

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand With Consent

2021-OLR-3

Jonathan A. Olson
Attorney at Law

Jonathan A. Olson, 61, is a Wisconsin-licensed attorney, admitted to practice in 1985.

In or about August 2015, a married couple, nearing completion of their Chapter 13 repayment plan, hired Olson, then practicing out of Green Bay, with the financial assistance of Wisconsin Judicare. Olson understood the couple faced potential foreclosure post-bankruptcy and he agreed to assist them negotiate a resolution with their mortgage lender.

Prior to retaining Olson, on July 21, 2015, the couple's mortgage lender had filed a motion for relief from automatic stay and abandonment in the bankruptcy, alleging that mortgage payments had not been received as required by the terms of the plan. The couple filed an objection on July 31, 2015.

A hearing was held August 18, 2015, to consider the couple's objection. Counsel for the mortgage lender alleged that the couple missed several mortgage payments throughout the plan period. The couple denied missing mortgage payments and disputed the amount owed to become current. After discussion regarding the post-petition ledger, the court adjourned the hearing.

At the adjourned hearing held November 24, 2015, Olson appeared on behalf of the couple. Counsel for the mortgage lender continued to allege that the couple's loan was in default. The court granted the mortgage lender's motion. The couple was discharged on February 4, 2016, and

the bankruptcy closed March 15, 2016. Counsel agreed that their clients could address alleged missing mortgage payments in state court.

Olson asserts his representation in the bankruptcy ended in early 2016. Olson states that toward the end of his representation, he unsuccessfully attempted to obtain an accounting from the mortgage lender. Olson thereafter failed to inform the couple of his inability to obtain an accounting from the mortgage lender, and that his Wisconsin Judicare-funded representation had ended.

Approximately two years later, on April 26, 2018, the mortgage lender filed a foreclosure action against the couple. In or about July 2018, with the financial assistance of Wisconsin Judicare, the couple again hired Olson for representation in the foreclosure. On July 11, 2018, Olson filed his notice of appearance and an answer on behalf of the couple.

On October 30, 2018, the mortgage lender filed a motion for summary judgment. In its argument for dismissing the couple's affirmative defenses, counsel for the mortgage lender stated:

While Defendants allege that Plaintiff and its predecessors failed to accept payments tendered by Defendants, they neither provide any form of proof to support their allegations, nor provide dates or amounts for the alleged rejections. Moreover, paragraph 19 of the mortgage provides that Defendant may reinstate the loan by paying all sums which would then be due as if no acceleration had occurred. Defendants do not allege that they ever tried to pay off all sums, which would have been due. Therefore, if Defendants submitted an amount, which would have been insufficient to bring the loan current, Plaintiff would not be required to accept such payment.

Further, although Defendants may wish to resolve the foreclosure through loss mitigation, a request for mediation does not constitute a defense to the foreclosure. Therefore, their defense should be dismissed.

Olson did not file a response on behalf of the couple, or attend the December 10, 2018 oral arguments. The court thereafter granted the mortgage lender's motion and entered a judgment on December 12, 2018, in the amount of \$99,014.80.

Olson failed to notify the couple that he made a strategic decision to not file a response to the mortgage lender's motion for summary judgment or attend the December 12, 2018 hearing, resulting in the foreclosure judgment. Olson asserts he did not attend the hearing because the couple did not have a viable defense, and that he knew there would be a six-month redemption period during which the couple could pursue a loan modification. Olson, however, additionally, failed to notify the couple of the judgment (entered 12/12/18), and the couple was unaware of their ability to redeem their property during the allowed time period post-judgment.

In or about June 2019, without notifying his clients, Olson closed his Green Bay law office and moved to New Orleans. In August 2019, the couple learned of the foreclosure judgment from a friend. In September 2019, the couple filed a grievance with OLR.

Olson sent a letter dated October 18, 2019, to the couple notifying them of the sheriff's sale of their property scheduled for November 13, 2019. Olson sent a follow-up letter dated November 4, 2019, relaying notice that the sheriff's sale was rescheduled to December 11, 2019.

The couple paid \$108,944.62 to redeem their property prior to the sheriff's sale. On December 5, 2019, pursuant to the mortgage lender's petition, the court vacated the judgment and dismissed the foreclosure action, with prejudice.

The couple also complained that they did not receive their complete client file from Olson. Olson subsequently located the missing portion of the client file, the majority of which related to the bankruptcy, and sent the requested material to the couple on January 25, 2021.

In the matter of the bankruptcy, by failing to provide notice to the couple of the termination of his representation in early 2016, and his inability up to that point to obtain an accounting from their mortgage lender, Olson violated SCR 20:1.16(d), which states:

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. The lawyer may retain papers relating to the client to the extent permitted by other law.

In the foreclosure action, by failing to inform the couple of the plaintiffs motion for summary judgment, Olson violated SCR 20:1.4(a)(3), which states, "A lawyer shall... keep the client reasonably informed about the status of the matter."

Without consulting with the couple, by electing not to file a response to the plaintiffs summary judgment motion or make argument at the hearing on the motion, Olson violated SCR 20:1.4(a)(2), which states, "A lawyer shall... reasonably consult with the client about the means by which the client's objectives are to be accomplished."

By failing to inform the couple of the foreclosure judgment, Olson violated SCR 20:1.4(a)(3).

By failing to explain to the couple that even with an adverse foreclosure judgment there was a redemption period during which they could redeem their property, Olson violated SCR 20:1.4(b), which states, "A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."

By failing to timely return all portions of the couple's client file, Olson violated SCR 20:1.16(d).

Prior Discipline

In 1998, Olson's license was suspended for a period of one year for violating SCR 20:8.4(b) and SCR 20:8.4(c). *Disciplinary Proceedings Against Olson*, 216 Wis. 2d 482, 574 N.W.2d 245 (1998). In April 1997, Olson's law firm discovered that Olson had written checks for personal expenses on the firm's account and had taken advances and salary payments that had not been authorized or matched by payments to the other firm partners. Olson subsequently was charged with and convicted of one count of theft, a Class C felony. The criminal complaint identified 13 unauthorized checks, totaling \$11,250.

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

Dated this 17th day of April, 2021.

SUPREME COURT OF WISCONSIN

/s/

The Honorable Sue E. Bischel, Referee