

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand with Consent

Laura A. Walker
Attorney at Law

14-OLR- 1

In February 2011, a man hired Attorney Laura A. Walker to represent him in a felony criminal case involving the man’s alleged attempted murder of his wife and accompanying charges. At the outset of the representation, Walker and her client signed an undated fee agreement letter that stated:

This letter constitutes an agreement for legal counsel in the above referenced case, which includes 8 felony counts.

I, Laura A. Walker (Attorney) do agree to represent [the client] in the above referenced matter for all court appearances ...

The Client agrees to retain the Attorney in the amount of \$8,000.00 with an hourly rate of \$250.00 in the event of trial.”

Like Walker, the client is a military veteran who had been injured. The client hired Walker partly because she would be able to help him deal with arranging his disability and pension payments with the Defense Finance and Accounting Service (“DFAS”) and the U.S. Department of Veterans Affairs (“VA”). Walker and her client never entered into any other written fee agreement.

The client signed Powers of Attorney (“POA”) designating Walker as his agent so that she could open a bank account on his behalf and have his monthly DFAS and VA payments made directly to such account.

The first POA, which Walker and her client signed on February 15, 2011, provided:

My agent is authorized to transfer my federal pension from the US Navy and Veterans Affairs disability payments, for direct deposit into Walker Law Group’s Trust accounts.

My Agent will only remove money for legal payments not to exceed \$8,000.00 initial payment (retainer) +\$250.00/per hour of legal work done in conjunction with trial workupon [sic] receipt [sic] of proper billing for said hours.

My agent will have my taxes prepared and monies covering those costs are authorized from my pension and disability payments. No other monies are authorized for transfer to my agent.

On February 15, 2011, the client signed a Form 8821 Tax Information Authorization in favor of Walker.

On February 15, 2011, the client was served with a petition for divorce. Walker agreed to also represent the client in his divorce, and on February 18, 2011 she filed an admission of service in that case. Walker entered an appearance in such case on February 21, 2011.

According to Walker, she ultimately agreed to handle her client’s criminal matter, the divorce, as well as a child support dispute and other minor matters for a total flat fee of \$30,000.00.

In a March 9, 2013 letter to the Office of Lawyer Regulation (“OLR”), Walker explained:

For that flat rate I represented him at a divorce trial, at a child support hearing, throughout his criminal case, wrote letters to 2 different jurisdictions for child support, wrote letters to the VA and DFAS regarding his pension and disability, had his taxes prepared for 2 years, contacted the court regarding questions he had about foreclosure on his home and more.

On February 21, 2011, Walker and her client signed an Appointment of Individual as Claimant’s Representative form with the VA naming Walker as the client’s agent, which form provided in part:

Currently am going through a divorce proceeding, I authorize my Attorney, Laura A. Walker and her alone, to collect [sic] all pension and disability payments for my Navy pension and direct those payments to a trust account that has been set up by her on my behalf.

On March 2, 2011, the client signed another POA authorizing Walker to act on his behalf with regard to “All financial transactions, including transferring my pension to a different account.”

In a March 4, 2013 letter to OLR, the Client stated:

I signed a retainer for \$8,000.00 for my criminal case, and the only time there was a mention of \$250.00 per hour was in the event we went to trial. That is where, and the only scenario that a \$30,000.00 fee cap was ever mentioned...period. Ms. Walker, and I both knew that my divorce would go to a trial from very beginning, and agree on a fee of \$5,000.00.”

According to the client, all of the legal issues that Walker helped him with, except for the child support issues, were discussed, agreed to, and documented on the POAs. The POAs, however, do not mention any fee for the divorce or any other matters.

The only fee mentioned in any of the documents is in the February 15, 2011 POA, which states, “My Agent will only remove money for legal payments not to exceed \$8,000.00 initial payment (retainer) +\$250.00/per hour of legal work done in conjunction with trial workupon [sic] receipt [sic] of proper billing for said hours.” As this echoes the language in the written fee agreement for the criminal matter, the language of such POA appears to relate only to Walker’s representation of the client in the criminal matter.

Walker opened a bank account, which was entitled, “[Client] by the Law Office of Laura A. Walker.” The client was listed as a beneficiary of the account. In a letter that OLR received from Walker on January 25, 2013, Walker explained that she did not treat the client’s bank account as a trust account. However, Walker filed with OLR an Agreement to Notify Office of Lawyer Regulation of Overdrafts on Lawyer Trust Accounts relating to such bank account signed by Walker on February 18, 2011 (“Overdraft Agreement”), as required by SCR 20:1.15(h)(8) for all client trust accounts. Walker arranged for the client’s monthly DFAS and VA payments to be deposited directly to the bank account. The amounts varied, but were approximately \$2,275 to \$2,500 per month.

Because such funds were client property in her possession in connection with the representation of a client, Walker was required to hold such funds in trust pursuant to SCR 20:1.15(b)(1), which states:

A lawyer shall hold in trust, separate from the lawyer's own property, that property of clients and 3rd parties that is in the lawyer's possession in connection with a representation. All funds of clients and 3rd parties paid to a lawyer or law firm in connection with a representation shall be deposited in one or more identifiable trust accounts.

Walker deducted her fees from the client's monthly payments as he had no other means of paying her fees while incarcerated. She explained in her January 25, 2013 response to OLR, "We always agreed that in order for me to be able to carry on the task of representing him that he would need to compensate me in the form of a monthly payment in the amount of \$2,000.00 dollars on the first of every month."

Walker provided OLR with bank statements and an accounting showing that she withdrew and paid to herself a total of \$30,000.00 for fees, in roughly \$2,000 monthly increments. Walker explained that she would withdraw such funds in person from a bank branch. Walker did not send her client any billing statements.

Each month between March 2011 and June 2012, Walker would also withdraw approximately \$200 from the bank account and deposit it to the client's commissary account at the county jail for his personal use, as he had requested.

In addition, Walker used the client's funds to pay his taxes and tax preparation, and costs of litigation, including \$2,700.00 for medical evaluations of the client.

After Walker withdrew funds for the client's commissary account and for her fees, the bank account was left with a very small ending balance each month.

Walker explained that she usually made the withdrawals in person at a bank branch. In order to minimize check printing costs, she wrote only six checks from the bank account.

In response to OLR's request that she produce the transaction register, checks, and deposit slips, and any other written records for the bank account, Walker explained that when she closed the bank account in the beginning of 2012 she returned the blank checks and the check transaction register to the bank to be destroyed. As all the deposits were automatic, there were no deposit slips. Walker told OLR that, aside from the bank statements, "I have no further written records."

With respect to the divorce matter, Walker appeared for two hearings and a trial, which was held on October 11, 2011. A judgment of divorce was entered thereafter.

Walker prepared for the criminal trial and made numerous appearances for hearings. An initial trial date was set for April 23, 2012, but was later rescheduled for August 6, 2012. On May 18, 2012, the client entered no contest pleas as to all charges but a charge of attempted first degree intentional homicide, which charge was dismissed but read in. On June 28, 2012, he was sentenced to 26 years in prison.

Walker provided the county jail visitor logs that appear to indicate¹ she visited her client 74 times between February 15, 2011 and June 27, 2012, showing there was significant communications between the parties during the representation.

¹ Some of the names on the jail visitor log are misspelled, most likely caused by misinterpreted handwriting. There are 74 names that appear to be "Laura Walker," "Attorney Walker," or some variant thereof.

According to Walker, during her visits she provided the client with his monthly bank statements and he was well aware that she was withdrawing her fee and litigation costs from the bank account.

Though he acknowledges that Walker visited frequently, the client denies that Walker provided him any bank statements. He claims that she did not answer his questions about his finances and that he did not receive any bank statements until OLR provided him with copies of them.

The client indicated that he believed that Walker removed only \$8,000 for the criminal matter, \$5,000 for the divorce, \$2,700 in expert fees, \$3,369.00 for deposits to his jail commissary account, \$255 for taxes, \$114 for bank fees, and \$201.40 for other costs. This totals \$19,364.40. The client explained that because the bank statements indicate a total of \$37,943.49 was withdrawn from his account, there is \$18,304.40 for which he believes Walker never accounted. In his March 4, 2013 letter to OLR, the client emphasized that no other monies were authorized to be transferred to Walker. "That is what I signed, that is what I agreed, and that is what I believed was happening until [name of third party] told me otherwise." The client selected a third party, a friend of his, to succeed Walker as his representative to handle his financial affairs.

According to the client, he had no cause for concern until December 2011, when he received only \$97.25 in his jail account on December 2, 2011 instead of the usual amount of approximately \$200 (ranging between \$197.25 and \$202.25). He inquired of Walker, who deposited an additional \$97.25 on December 20, 2011. Walker continued as his attorney until the client's June 28, 2012 sentencing hearing.

After the client's sentencing, Walker no longer continued as his attorney. The client decided that his friend would thereafter handle his finances. On June 26, 2012, the client signed a new POA naming his friend as his new agent.

The client wanted Walker to transfer the bank account to his friend. Walker contacted the bank, and was informed that since the bank account was in Walker's name and the client was listed as a beneficiary, they could not remove her name and add the friend's name to the account. Instead, the bank would have to close the account and open a new account for the client with the friend's name on the account.

Therefore, Walker withdrew the remaining balance of \$2,526.59, paid herself the final \$2,000.00 installment of her attorney fee, and issued a check to the client's friend in the amount of \$526.59.

During the first week of July 2012, Walker provided the check to the client's friend, along with instructions on how to complete a new power of attorney and the steps the friend needed to take to transfer the client's pension and disability payments into the new account. According to Walker, she further advised the client's friend that the direct deposit change deadline was the 13th of each month and that he would have to take care of it before that date to ensure the payments were made to the new account.

On July 6, 2012, Walker sent the client a letter addressed to him at the county jail in which she stated, "I have given [the client's friend] your wallet, and all the information he will need to open an account for you. Your previous account at [the bank] has been closed and the checks destroyed by the bank." The client denies receiving such letter,

though he indicated he had been moved to the Dodge Correctional Institution by that time.

The client is adamant that Walker never provided him bank statements for the bank account and that the first time he ever saw bank statements for the account was when OLR forwarded copies to him. According to the client and his friend, the friend took his POA to the bank and requested bank statements on behalf of the client, but because his name was not on the account the bank would not provide them to him.

On September 2, 2012, the client sent the bank a letter requesting copies of the bank statements. In his letter, the client stated:

Please provide me with either bank statements, or a simple print-out that shows all deposits, and withdrawals that transpired during the life of that bank account, as I was never forwarded statements, and am unable to gain access to that information any other way.

When the scope of her representation of the client expanded beyond his criminal matter and she charged the client an increased flat fee of \$30,000 to handle additional matters, by failing to enter into a new written fee agreement or to modify the existing fee agreement that pertained only to the criminal matter, Walker violated SCR 20:1.5(b), which provides:

(1) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing, before or within a reasonable time after commencing the representation, except before or within a reasonable time after commencing the representation when the lawyer will charge a regularly represented client on the same basis or rate as in the past. If it is reasonably foreseeable that the total cost of representation to the client, including attorney's fees, will be \$1000 or less, the communication may be oral or in writing. Any changes in the basis or rate of the fee or expenses shall also be

communicated in writing to the client.

(2) If the total cost of representation to the client, including attorney's fees, is more than \$1000, the purpose and effect of any retainer or advance fee that is paid to the lawyer shall be communicated in writing.

(3) A lawyer shall promptly respond to a client's request for information concerning fees and expenses.

By failing to provide the client a written notice prior to withdrawing her attorney fees from the trust account she maintained on his behalf, Walker violated SCR 20:1.15(g)(1), which provides:

(1) Notice to client. At least 5 business days before the date on which a disbursement is made from a trust account for the purpose of paying fees, with the exception of contingent fees or fees paid pursuant to court order, the lawyer shall transmit to the client in writing all of the following:

- a. an itemized bill or other accounting showing the services rendered;
- b. notice of the amount owed and the anticipated date of the withdrawal; and
- c. a statement of the balance of the client's funds in the lawyer trust account after the withdrawal.

By withdrawing funds from the trust account she maintained for the client by making cash withdrawals from a bank branch, rather than by issuing checks from the trust account, Walker violated SCR 20:1.15(e)(4)a., which provides, "No disbursements of cash shall be made from a trust account or from a deposit to a trust account, and no check shall be made payable to "Cash."

By failing to maintain the following trust account records, Walker violated the record keeping requirements of SCR 20:1.15(f)(1):

- a. a transaction register showing: 1) the date, source, and amount of all deposits; 2) the date, check or transaction number, payee and amount of all disbursements; 3) and the balance in the account after each transaction.
- b. a subsidiary ledger for account fees and charges.
- c. disbursement records, including canceled or imaged checks.
- d. monthly reconciliation reports showing the following balances and verifying that they are identical: 1) the balance in the transaction register, and 2) the adjusted balance in the monthly bank statement.

By failing to provide a full written accounting of the funds she held in trust for the client upon the conclusion of her representation, Walker violated SCR 20:1.15(d)(2), which provides, “Upon final distribution of any trust property or upon request by the client or a 3rd party having an ownership interest in the property, the lawyer shall promptly render a full written accounting regarding the property.”

Walker has no prior discipline.

For the above misconduct, and in accordance with SCR 22.09(3), Attorney Laura A. Walker is hereby publicly reprimanded.

Dated this 16th day of January, 2014.

SUPREME COURT OF WISCONSIN

/s/
Russell L. Hanson, Referee