

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand with Consent

Christopher Wiesmueller

2013-OLR- 11

Atty. Christopher Wiesmueller was admitted to the practice of law in Wisconsin on October 26, 2007. Wiesmueller maintains a private practice in Waukesha, Wisconsin, doing business as Wiesmueller Law Firm.

In 2010, the Milwaukee County District Attorney's Office was assigned to investigate allegations that an employee in the Milwaukee County Executive's Office was performing political fundraising work while being paid to do her government job, thereby committing conduct punishable as a felony. The assigned investigators took immediate action to obtain and preserve evidence. The allegations were publicized. In response to the public report of the allegations, Wiesmueller emailed the employee, whom he knew from his prior service for the Republican Party of Milwaukee County. Wiesmueller offered to represent the employee *pro bono*. The employee signed a fee agreement to that effect.

Wiesmueller arranged a meeting with his client soon after his initial contact with her. He instructed his client to bring her personal laptop computer to the meeting. At that meeting Wiesmueller advised his client to remove all evidence related to her political activity from her computer, including computer files and emails. Wiesmueller offered to assist his client with the removal of the evidence from her computer and she therefore left the laptop at his office. Wiesmueller then deleted the files from the computer and downloaded software to "wipe" the information from the computer. He saved copies of the documents on his office computer and

on a USB flash drive that he gave to the client when he returned the laptop to her approximately one week later. Wiesmueller admitted to OLR that he was aware at the time of the deletion that the files and emails “likely had potential evidentiary value” and that a prosecutor would be interested in the information.

Wiesmueller met and spoke with the prosecutor assigned to the matter. In the course of these discussions, Wiesmueller suggested that the prosecutor charge as many misdemeanors as the prosecutor cared to charge, but no felonies. Wiesmueller did not discuss this offer with his client prior or subsequent to meeting with the prosecutor.

In November of 2011, the prosecutor and his investigator arranged an interview with Wiesmueller and his client to obtain information from the client relating to an ongoing John Doe investigation of funds misappropriated from a program created to honor veterans. The interview turned to discussion of the client’s political fundraising activities during her regular work hours. The prosecutor informed the client that the investigation showed that emails had been deleted from her account and files removed from her computer. The client was asked if anyone had assisted her in the deletions. The client denied receiving assistance. Wiesmueller admitted to the prosecutor that he had advised the client to delete the information but did not admit to his role in performing the deletion of emails and the “wiping” of the computer. Wiesmueller informed the prosecutor that he still had a copy of the material deleted from the client’s computer.

Based upon Wiesmueller’s statements, the prosecutor obtained a search warrant for Wiesmueller’s law office. At the investigator’s request, Wiesmueller came to the office and was present during the execution of the search warrant. Wiesmueller provided the investigator with copies of the material that Wiesmueller had copied from his client’s computer. In the course of

providing this information, Wiesmueller revealed the content of his discussions with his client during their initial conference and offered his impression to the investigator that the computer files and emails were “the most damning things.” Wiesmueller reiterated that he told his client “to get rid of” the evidence. He did not admit that he deleted the information from the client’s computer.

Following the execution of the search warrant at his law office, Wiesmueller terminated his representation of the client. The client and her successor counsel met with the prosecutor and his investigator. In exchange for providing information about Wiesmueller’s role in the destruction of evidence from the client’s computer, the client was offered immunity from prosecution as a result of any information she provided in that regard. The client stated that she left her computer with Wiesmueller and that it was Wiesmueller who had deleted her emails and removed the evidence from her computer.

The client entered a plea agreement to resolve her case. In exchange for the client’s cooperation and truthful testimony in other prosecutions, the prosecutor agreed to charge her with two misdemeanor counts of political solicitation by a public employee rather than felony misconduct in public office charges. The client pleaded guilty to the reduced charges and was eventually sentenced to probation for one year, conditioned on performing 50 hours of community service and paying \$1000 in fines.

The prosecutor referred the matter of Wiesmueller’s destruction of evidence to the Waukesha County District Attorney’s Office as the alleged crime had been committed at Wiesmueller’s law office located in Waukesha County. The Waukesha County District Attorney agreed to forego filing criminal charges against Wiesmueller provided he made a thorough and complete report of his conduct to the Office of Lawyer Regulation. Wiesmueller reported his

conduct to OLR in July of 2012. He did not incur any criminal sanctions as a result of his conduct in destroying the digital evidence of his client's crimes.

By failing to inform his client that he met with the prosecutor in an effort to resolve the criminal case against the client, and further, by failing to consult with the client prior to making an offer to the prosecutor that he issue as many misdemeanor charges as the prosecutor was prepared to charge, Wiesmueller violated SCR 20:1.2(a), which states, "...[A] lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by SCR 20:1.4, shall consult with the client as to the means by which they are to be pursued," and 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 advising a client to delete information from the client's personal laptop computer and thereafter assisting in the removal of the computer files, which he knew were relevant to an ongoing criminal investigation to which the client was subject, Wiesmueller violated SCR 20:1.2(d), which provides, "A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent."

By divulging to a criminal investigator the nature and content of interactions and communications that he had with his client regarding matters relevant to the criminal investigation, and doing so without the client's knowledge or consent, Wiesmueller violated SCR 20:1.6(a), which states, "A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in pars. (b) and (c)."

By counseling his client to delete evidence from her computer and by removing files that he knew had potential evidentiary value from the client's computer and taking steps to prevent

the retrieval of those files, Wiesmueller unlawfully obstructed the State's access to evidence and unlawfully concealed evidence in violation of SCR 20:3.4(a), which states, "A lawyer shall not...unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value...[and] shall not counsel or assist another person to do any such act."

By making statements to the District Attorney's office that implied that his client alone removed evidence from the client's computer, when in fact it was Wiesmueller who had removed the evidence, Wiesmueller engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of SCR 20:8.4(c).

Wiesmueller received a private reprimand in October of 2012 for neglect and failure to communicate with a client he was representing on appeal. The reprimand included a violation of SCR 20:8.4(c) for a misleading statement Wiesmueller made to the client implying that he had filed an appeal when he had not.

In accordance with SCR 22.09(3), Atty. Christopher Wiesmueller is hereby publicly reprimanded.

Dated this 1st day of November, 2013.

SUPREME COURT OF WISCONSIN

/s/
James C. Boll, Jr., Referee