all of the funds from the \$11,876.66 that belonged to Helbick for his own purposes or the benefit of other clients, entities, or third parties.

298. On July 3, 2017, Scholz's FBFC Business Account became overdrawn. No later than July 3, 2017, therefore, Scholz had converted all of Helbick's funds remaining in the FBFC Business Account after April 28, 2017.

299. On September 1, 2017, Scholz disbursed check 7867 from his FBFC Business Account to Helbick in the amount of \$2,876.66, on the memo line of which he wrote, "Child Support Arrearages (Proceeds)." Check 7867 cleared the account on September 6, 2017.

300. As Scholz was not holding in his FBFC Business Account any of the \$11,876.66 as of September 6, 2017, Scholz used his own funds and/or funds belonging to other clients, entities, or third parties to pay check 7867.

301. On September 14, 2017, Scholz filed with the court a *Stipulation to Change Child Support, Arrears Payment/Balances, and Health Insurance*, which had been signed by Helbick and Miller on September 5, 2017.

302. Pursuant to the stipulation, Miller's child support obligations and his arrears of approximately \$15,000 would be eliminated. The court entered the order approving the stipulation on September 18, 2017.

303. Scholz provided OLR a purported accounting related to his representation of Helbick reflecting that he allegedly disbursed \$7,000 to Helbick in cash on April 25, 2017. Despite OLR's requests, Scholz did not provide OLR

with any documentation to support that that payment was made. The activity and balances in all Scholz bank accounts known to OLR do not support that any such cash payment was made.

COUNT 34

304. By failing to hold in trust, separate from his own property, funds that belonged to Helbick or third parties, **Scholz violated SCR 20:1.15(b) (1)**.

COUNT 35

305. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, funds that belonged to Helbick or third parties that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)**.

Representation of Meyer Estate
COUNTS 36-37

306. Scholz represented Katherine Cameranesi (Cameranesi), personal representative, and/or the Estate of Rodney G. Meyer (Meyer) in *In the Estate of Rodney G. Meyer*, Milwaukee County Circuit Court Case No. 2017PR952.

307. Meyer died on December 23, 2016. Meyer's will named Cameranesi personal representative and, after specific bequests of personal property, left his estate in

equal shares to his two children, Cameranesi and Christopher Meyer.

308. On June 21, 2017, Scholz, as counsel for Cameranesi, filed an application for informal probate, waiver and consent, proof of heirship, and the decedent's will. Cameranesi was appointed personal representative on August 1, 2017.

309. As of the opening of business on October 16, 2017, Scholz's FBFC Business Account held only \$1,548.14, and had outstanding checks that had been written prior to October 16, 2017 totaling at least \$1,739.69.

310. On October 16, 2017, Scholz deposited in his FBFC Business Account three checks totaling \$7,546.83 representing funds belonging to the Estate of Meyer.

311. On October 16 and 17, 2017, Scholz did not make any disbursements on behalf or for the benefit of the Meyer estate or deposit any additional funds in his FBFC Business Account.

312. By the close of business on October 17, 2017, Scholz's FBFC Business Account held only \$3.43. As of the close of business on October 17, 2017, therefore, Scholz

had converted at least \$7,543.40 of the Meyer estate's assets.

313. On October 27, 2017 Scholz's FBFC Business Account became overdrawn. No later than October 27, 2017, therefore, Scholz had converted to his own use or the use of other clients, entities or third parties all of the \$7,546.83 belonging to the Meyer estate.

314. As of the opening of business on January 10, 2018, Scholz's FBFC Business Account held only \$10.38. On January 10, 2018, Scholz deposited in his FBFC Business Account a check for \$28,771.29 from Summit Lender Direct Services payable to the Estate of Rodney George Meyer, representing the proceeds from the sale of Meyer's home.

315. Despite other deposits and credits unrelated to the Meyer estate, as of the close of business on January 25, 2018, Scholz's FBFC Business Account held only \$2.15.

316. As of January 25, 2018, therefore, Scholz had converted to his own use or the use of other clients, entities or third parties substantially all of the Meyer estate's \$28,771.29 from the sale of Meyer's home.

317. On May 4, 2018, Scholz disbursed \$7,000 to Cameranesi via check 1031 from his JB Estate Pro Account. On the memo line of the check Scholz wrote "Partial Disbursement."

318. Scholz used his own funds and/or funds belonging to other clients, entities, or third parties to pay check 1031.

319. On May 15, 2018, Cameranesi filed a claim against the estate for \$12,780.00 for amounts she expended for the decedent's care before his death.

320. Despite OLR's requests, Scholz did not provide OLR with information, records, or documentation necessary to account for his handling of the \$36,315.97 of estate assets he deposited in his FBFC Business Account, including documentation necessary to determine when and whether he delivered or reimbursed some of all of those funds to the estate or the purpose of his \$7,000 disbursement.

COUNT 36

321. By failing to hold in trust, separate from his own property, funds that belonged to the Meyer estate,

Cameranesi, or third parties, **Scholz violated SCR 20:1.15(b)(1)**.

COUNT 37

322. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, Meyer estate funds that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)**.

Representation Regarding Stark Estate
COUNTS 38-39

323. Scholz represented Shelly Ann Stark (Stark) with regard to the drafting of her will and later represented Linda Mangione (Mangione) with regard to *In the Estate of Shelly Ann Stark*, Ozaukee County Circuit Court Case No. 2017PR160.

324. On June 6, 2017, Stark signed a will drafted by Scholz that left all of her estate to her friend Mangione and that named Mangione personal representative.

325. Stark died on August 8, 2017. At the time of her death, Stark had four living siblings, including Sandra Deering (Deering).

326. As of the opening of business on August 8, 2017, Scholz's FBFC Business Account held \$83.50.

327. On August 8, 2017, Scholz deposited in his FBFC Business Account two checks issued from Stark's checking account at Associated Bank:

- a. Check 9809 in the amount of \$750 was dated August 4, 2017, signed by Stark, payable to Scholz individually, and the memo line read "Will." This payment represented earned fees to Scholz paid by Stark.
- b. Check 9814 in the amount of \$40,000 was dated August 8, 2017, payable to "Carl Robert Scholz S.C. TRUST," and signed by "Linda Mangione Atty In Fact." On the memo line of check 9814, Mangione wrote "Estate of Stark." These funds entrusted to Scholz by Mangione represented advanced costs or fees paid by Mangione to Scholz, or a gift or loan by Mangione paid to the estate to cover potential costs of the estate which could not be satisfied from other assets in the estate.

328. Scholz was not authorized to take any action with regard to the \$40,000 except to hold the funds in trust or to use the funds for the specific purpose of fulfilling Magione's instructions in handling the estate.

329. As of the close of business on September 7, 2017, Scholz's FBFC Business Account held only \$188.18.

330. As of September 7, 2017, therefore, Scholz had converted for his own purposes or for the benefit of other

clients, entities or third parties substantially all of the \$40,000.

331. Despite OLR's requests, Scholz did not provide OLR with the records, documents, or information necessary to determine whether and when he reimbursed Mangione or the Estate for the \$40,000 that he had deposited in his FBFC Business Account.

COUNT 38

332. By failing to hold in trust, separate from his own property, funds that belonged to Mangione or the Stark estate, **Scholz violated SCR 20:1.15(b)(1)**.

COUNT 39

333. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, funds that belonged to Mangione or the Stark estate that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)**.

Representation of Nichols
COUNTS 40-43

334. On July 26, 2005, the Racine County Circuit Court ordered Ryan R. Nichols (Nichols) to pay child support in the amount of \$442 per month to the Wisconsin Support

Collection Trust Fund (WSCTF) to support his minor child. That order remained in effect as of April, 2017.

335. Beginning in or about April 2017, Scholz represented Nichols in *In Re: the Support of Gabriel D. Nichols*, Racine County Circuit Court Case No. 2005FA586.

336. Sometime prior to April 6, 2017, the Racine County Child Support Agency (the Agency) obtained a levy against one or more of Nichols' bank accounts.

337. On April 6, 2017, the Agency spoke with Nichols about the levy.

338. On April 20, 2017, Scholz contacted the Agency about meeting with staff regarding Nichols.

339. On April 21, 2017, Scholz filed his notice of retainer in Racine County Circuit Court Case No. 2005FA586.

340. On May 11, 2017, Scholz met with a staff member of the Agency during which the Agency advised Scholz of the orders requiring Nichols to pay child support and the outstanding arrears then owed by Nichols.

341. Scholz asked the Agency staff what Nichols needed to do to get rid of the arrears, and the Agency advised

Scholz that the custodial parent would have to agree to expunge the arrears by stipulation.

342. Between March 1, 2017 and October 1, 2017 (with the exception of July 2017), Nichols made monthly payments to WSCTF of \$450 or \$500.

343. As of October 1, 2017, Nichols owed the child's mother principal child support of \$10,347.60 and interest of \$4,432.88.

344. Nichols also owed the State of Wisconsin principal of \$7,012.90 and interest of \$3,691.73 related to the child's custodian receiving public benefits and/or times when the child was in the custody of the state.

345. On October 5, 2017, Nichols wrote a check to Scholz for \$10,379.60. On the memo line, Nichols wrote "WI Child Support Payout."

346. Nichols intended the \$10,379.60 to be used to pay his outstanding child support to the child's mother.

347. Scholz told Nichols that Scholz would attempt to negotiate a settlement of between \$7,000 and \$10,000 to satisfy the arrearage owed to the child's mother.

348. Nichols did not authorize Scholz to use any of the \$10,379.60 for any other purpose.

349. Neither Nichols nor anyone on his behalf paid any amounts toward Nichols' monthly child support obligations or arrears between October 2, 2017 and March 27, 2019.

350. As of the opening of business on October 10, 2017, Scholz's FBFC Business Account held only \$291.49 and had outstanding checks that had been written prior to October 10, 2017 totaling at least \$3,334.64.

351. On October 10, 2017, Scholz deposited a total of \$13,729.60 in his FBFC Business Account, including the \$10,379.60 check from Nichols.

352. On October 10, 2017, from his FBFC Business Account, Scholz also:

- a. made a \$500 check withdrawal;
- b. disbursed \$2,100 to Fraker's firm via check 7894 (on the memo line of which Scholz wrote "Short-Term Loan Repayment"); and
- c. transferred a total of \$8,000 to a personal account in Scholz's name at FBFC.

353. As of the close of business on October 10, 2017, Scholz's FBFC Business Account held only \$5,521.09, which

included the \$2,100 disbursed to Fraker's firm because check 7894 was not presented for payment until October 11, 2017.

354. By the close of business on October 17, 2017, Scholz's FBFC Business Account held only \$3.43. Despite other deposits unrelated to Nichols, on October 27, 2017 Scholz's FBFC Business Account became overdrawn.

355. No later than October 27, 2017, therefore, Scholz had converted to his own use or the use of other clients, entities, or third parties all of the \$10,379.60 Nichols had paid to Scholz for the purpose of funding a settlement of his child support obligations to his child's mother.

356. During OLR's investigation, Nichols asserted to OLR that several times between October 2017 and March 2019, Scholz told Nichols that he was having trouble getting the child's mother to agree to a settlement, but that any time the child support agency said Nichols was too far behind in his child support, Scholz would send a payment on Nichols' behalf. Nichols asserted that during that same period, when he asked Scholz about the status of his child support obligations, Scholz told him that he was working on the

settlement or that Scholz was handling the child support issues.

357. In early 2018, WSCTF sent Nichols a *Receipt and Disbursement Fee Collection Notice*. The notice stated that Nichols owed receipt and disbursement fees totaling \$585 and warned Nichols that a failure to pay the receipt and disbursement fees could result in such consequences as tax refund intercepts, collection efforts, and wage withholding. The notice stated that a request for wage withholding would be sent to Nichols' employer on April 1, 2018.

358. On March 21, 2018, Scholz called the Agency to request Nichols' arrears balances and to ask if Nichols and his child's mother could resolve the arrears owed to her by a stipulation if Nichols paid the mother a lump sum payment.

359. The Agency told Scholz that as of March 21, 2018, Nichols owed the child's mother \$25,909.08, owed the State of Wisconsin \$2,705.99, and owed receipt and disbursement fees to WSCTF of \$585.

360. On March 21, 2018, Scholz disbursed \$585 to WSCTF from his FBFC DivorcePro Account to pay Nichols' receipt

and disbursement fees. The \$585 did not come from Nichols' funds as there were no Nichols funds in the DivorcePro account.

361. While Scholz paid the receipt and disbursement fees, he made no other payments toward Nichols' monthly child support obligations or Nichols' arrears, despite the fact that no payment had been made toward Nichols' child support obligations since September 2017.

362. The Office of Child Support Services would have been a necessary party were the parties to stipulate to a reduction or forgiveness of the arrears and interest Nichols owed to his child's mother. The Office of Child Support Services, however, would have objected to any such stipulation to forgive or limit any of Nichols' arrears or interest because Nichols had not been making regular payments of child support and had not made any payments to child support or arrears since September 2017.

363. On March 21, 2018, Scholz filed in Racine County Circuit Court Case No. 2005FA586 a motion on Nichols' behalf to modify child custody and placement, child support, and child support arrearages. Scholz's motion also requested,

"For the Family Court to consider exercising concurrent jurisdiction with collateral JIPs proceedings involving the minor child, and for a determination of alternatives to the current Foster Care plan."

364. On May 16, 2018, the Racine County Family Court Commissioner sent Scholz two letters advising Scholz that because of the pending Juvenile Court case under which both custody and placement of the child were at issue and subject to that court's primary jurisdiction, the Racine County Family Court could not act on the issues in the motion filed by Scholz.

365. On June 26, 2018, Scholz withdrew the motion "in favor of pursuing these matters before the Juvenile Court."

366. Scholz did not file any motions or take action on Nichols' behalf in the Juvenile Court.

367. Sometime prior to August 15, 2018, the Agency obtained, sought, or threatened to seek a suspension of Nichols' driver's license and/or a levy against one or more of Nichols' accounts due to his non-payment of child support.

368. On August 17, 2018, Scholz contacted the Agency by telephone to ask how to clear the levy against Nichols' account. Scholz proposed that Nichols pay \$600 a month toward his child support obligations if the Agency would stop its administrative enforcement efforts against Nichols.

369. The Agency's staff indicated that the Agency would cease its enforcement actions against Nichols if he began making monthly \$600 payments. Scholz asserted that he was in the process of filing another motion to address Nichols' arrears and other issues, and he stated that he would email a copy to the Agency.

370. Scholz requested that once the Agency staff had his email, she send Scholz a proposed payment plan. The staff member told Scholz that once Nichols had signed the payment plan, the Agency would release the levy against Nichols' account and that once Nichols started making the \$600 monthly payments, the Agency would cease its efforts to obtain a suspension of Nichols' driver's license.

371. Scholz did not email the Agency, pursue the payment plan, or make or cause Nichols to make regular \$600 payments.

372. With the exception of the \$585 to pay Nichols' receipt and disbursement fees, Scholz made no other payments on Nichols' behalf between October 10, 2017 and May 22, 2019.

373. On December 5, 2018, the Agency filed a motion for an order to show cause why Nichols should not be held in contempt. On December 7, 2018, the court issued the order to show cause. On December 18, 2018, the Order to Show Cause was served on Nichols, through service on his wife, at their home in Arkansas.

374. On April 1, 2019, Scholz told Attorney Heather Krause (Krause), Assistant Corporation Counsel, Racine Child Support Agency, that Nichols would be paying \$5,000 toward his arrears in April and another \$5,000 payment in May, 2019.

375. During an April 3, 2019 hearing on the Order to Show Cause, Nichols appeared by telephone and Scholz

appeared in person. Scholz brought with him to the hearing a check for \$5,000.

376. During the hearing, Scholz was instructed by Krause to mail the check to WSCTF. Scholz advised the court and Krause that he would mail the check that day.

377. The online CCAP records for the hearing included, "Scholz states he will provide another \$5,000 check next month."

378. As of April 3, 2019, Nichols owed more than \$29,000 in arrears and interest. Nichols was ordered to pay \$442 per month in child support and \$541 per month toward the arrears.

379. The case was set over for a hearing on June 26, 2019 to review Nichols' employment and payment history.

380. Scholz did not mail a check to WSCTF in April, 2019 as he had agreed to do.

381. On May 22, 2019, WSCTF received a check for \$10,000 from Scholz, which was drawn on an account at Associated Bank titled as Divorce Pro Wisconsin, LLC. Scholz was not holding Nichols funds in the Divorce Pro account

382. On July 26, 2019, the court approved Fraker's motion to substitute as Nichols' counsel in place of Scholz.

383. On August 7, 2019, Fraker filed a motion to modify child support on Nichols' behalf. The court reduced Nichols' monthly arrears payment, but his monthly child support remained \$442.

384. On or about November 1, 2019, Scholz filed a motion for substitution of attorneys, resuming his representation of Nichols.

385. Between October 10, 2017 and May 21, 2019, Nichols' outstanding debt due to arrears and interest grew to more than \$32,000 due to the lack of payments made by or on behalf of Nichols.

386. As of August 7, 2019, after allocation of the \$10,000 payment by Scholz, Nichols owed arrears to his child's mother of \$11,442 and arrears to the State of Wisconsin of \$10,984.

COUNT 40

387. By failing to hold in trust, separate from his own property, funds that belonged to Nichols or third parties, **Scholz violated SCR 20:1.15(b)(1)**.

COUNT 41

388. By converting to his own use or purposes, or for the benefit of other clients, entities, or third parties, Nichols' funds that he was required to hold in trust, **Scholz violated SCR 20:8.4(c)**.

COUNT 42

389. By failing between October 10, 2017 and May 22, 2019 to pursue a stipulation to reduce Nichols' arrears, to make payments toward Nichols' support obligations or arrears, or to take other action to pursue Nichols' interest in reducing his child support arrears and avoiding the accumulation of additional arrears and interest, **Scholz violated SCR 20:1.3.¹¹**

COUNT 43

390. By making misrepresentations to Nichols regarding his handling of funds and the status of and actions purportedly taken in Racine County Circuit Court Case No. 2005FA586, **Scholz violated SCR 20:8.4(c)**.

¹¹ SCR 20:1.3 provides: "A lawyer shall act with reasonable diligence and promptness in representing a client."

**Regarding Unlicensed Practice of Law
COUNTS 44-46**

391. Scholz's license to practice law in Wisconsin became suspended on June 5, 2019 due to his failure to comply with mandatory CLE reporting requirements for the 2017-2018 reporting period.

392. Following his June 5, 2019 CLE suspension, Scholz failed to notify all courts and opposing counsel in writing that his license to practice law had been suspended.

393. Scholz's license was not reinstated from the CLE suspension until October 10, 2019.

394. Scholz's license was suspended again on December 10, 2019 due to his noncooperation with OLR's investigation of this matter. *OLR v. Scholz*, Sup. Ct. Case No. 2019XX1534-D).

395. Scholz's license was not reinstated from the non-cooperation suspension until January 24, 2020.

396. As of July 17, 2019, Scholz remained counsel of record for Cameranesi in *In the Estate of Rodney G. Meyer*, Milwaukee County Circuit Court Case No. 2017PR952, and he had not notified the court of his suspension or filed a motion to withdraw.

397. On July 17, 2019, the court issued an Order to Show Cause why the estate had not been closed and scheduled a hearing for August 20, 2019.

398. In or about July and August, 2019, Scholz communicated with Cameranesi regarding the substance of the estate and the actions that needed to be taken, prepared and/or discussed with Cameranesi the Personal Representative's Statement to Close the estate and obtained her signature on the same.

399. With regard to *In Re the Marriage of Carla J. Ellner and Richard D. Ellner*, Ozaukee County Case No. 2019FA93, as of August 6, 2016, Scholz was counsel of record for Carla J. Ellner and Scholz had not notified the court that his license to practice law had been suspended or filed a motion to withdraw from his representation of Carla J. Ellner.

400. On August 28, 2019, Scholz filed with the court an Admission of Service and communicated to the court that the Ellners were working towards stipulation for legal separation.

401. On September 27, 2019, Scholz communicated to the court that the Ellners would be dismissing the case and re-filing as a legal separation. Online WCCA (formerly CCAP) court records state "Dismissal paperwork to be filed by [October 4, 2019]."

402. In order to make the August 28, 2019 and September 27, 2019 communications to the court, Scholz would have also had to have communicated with his client and potentially with the opposing party regarding the substance of the representation during his period of suspension.

403. Scholz represented Lori Schmick as personal representative and/or the Estate of Arleen E. Lueck, in *In the Estate of Arleen E Lueck*, Milwaukee County Case No. 2017PR1837.

404. As of August, 2019, the estate remained open, Scholz remained counsel of record, and Scholz had not notified the court of his suspension or filed a motion to withdraw.

405. On August 6, 2019, the court issued an Order to Show Cause why the estate had not been closed, and scheduled a hearing for September 10, 2019.

406. In or about August and September, 2019, Scholz prepared documents to be filed with the court, including a Petition for Extension of Time to Close the estate, a proposed Order for Extension of Time, the Final Account, Estate Receipts, and the Personal Representative's Statement Closing the estate.

407. In or about August and September, 2019, Scholz communicated with his client about the substance of the estate and the legal documents that needed to be filed, obtained his client's signature on documents to be filed with the court, and communicated with and/or took actions to cause the personal representative to communicate with and obtain the beneficiaries' signatures on documents to be filed with the court.

408. On September 9, 2019, Scholz filed with the court the Petition for Extension of Time to Close the estate, proposed Order, the proof of publication, the Closing Certificate for Fiduciaries, and, the Affidavit of Service.

409. On October 7, 2019, Scholz filed with the court the Final Account, Estate Receipts, and the Personal Representative's Statement Closing the estate.

410. On September 6, 2019, Scholz appeared as counsel for Marina Lee Read at a pre-trial conference in *In Re the Marriage of Marina Lee Read and Anthony Read Jr.*, Milwaukee County Case No. 2018FA257.

411. With regard to *In the Estate of Shelly Ann Stark*, Ozaukee County Circuit Court Case No. 2017PR160, on April 19, 2019, the court had extended the time for Mangione to close estate until June 30, 2019.

412. On June 27, 2019, Fraker filed a Stipulation to substitute for Scholz as counsel for Mangione.

413. Despite Fraker's substitution, in or about July and August, 2019, Scholz continued to practice law with regard to the Stark estate, including by preparing or assisting Fraker with preparing the estate's Final Account, providing the Final Account to opposing counsel Christopher Ceccato (Ceccato), communicating with him about the substance of the estate in order to obtain his clients' consent to the Final Account, and discussing with and obtaining Mangione's signature on the Petition for Final Judgment.

414. With regard to Nichols, between June 5, 2019 and June 24, 2019, Scholz failed to notify the court that his license was suspended, file a motion to withdraw, or cause Nichols to request a continuance of the June 26, 2019 hearing.

415. On June 25, 2019, Scholz e-filed a letter with the court notifying the court of his suspension and inability to appear on Nichols' behalf at the next day's hearing. Scholz asserted that he was assisting Nichols with finding substitute counsel. Scholz stated, "In the interim, Mr. Nichols has asked that I request a brief continuance to enable this transition to take place."

416. On January 22, 2020, Scholz appeared as counsel for Nichols during a review hearing in *In RE: the Support of Gabriel D. Nichols*, Racine County Circuit Court Case No. 2005FA586.

417. During Scholz's periods of suspension his www.divorcepro-wi.com website remained online and operational, offering legal services to the public.

COUNT 44

418. By practicing law in Wisconsin at a time when his license was suspended for failing to comply with mandatory CLE reporting requirements, **Scholz violated SCR 31.10(1), enforceable via SCR 20:8.4(f)**.¹²

COUNT 45

419. By practicing law in Wisconsin at a time when his license was suspended for willfully failing to cooperate in an OLR investigation, **Scholz violated SCR 22.26(2)**,¹³ **enforceable via SCR 20:8.4(f)**.

COUNT 46

420. By failing to promptly provide written notice of his suspension to all courts and opposing counsel in all matters pending as of June 5, 2019, **Scholz violated SCR 22.26(1)(c)**.¹⁴

¹² **SCR 31.10(1), enforceable via SCR 20:8.4(f) provide:** "A lawyer shall not engage in the practice of law in Wisconsin while his or her state bar membership is suspended under this rule." **SCR 20:8.4(f)** : "It is professional misconduct for a lawyer to violate a statute, supreme court rule, supreme court order or supreme court decision regulating the conduct of lawyers."

¹³ **SCR 22.26(2) provides:** "An attorney whose license to practice law is suspended or revoked or who is suspended from the practice of law may not engage in this state in the practice of law or in any law work activity customarily done by law students, law clerks, or other paralegal personnel, except that the attorney may engage in law related work in this state for a commercial employer itself not engaged in the practice of law."

¹⁴ **SCR 22.26(1)(c) provides:** "On or before the effective date of license suspension or revocation, an attorney whose license is suspended or revoked shall do all of the following...Promptly provide written

**Regarding Failures to Cooperate and Making
Misrepresentations to OLR during its Investigation
COUNTS 47-48**

421. During OLR's investigation of matter 2017MA1627, Scholz failed to provide OLR all requested information and records, and Scholz provided some information and records only after becoming the subject of two Orders to Show Cause, the second of which resulted in the December 10, 2019 temporary suspension of Scholz's license to practice law in Wisconsin.

422. With regard to Scholz's non-cooperation resulting in an Order to Show Cause issued by the Court on July 23, 2018 (*OLR v. Scholz*, Sup. Ct. Case No. 2018XX1131-D):

- a. By letter dated February 20, 2018, OLR notified Scholz of the investigation of matter 2017MA1627 and requested that he provide certain information and records.
- b. With regard to twenty-four clients or matters, OLR requested that Scholz provide a complete accounting of all funds that he received, held, processed, managed, handled, earned, or otherwise caused to be deposited in or disbursed from any account over which he exercised dominion or control. The accounting was to include, among other

notification to the court or administrative agency and the attorney for each party in a matter pending before a court or administrative agency of the suspension or revocation and of the attorney's consequent inability to act as an attorney following the effective date of the suspension or revocation. The notice shall identify the successor attorney of the attorney's client or, if there is none at the time notice is given, shall state the client's place of residence."

information, the account into which funds were deposited and from which funds were disbursed.

- c. Scholz's response was due by March 18, 2018.
- d. By letter dated March 9, 2018, Attorney Raymond M. Dall'Osto (Dall'Osto) notified OLR that Scholz had hired Dall'Osto to represent him in matter 2017MA1627 and requested an extension of time to respond to OLR's February 20, 2018 letter, which OLR granted until May 1, 2018.
- e. On April 27, 2018, Attorney Nathaniel Cade (Cade) notified OLR by telephone that on April 25, 2018 Scholz had hired Cade to represent him in matter 2017MA1627. Cade requested that OLR grant Scholz an extension of time to respond to OLR's February 20, 2018 letter. During an April 30, 2018 telephone call with OLR, Cade also requested that OLR provide Scholz with copies of certain checks referenced in OLR's February 20, 2018 letter.
- f. On April 30, 2018, OLR granted Cade an extension to respond to OLR's February 20, 2018 letter until May 22, 2018 and provided to Cade copies of the requested checks. OLR did not agree to provide any other records to Scholz.
- g. On May 22, 2018, OLR received Scholz's response to OLR's February 20, 2018 letter. Scholz failed to provide all requested information and records, including requested accountings for nine client matters. Scholz asserted that he would be unable to respond to certain of OLR's requests until OLR provided Scholz with copies of bank records in OLR's possession.

- h. By letter dated May 22, 2018, OLR made a second request for the information Scholz failed to provide. OLR asked that Scholz provide the requested information no later than June 5, 2018. OLR clarified, "If you do not have sufficient records to provide a complete accounting of your handling of funds related to the client or matter, provide an accounting to the best of your ability given the records you do have, note any possible deficiencies in your accounting, and explain why you failed to maintain records sufficient to fully account for your handling of funds related to that client or matter."
- i. On June 5, 2018, OLR received Scholz's supplemental response to OLR's February 20, 2018 letter. Scholz again did not provide an accounting or any information regarding his handling of funds related to nine client matters, responding instead "Response pending prior request to review bank records in possession of OLR."
- j. For the ten matters for which Scholz did provide an accounting in his response that OLR received May 22, 2018, Scholz did not identify the account into which funds were deposited or from which funds were disbursed.
- k. By email dated June 26, 2018, Dall'Osto contacted OLR regarding the status of the investigation. Dall'Osto was unaware of Cade's representation of Scholz and of what had occurred in the investigation since late April 2018. Dall'Osto asserted that on June 25, 2018 Scholz had once again hired Dall'Osto to represent him in the investigation.

1. During a June 26, 2018 telephone call with Dall'Osto, OLR described what had transpired in the investigation and explained in detail which records and information Scholz had failed to provide. OLR also explained to Dall'Osto that Scholz was then failing to cooperate in OLR's investigation in violation of SCR 22.03(2) and (6), and it was possible that OLR would file with the Supreme Court a Motion for an Order to Show Cause why Scholz's license should not be suspended for noncooperation. OLR explained that in order to cooperate with the investigation, Scholz would need to provide the requested accountings or, if Scholz could not account for his handling of funds related to the nine client matters, provide good faith attempts at the requested accountings, provide the records he did have, and explain why he failed to maintain sufficient records to be able to account for his handling of client and third party funds.
- m. OLR directed Dall'Osto's attention to SCR 22.39, should Scholz be unable or unwilling to account for his handling of client and third party funds.
- n. Following the June 26, 2018 telephone call, OLR sent Dall'Osto by email a copy of OLR's May 22, 2018 letter.
- o. By email dated June 28, 2018, Dall'Osto asserted that he had been unable to meet with Scholz because Scholz had been ill, but that Dall'Osto planned to meet with Scholz during the week of July 9, 2018.
- p. As of July 23, 2018, OLR had not received any further communications from Scholz or

anyone on his behalf regarding matter 2017MA1627.

- q. On July 23, 2018, OLR filed with the Supreme Court of Wisconsin a motion for an order to show cause pursuant to SCR 22.03(4) due in part to Scholz's failure to cooperate in OLR's investigation of matter 2017MA1627.
- r. On July 23, 2018, the Court issued an order requiring Scholz to show cause by August 15, 2018 as to why OLR's motion should not be granted and his license to practice law in Wisconsin should not be suspended.
- s. Due to an August 14, 2018 telephone call with Dall'Osto, on August 15, 2018, OLR filed a status report with the Court asking the Court to hold OLR's motion in abeyance until September 11, 2018.
- t. On September 11, 2018, OLR received additional correspondence and documentation from Scholz, and on September 12, 2018, OLR received by FedEx a box of relevant materials from Scholz.
- u. On September 12, 2018, OLR withdrew its July 23, 2018 motion. The Court dismissed the motion. Sup. Ct. Case No. 2018XX1131-D

423. With regard to the order to show cause resulting in Scholz's suspension for non-cooperation on December 10, 2019 (Sup Ct. Case No. 2019XX1534-D):

- a. On February 28, 2019, OLR requested additional information and records from Scholz by March 21, 2019.

- b. On March 18, 2019, in response to a request from Dall'Osto, OLR granted Scholz an extension of time in which to respond to until May 16, 2019.
- c. On May 17, 2019, Scholz informed OLR that he was no longer represented by counsel in the investigation of OLR matter 2017MA1627.
- d. Scholz requested an extension to reply to OLR's February 28, 2019 letter and asked to schedule a telephone call with OLR's Investigator to discuss the information being requested, as well as other potential procedural matters potentially concerning matter 2017MA1627.
- e. On May 30, 2019, OLR's Investigator discussed with Scholz the information and records being requested. OLR agreed to modify its requests for information and records contained in OLR's February 28, 2019 letter, and to send Scholz a new letter with OLR's modified requests. Scholz agreed that he would file a response to the modified requests by June 20, 2019.
- f. By letter dated May 31, 2019, OLR sent Scholz the modified requests for information and records necessary to continue its investigation. Scholz's response to OLR's May 31, 2019 letter was due by June 20, 2019.
- g. On June 18, 2019, Scholz notified OLR by email that on June 7, 2019 he had received notice that his law license was suspended by the Board of Bar Examiners related to mandatory CLE reporting requirements. Scholz advised OLR, "I am not going to file for reinstatement, opting instead to retire from the practice of law." Scholz also asserted, "I have been working diligently these past

two weeks in accordance with the provisions of SCR 22.26, and as a result, I am not able to complete the responses that we previously agreed would be due on or before June 20, 2019. Therefore, please accept this e-mail as my request for additional time to respond until at least three weeks after the filing of my Affidavit under SCR 22.26(1)(e), which I believe is due on or before June 30, 2019."

- h. By email dated June 19, 2019, OLR responded to Scholz's June 18, 2019 email, in relevant part:

You have been granted several extensions to respond to the requests for information in my letter dated February 28, 2019. On May 30, 2019, I agreed to modify the information being requested at this time. I transmitted the revised requests on May 31, 2019. You were warned that additional extensions were unlikely. I am not granting any further extension to respond to my May 31, 2019 letter. Your failure to timely provide the requested information and records may result in findings that you have violated SCR 22.03(2) and (6). You remain under a continuing obligation to provide the requested information and records in the investigation of OLR Matter 2017MA1627. The timing of when our office actually receives the information and records will be taken into consideration as to whether we should file a motion for an order to show cause with the Supreme Court of Wisconsin, whether we should seek discipline for your failure to timely provide the

requested information and records, and, if discipline is warranted, the level of discipline that should be sought...[P]lease be aware that the investigation of OLR Matter 2017MA1627 must continue in the meantime and you remain obligated to cooperate with that investigation.

- i. On August 15, 2019, OLR sent a letter to Dall'Osto who then represented Scholz in a disciplinary proceeding pending before the Court. *Disciplinary Proceedings Against Scholz*, Sup. Ct. Case No. 2017AP2530-D. OLR reminded Dall'Osto that it had been poised to file a SCR 22.03(4) motion for the temporary suspension of Scholz's law license based on his failure to cooperate in OLR matter 2017MA1627.
- j. As of September 5, 2019, Scholz had failed to provide any of the information or records requested in OLR's May 31, 2019 letter.
- k. On September 5, 2019, OLR filed with the Supreme Court of Wisconsin a motion for an order to show cause pursuant to SCR 22.03(4) due to Scholz's failure to cooperate in OLR's investigation of matter 2017MA1627. On September 12, 2019, the Court issued an order requiring Scholz to show cause by October 2, 2019 as to why OLR's motion should not be granted and his license to practice law in Wisconsin should not be suspended. Sup. Ct. Case No. 2019XX1131-D.
- l. On October 2, 2019, Scholz filed a response to the order to show cause. In an attached affidavit, Scholz asserted that he believed he was prohibited from providing the requested information pursuant to SCR 20:1.6(a) and, therefore, by failing to

provide the requested information and records he had not "acted willfully and with disregard to the OLR's pending investigation." Scholz asked the Court to dismiss the order to show cause, or, in the alternative, that he be granted additional time to respond to OLR's requests as the Court directs.

- m. On October 16, 2019, the Court ordered OLR to file a response by October 25, 2019. On October 25, 2019, OLR filed its memorandum response.
- n. On October 30, 2019, Scholz filed with the Court a motion for an order to show cause requiring OLR to show cause why its investigation of Scholz should not be quashed or limited. In the attached affidavit, Scholz asked that the Court assign a Special Investigator pursuant to SCR 22.25(1) to investigate the conduct of OLR and to determine whether to quash OLR's investigation of Scholz outright, or, at a minimum, define the basis and scope of the investigation.
- o. On October 31, 2019, OLR filed a response to Scholz's motion.
- p. On December 10, 2019, the Court denied Scholz's October 30, 2019 motion in its entirety, granted OLR's motion to suspend Scholz for his willful failure to cooperate in the investigation, and ordered Scholz on or before December 31, 2019 to provide to OLR all relevant information and documents requested in OLR's May 31, 2019 letter.
- q. On December 31, 2019, Scholz provided OLR with some information but continued to assert that he need not provide OLR with certain information.

- r. On January 3, 2020, OLR filed a status report with the Court in which OLR stated that while it disagreed with Scholz's assertion that he need not provide certain information, OLR recommended that the Court reinstate Scholz's law license.
- s. On January 24, 2020, the Court reinstated Scholz's license.

424. During the investigation of OLR matter 2017MA1627, Scholz made misrepresentations to OLR, including:

- a. Scholz provided to OLR what he represented to be accountings of his handling of funds related to specific client matters. On several of the purported accountings, Scholz included false information, omitted deposits and/or disbursements, and/or presented an inaccurate and misleading account of Scholz's handling of funds related to the matters, including:
 - i. With regard to the accounting labeled "Cameranesi, Katherine:"
 - 1. Scholz failed to accurately represent the nature of the representation and his handling of funds related to the Meyer estate, Milwaukee County Circuit Court Case No. 2017PR952.
 - 2. Scholz characterized two checks from Prudential and a check from Carmax as "Settlement Proceeds" when the three checks represented

funds due the Estate other than as a settlement.

3. Scholz failed to include on the accounting his receipt and deposit of \$28,771.29 in proceeds from the sale of the decedent's home on January 1, 2018.
4. Scholz misrepresented that he had disbursed \$7,603.83 to Cameranesi on December 31, 2017.
5. Scholz failed to include a disbursement to Cameranesi of \$7,000 on May 4, 2018.

ii. With regard to the purported accounting for Scholz's representation of Devin Hafemeister in *In Re the marriage of Devin L Hafemeister and Jennifer L. Hafemeister*, Ozaukee County Case No. 2003FA310:

1. Scholz misrepresented on the accounting that he held in a business account \$2,819.78 from his client from June 23, 2017 until disbursing a total of \$2,232.14 to his client and his client's former spouse in September, 2017, when Scholz had converted substantially all of the \$2,819.78 for his own purposes or the benefit of other clients, entities, or third parties no later than June 30, 2017.
2. Scholz misrepresented that he disbursed legal fees to himself via a "Transfer" on September 30, 2017, when no such disbursement

occurred, he was not then holding any such funds, and Scholz had previously converted the funds.

iii. With regard to the purported accounting for Scholz's representation of Mary Helbick in Helbick in *In Re the marriage of Mary A Helbick and Jeremy L Miller*, Ozaukee County Circuit Court Case No. 2015FA212:

1. Scholz failed to include the disbursements he made via electronic and telephone transfer from his FBFC Business Account to the other accounts detailed above.
2. Scholz misrepresented that he had paid Helbick \$7,000 in cash on April 25, 2017.
3. Scholz misrepresented that he had disbursed \$2,000 to himself as payment of his legal fees via a "Transfer" on September 30, 2017, when no such disbursement or transfer was made on September 30, 2017 and Scholz was not holding any funds related to his representation of Helbick on that date.

iv. With regard to the purported accounting for Scholz's representation of Ann Hanson in *In Re the marriage of Gary Lee Hanson and Ann Marie Hanson*, Ozaukee County Circuit Court Case No. 2013FA152:

1. Scholz misrepresented his handling of the \$20,729.12 in proceeds from the sale of the Hansons' marital home. The

accounting purports to show Scholz holding the funds in a business account continuously from October 10, 2014 until disbursed by two bank checks on October 20 and 28, 2014, and then two checks issued on December 15, 2014.

2. The accounting does not show Scholz's disbursement of some of the funds prior to the October 20, 2014 disbursement, or his disbursement of substantially all of the remaining funds no later than October 23, 2014.
 3. Scholz misrepresented that on December 15, 2014 he disbursed legal fees to himself via a "Transfer" of \$5,135.60 to himself or his firm, when no such funds were then in the account and no such disbursement or transfer of funds was made on that date.
 4. Scholz omitted from the accounting checks 7172 and 7173, which he disbursed on October 1, 2014 to pay amounts Ann owed to Gary and to opposing counsel after having been found in contempt.
- v. With regard to the purported accounting for Scholz's representation of Scott Micoley in *In Re the marriage of Joanne L Micoley and Scott Howard Micoley*, Ozaukee County Circuit Court Case No. 2013FA328:
1. Scholz misrepresented his handling of the \$62,098.91 in proceeds from the sale of the Micoleys' marital residence, his handling of the tax

escrow credit, and his handling of the Micoleys' state and federal tax refunds.

2. In addition to failing to include his disbursements from and conversion of those funds prior to making the authorized disbursements shown on the purported accounting, Scholz misrepresented that he deposited the state and federal refund checks in a trust account when he deposited them in his FBFC Business Account.
3. Scholz misrepresented that he disbursed funds from a business account via a "Transfer" to pay legal fees to himself or his firm on December 31, 2015 and August 31, 2016, when no such disbursements occurred, he was not then holding any such funds, and had previously converted the funds.

vi. With regard to the purported accounting for his representation of Ryan R. Nichols in *In Re: the Support of Gabriel D. Nichols*, Racine County Circuit Court Case No. 2005FA586:

1. Scholz misrepresented the nature and his handling of the \$10,379.60 check received from Nichols.
2. Scholz misrepresented that the \$10,379.60 funds represented "Settlement Proceeds."
3. Scholz misrepresented that he held the funds continuously in his business account until disbursing

the funds to Nichols via a bank check on November 30, 2017.

4. Scholz failed to include the disbursements he made from the \$10,379.60 for purposes unrelated to his representation of Nichols.
 5. Scholz failed to include his March 21, 2018 disbursement of \$585 to pay Nichols' receipt and disbursement fees.
- vii. With regard to his purported accounting for his representation of Pamela Sue Nunez in *In Re the marriage of Pamela Sue Nunez and David J Nunez*, Washington County Circuit Court Case No. 2012FA183:
1. Scholz misrepresented his handling of the \$39,054.35 in proceeds from the sale of the Nunezes' marital home, including by failing to include on the accounting his use of and disbursements from those proceeds between May 17, 2012 and August 2, 2012.
 2. Scholz instead misrepresented that he continuously held the funds in a business account between May 17, 2012 and July 18, 2013.
 3. Scholz misrepresented that on July 31, 2013 he disbursed \$13,577.40 to himself or his firm via a "Transfer" when he was not then holding any such funds and had previously converted the funds.
 4. On the accounting labeled "Kancius, Karen:"

- a. Scholz misrepresented his handling of the \$33,754.51 in settlement funds due Schoessow by failing to include on the accounting the disbursements Scholz made from those funds between March 6, 2017 and March 20, 2017.
 - b. Scholz misrepresented that he held the entire amount in his business account continually between March 6, 2017 and April 20, 2017.
5. With regard to the Estate of Roehrborn, in his September 11, 2018 letter to OLR Scholz misrepresented that the \$60,000 check from Roehrborn represented, "Initial reimbursement for funds disbursed to estate heirs.. (check drafted in error)."

COUNT 47

425. By willfully failing to provide information and records requested by OLR during the investigation of OLR matter 2017MA1627, **Scholz violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h).**

COUNT 48

426. By making misrepresentations to OLR during the investigation of OLR Matter No. 2017MA1627 regarding his

handling of client, disputed, and third party funds, **Scholz violated SCR 22.03(6), enforceable via SCR 20:8.4(h).**

WHEREFORE, the Office of Lawyer Regulation asks the Supreme Court of Wisconsin to find Attorney Scholz violated Supreme Court rules as alleged in this *Complaint*, to revoke Scholz's Wisconsin law license; to order Scholz to pay restitution as follows:

To Sarah J. Cianciolo in the amount of \$4,000,
To, or as directed by, Joanne Micoley in the amount of \$2,625.39,
To Christopher Varney in the amount of \$291,
To Mary Helbick in the amount of \$7,000,
To the Estate of Rodney G. Meyer in the amount of \$29,315.97,
To Linda Mangione in the amount of \$40,000;

and to grant such other and further relief as may be just and equitable, including an award of costs.

Dated this 30th day of September, 2020.

OFFICE OF LAWYER REGULATION



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