

Wisconsin Court System Wisconsin Attorneys' Professional Discipline Compendium

Public Reprimand of Paul A Strouse 2010-OLR-2

Paul Strouse ("Strouse") is a Wisconsin- licensed attorney whose State Bar identification number is 1017891. Strouse practices law in Milwaukee, Wisconsin. Strouse was first licensed to practice law in Wisconsin on October 3, 1991.

State Bar Id:
1017891

AREAS OF PRACTICE:
Bankruptcy Law

FIRST MATTER

On August 21, 2007, Strouse filed a Chapter 13 Voluntary Petition for Bankruptcy on behalf of his clients in United States Bankruptcy Court, Eastern District of Wisconsin.

As part of the Chapter 13 plan, the clients initially agreed to exclude their promissory note to American Honda Finance Corporation ("Honda") from the plan and to make car payments separately. However, Strouse's clients fell behind on their car payments and Honda filed a Motion for Relief from Stay in December of 2007. Honda sought to repossess the 2004 Honda Accord purchased by Strouse's clients.

Strouse objected to Honda's Motion for Relief from Stay and succeeded in resolving the dispute with Honda over his clients' late payments to Honda. In January of 2008, Strouse filed and obtained approval of an amended plan and established a payment plan for his clients. However, consistent with his clients' wishes, Strouse did not incorporate the Honda vehicle into the amended plan, and his clients remained obligated to make their car payments to Honda separately and outside the plan filed with the bankruptcy court.

The clients failed to make their car payments in April and May of 2008. On June 5, 2008, Honda filed a new Motion for Relief from Stay. Strouse informed his clients in writing that Honda had filed a motion and requested that they contact him with instructions.

In response, Strouse's clients contacted him and specifically requested that he modify their Chapter 13 plan to include the amounts owed on the Honda vehicle. While the relief sought by his clients would increase their payments to the Trustee as part of a modified plan, his clients were motivated by a desire to keep their vehicle as well as reduce their debt payments as much as possible. Such relief is consistent with the intent and purposes of the bankruptcy code.

Strouse did not immediately comply with his clients' request and did not file a proposed amended plan with the court.

The clients contacted Strouse's office personnel by telephone seeking to have their bankruptcy plan amended to include their vehicle. Office personnel informed the clients that Strouse had been informed about the clients' request yet Strouse failed from June of 2008 through August of 2008 to respond to their inquiries concerning the modification.

In addition, Honda representatives attempted to obtain information from Strouse regarding his plans to amend the bankruptcy plan. When Strouse failed to respond to its requests for information, Honda obtained an order from Judge

James Shapiro on June 25, 2008 granting it relief from the automatic stay and authorizing repossession of the clients' vehicle.

Thereafter, Honda contacted Strouse's clients and informed them that it intended to repossess the vehicle. Unable to obtain help from their attorney, Strouse's clients negotiated directly with Honda to prevent repossession of their automobile, agreeing to pay hundreds of dollars in debt arrears to the company.

Following receipt of payment from Strouse's clients, a Honda representative attempted to contact Strouse regarding his clients' plan to include the vehicle in the bankruptcy proceeding. A Honda representative telephoned Strouse on August 28, 2008 and again on September 19, 2008. Strouse did not respond to the telephone calls from Honda.

Threatened with the repossession of their vehicle again, one of the clients travelled to Strouse's office in October of 2008 to request that Strouse amend their plan. The client was unsuccessful in obtaining an appointment with Strouse. The client enlisted the help of her husband and the two of them travelled to Strouse's office together and once again requested that Strouse amend their bankruptcy plan to include payments on their vehicle.

On October 16, 2008, one of Strouse's clients filed a grievance with OLR against Attorney Strouse.

On October 27, 2008, more than four months after their initial request to amend the bankruptcy plan, Strouse filed an amended plan with the bankruptcy court on behalf of his clients incorporating the Honda lien into the plan. According to Strouse, a law clerk had left his firm in August of 2008, and he did not notice that his clients' plan had not been modified.

On December 17, 2008, OLR forwarded a formal investigation letter to Strouse.

Strouse responded to OLR's letter on January 11, 2009, and accepted responsibility for the delay in amending his clients' bankruptcy plan.

By failing over a four-month period to draft a modified bankruptcy plan that would incorporate his clients' request that a vehicle be added to the plan, Strouse violated SCR 20:1.3 that states, "A lawyer shall act with reasonable diligence and promptness in representing a client."

By failing to respond to client inquiries or otherwise keep the clients reasonably informed as to the status of their request for preparation and filing of an amended bankruptcy plan, Strouse violated SCR 20:1.4 (a)(3) and (4), that state in pertinent part, "A lawyer shall ... (3) Keep the client reasonably informed about the status of the matter; and (4) Promptly comply with reasonable requests by the client for information."

SECOND MATTER

On September 20, 2007, a man hired Strouse to represent him in his Chapter 7 bankruptcy matter. The man paid Strouse \$839.00 in attorney fees and filing fees. Strouse filed the bankruptcy petition on September 20, 2007 to immediately stop his client's wage garnishment and on October 8, 2007,

Diligence

SCR 20:1.3

Communication

-Keeping Client Informed
-Requests For Information
SCR 20:1.4

Strouse filed complete schedules for his client. On November 12, 2007, Strouse sent the firm garnishing his client's wages ("the firm"), a demand letter requesting the return of preferential transfer funds in the amount of \$1,007.67. The firm returned the funds.

In early February 2008, Strouse was informed that the court had dismissed his client's bankruptcy without discharge because no proof to indicate that his client had completed a required course in financial management had been filed. Strouse informed his client that he would acquire the completion certificate and file a motion to reopen his bankruptcy.

Strouse failed to file the motion to reopen, misrepresented to his client that he had filed a motion to reopen and that he had obtained a discharge order, prepared a false discharge order, and then gave the false discharge order to his client without informing his client, the court, or other participating parties that the order was false.

Following the dismissal of the bankruptcy, the firm that had garnished his client's wages renewed a garnishment action against Strouse's client. Unaware that the August 11, 2008 discharge order prepared by Strouse was false, the client gave his employer a copy and in turn the employer gave the firm a copy of the discharge order.

In November of 2008, Strouse's client called him to notify him that the firm had again attempted to garnish his wages. Strouse immediately filed the motion to reopen his client's bankruptcy. On December 2, 2008, the firm received a copy of the false discharge order from his client's employer and a copy of the motion to reopen the bankruptcy. In addition, the firm contacted the bankruptcy court and confirmed that his client's bankruptcy had been dismissed without discharge. On December 4, 2008, the firm filed an objection to the motion and brought to the court's attention the conflicting information it had concerning his client's bankruptcy, to include a copy of the false discharge order. In its objection the firm stated his belief that the debtor may have committed an intentional fraud on the court.

After reviewing the firm's objection, Strouse contacted the firm who agreed that for \$1,500.00 (the amount his client owed plus costs) it would withdraw its objection. Strouse hand-delivered a cashier's check to the firm. The firm withdrew its objection and Strouse filed an affidavit of no objection.

On January 7, 2009, the bankruptcy judge, Judge James E. Shapiro ("Judge Shapiro"), U.S. Bankruptcy Court, Eastern District of Wisconsin held a hearing on the objection. Strouse and a firm representative were at the hearing. Strouse's client was not present at the hearing. The judge took testimony from the firm, held in abeyance Strouse's motion to reopen pending examination of Strouse's client under oath, and stated, "I expect your office to find out what happened and get more information as to how that erroneous discharge got sent ... I want to find out that regardless. So that won't be a basis for stopping that because that's a very serious charge, and I want to find out what happened." Strouse advised the judge he would produce his client.

Subsequent to the January 7, 2009 hearing, Strouse self-reported his conduct in a letter to OLR and in a letter hand-delivered to Judge Shapiro. In both letters, Strouse admitted that he created and gave the false bankruptcy discharge order to his client. In addition, Strouse stated that he did so because he was pressed for time, he had not been able to file the Motion to Reopen, and he did not expect that his client would do anything with the order.

On January 26, 2009, Strouse filed a motion to withdraw as counsel stating that he created a conflict during the course of the representation which made it impossible for him to represent his client. Strouse's motion to withdraw was granted on February 2, 2009.

On February 27, 2009, as the result of Strouse's preparation of a false discharge order, Judge Shapiro ordered that Strouse be suspended from practicing in U. S. Bankruptcy Court, Eastern District of Wisconsin for six months, commencing on April 1, 2009.

Strouse refunded the legal fee he received from his client, reimbursed his client for the original filing fee for the bankruptcy petition, paid the fee for reopening his client's case, and assisted his client in obtaining successor counsel.

By failing for over ten months to file a motion to re-open his client's bankruptcy case, Strouse failed to act with reasonable diligence and promptness in representing a client, in violation of SCR 20:1.3 that states, "A lawyer shall act with reasonable diligence and promptness in representing a client."

By intentionally creating a false bankruptcy discharge order, Strouse violated SCR 20:8.4 (c) that states, "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

By providing his client with false information regarding case status, including that he had filed a motion to reopen the bankruptcy proceeding when he had not yet done so, and that he had received a discharge order, aggravated by Strouse's creation and delivery of a fabricated discharge order to the client, Strouse violated SCR 20:1.4(a)(3) and SCR 20:8.4(c), that state, "A lawyer shall keep the client reasonably informed about the status of a matter," and "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

By failing at a motion hearing to clarify the origin of the discharge order, knowing that he had created it, and causing the court and the firm to remain uncertain as to the source of the discharge order, Strouse again violated SCR 20:8.4(c).

Strouse has no prior discipline.

In accordance with SCR 22.09(3), Attorney Paul Strouse is hereby publicly reprimanded.

Diligence

SCR 20:1.3

Dishonesty, Fraud, Deceit or Misrepresentation

SCR 20:8.4(c)

Communication

-Keeping Client Informed

SCR 20:1.4

Dishonesty, Fraud, Deceit or Misrepresentation

SCR 20:8.4(c)

Dishonesty, Fraud, Deceit or Misrepresentation

SCR 20:8.4(c)