
Supreme Court of Wisconsin



No. 2020AP1624-D

OLR v. CARL ROBERT SCHOLZ

November 15, 2024

The Court has entered the following order:

On September 30, 2022, the Office of Lawyer Regulation (OLR) filed a complaint against Attorney Carl Robert Scholz pursuant to SCR 22.11. The matter was referred to a referee, who filed his report and recommendation on the matter on March 21, 2024, and filed a supplement to his report on April 11, 2024. As no party has appealed, the court reviews this matter pursuant to SCR 22.17(2).

The allegations in the 48-count complaint include multiple instances of conversion of client trust funds, trust account violations, failure to communicate, failure to provide information to clients, failure to provide a final accounting to clients, failure to return unearned fees, making material misrepresentations to legal tribunals, failure to cooperate with OLR's investigation, making material misrepresentations to the OLR, failure to act with reasonable diligence and promptness, failure to provide notice of license suspension, and practicing law while his license was suspended. OLR alleged that Attorney Scholz owed the following amounts of restitution relating to these charges: (1) \$4,000 to S.J.C.; (2) \$2,625.39 to J.L.M.; (3) \$291 to C.A-H.V.; (4) \$7,000 to M.A.H.; (5) \$29,315.97 to the Estate of R.G.M.; and (6) \$40,000 to L.M.—totaling over \$83,000.00.

The parties entered into two stipulations, the effect of which was that Attorney Scholz withdrew his answer to the complaint, and stipulated that he owed \$4,000 in restitution to S.J.C., but contested the remaining amounts of claimed restitution. According to the referee's report, "[o]n January 22, 2024, the parties resolved the remaining restitution issues." The report, however, does not indicate in what document this "resolution" was memorialized, and the court is unable to locate any document in the record memorializing any such stipulation.

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An affidavit from OLR Investigator Emilie E. Kokie that was attached to OLR's Brief in Opposition to Respondent's Motion For Retroactive Revocation indicates that "[b]etween January 11 and 22, 2024 [C.A-H.V., the Estate of R.G.M., L.M., and M.A.H.] contacted me and either made a knowing and informed waiver of restitution or provided information that allowed OLR to determine that no restitution was owed." Investigator Kokie's affidavit did not further delineate which individuals made a knowing and voluntary waiver of restitution and which individuals provided information indicating that restitution was not owed. Further, Investigator Kokie's Affidavit did not address the \$2,625.39 in claimed restitution to J.L.M.

With little explanation, the referee's report recommended that the court adopt "OLR's recommendation" and order Attorney Scholz to pay \$4,000 in restitution to S.J.C. The referee's report also referenced statements contained in Attorney Scholz's brief in support of his motion for retroactive revocation, in which he represented that L.M. and C.A-H.V. "voluntarily waived their claims" (\$40,000 and \$291) and that he provided OLR with information that "no restitution was owed" to the estate of R.G.M. (\$29,315.97) or M.A.H (\$7,000). The referee's report also mentions that one of the individuals to whom OLR alleged restitution was owed had passed away and that OLR decided not to pursue this claim for restitution. However, there do not appear to be any evidentiary filings in the record substantiating these representations.

In his supplemental report, the referee discussed a second affidavit from OLR Investigator Kokie, which the referee indicated "has not been filed with the court." That second affidavit apparently contains additional information concerning the initially requested amounts of restitution, and why OLR decided not to pursue certain amounts, including that OLR now believes that Attorney Scholz has repaid one of the claimed items of restitution and that OLR was unable to substantiate another. It does not appear that this second affidavit was ever filed with the court.

In light of the above, the court concludes that the record, as currently assembled, is deficient and insufficient for the court to meaningfully review this case. Therefore,

IT IS ORDERED that within 30 days of the date of this order, the parties shall supplement the record with the following documents:

1. The second affidavit from OLR Investigator Emily Kokie that is referenced in the referee's supplement report;

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2. Any document memorializing the parties' January 22, 2024 resolution of the remaining restitution issues, as referenced in the referee's report; and
3. To the extent that the above two documents do not contain the information specified below, a stipulation from OLR and Attorney Scholz that explains, in detail, and with reference to each item of restitution sought in the complaint and each individual to whom OLR initially alleged restitution was owed:
 - a. Whether no funds were converted with respect that individual;
 - b. Whether funds converted with respect to that individual were repaid, and when;
 - c. Whether the individual made a knowing and intelligent waiver of the right to restitution, and when and how this occurred;
 - d. Whether OLR was unable to substantiate the original amount claimed and why OLR was unable to substantiate a lesser amount; and
 - e. Any other reason why the parties stipulate that restitution to a particular individual is not owed.

IT IS FURTHERED ORDERED that the case shall be held in abeyance pending the filing of the documents set forth above.

Samuel A. Christensen
Clerk of Supreme Court

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