

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand with Consent

2016-OLR- 8

Atty. William H. Green

William H. Green is a Wisconsin-licensed attorney admitted to practice on September 6, 1990, State Bar number: 1001678. Green maintains a solo private practice in Milwaukee, WI. This reprimand is based upon three matters.

First Matter

Green represented a woman on several matters including bankruptcy, tax debts, and divorce over the course of several years. Green also represented the woman's husband in bankruptcy and tax debts. The woman received a Chapter 7 discharge of her debts in 2010. The tax debts remained, as they were not subject to discharge. Green did not pursue resolution of the tax debts, despite accepting fees to do so.

In 2011, the woman hired Green to represent her in her divorce and advanced him a total of \$1500 for fees. The agreement setting forth the terms of his fee did not state the firm's intention to use the alternative fee placement measures allowed under former SCR 20:1.15(b)(4m), effective prior to July 1, 2016, and the advanced funds were not held in trust. Green thereby violated SCR 20:1.15(b)(4). When the divorce action was dismissed four months later upon the parties' reconciliation, Green did not provide an accounting of the funds.

In mid-2012, the woman again sought to file bankruptcy and was required to file under Chapter 13. Green did not communicate his fee to the client in writing and the documents he filed with the court, provided conflicting information regarding his fee. Green filed the Chapter

13 petition on the woman's behalf but then failed to perform the necessary follow-up, respond to objections, or prepare an amended plan. On the trustee's motion asserting unreasonable delay, failure to file necessary documents, and lack of payment by the debtor, the court dismissed the bankruptcy.

Approximately one year after the dismissal, Green filed another Chapter 13 Bankruptcy petition on the woman's behalf. Green again did not communicate his fee to the client in writing and provided conflicting information to the court regarding his fee. The court dismissed the petition when Green failed to file requested amendments and no payments were made under the plan.

Green eventually refunded all fees paid by the woman in settlement of all potential contract and tort claims the woman may have had.

By failing to file complete and accurate documents in the Chapter 13 bankruptcies filed on behalf of his client, Green violated SCR 20:1.1, which states, "A Lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."

By failing to promptly pursue resolution of his client's bankruptcy matters and tax debts, Green violated SCR 20:1.3, which states, "A lawyer shall act with reasonable diligence and promptness in representing a client."

By failing to communicate to his client in writing the basis or rate of his fees and the purpose and effect of the advanced fees paid by the client for the bankruptcy and tax debt matters he agreed to handle, Green violated SCR 20:1.5(b)(1) and (2), which requires written communication of the basis or rate of the lawyer's fee exceeding \$1000.00 and written explanation of the purpose and effect of any advance paid by the client.

By failing to hold the advanced fees that his client paid to him in trust, Green violated former SCR 20:1.15(b)(4), effective prior to July 1, 2016, which states, “Except as provided in par. (4m), unearned fees and advanced payments of fees shall be held in trust until earned by the lawyer, and withdrawn pursuant to sub. (g)...”

Second Matter

In August of 2014, Green issued a check from his firm’s business account in payment of filing fees for four bankruptcy cases. The check was returned due to insufficient funds. The funds came from payments advanced by the clients, but the funds were not held in trust. By failing to hold in trust funds advanced by his clients for payment of their bankruptcy filing fees, Green violated former SCR 20:1.15(b)(4) effective prior to July 1, 2016, which states, “Funds advanced by a client or 3rd party for payment of costs shall be held in trust until the costs are incurred.”

Third Matter

In September of 2015, Green filed a Chapter 7 bankruptcy petition on behalf of a single member Limited Liability Corporation (LLC). The LLC did not have a taxpayer identification number (TIN) and Green therefore used the principal’s social security number (SSN) for the petition. Green failed to redact the SSN as required and the bankruptcy court clerk restricted the petition and schedules from public view. The clerk’s notice informed Green that unless he filed a motion to redact and paid the \$25 fee for the motion, the petition could be stricken. On the same day the petition was filed, the Chapter 7 Trustee filed notice of intent to abandon the single asset in the estate, a parcel of real estate with environmental problems and no equity.

Green, rather than filing a motion to redact and pay the \$25 fee as instructed, filed an amended petition. Green did not file amended schedules or an amended statement of financial

affairs. The bankruptcy documents thus remained restricted from public view throughout the case.

In November of 2015, upon learning of Green's failure to follow the clerk's directive, the court issued an order directing Green to file a written motion to redact the original petition and pay the \$25 fee for such a motion, to file an amended disclosure of compensation, stating exactly what services were performed for the debtor, by whom, at what hourly rate, and an explanation of his handling of the case. Green was ordered to comply by December 4, 2015, but did not do so.

On December 7, 2015, the court issued an order to show cause as to why sanctions should not be imposed. The order required Green's personal appearance at a hearing. Green appeared and the court questioned him extensively about his failure to follow the clerk's directive, his failure to respond to the court's order and his handling of the case. The court concluded that Green's handling of the case was "rife with incompetence" and that "the magnitude of the mistakes here [was] significant." The court fined Green \$2000.00 payable to the Pro Se Bankruptcy Help Desk operated by the Milwaukee Bar Association and reported the matter to OLR.

By failing to file a bankruptcy petition that complied with privacy laws, Green failed to provide competent representation to the LLC in accordance with SCR 20:1.1, which states, "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."

