IN THE SUPREME COURT
STATE OF MISSOURI

IN RE:	)	
	)	
ELBERT A. WALTON, JR.,	)	**Supreme Court No. SC95850**
	)	
Respondent.	)	
	)	

INFORMANT'S BRIEF

Respectfully submitted,

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STATEMENT OF JURISDICTION

Jurisdiction over attorney discipline matters is established by Article 5, Section 5 of the Missouri Constitution, Supreme Court Rule 5, this Court's common law, and Section 484.040 RSMo 2000.

STATEMENT OF FACTS

Elbert A. Walton, Jr. was admitted to Missouri's bar in 1974. In 1989, Respondent Walton accepted admonitions for two violations of Rule 4-1.1 (competence), two violations of Rule 4-1.3 (diligence), and a violation of Rule 4-1.4 (communication). In 2001, the Court reprimanded Respondent for violation of Rules 4-1.1, 4-1.5 (reasonableness of fee), 4-5.3 (responsibilities regarding nonlawyer assistants), 4-5.5 (unauthorized practice of law), and 4-8.4 (misconduct). *In re Walton*, SC83341 (May 15, 2001). In 2004, the Court reprimanded Respondent for violation of Rule 4-3.5(c) (now 4-3.5(d)) (engage in conduct intended to disrupt a tribunal) and 4-8.4(b) (conduct prejudicial to the administration of justice). *In re Walton,* SC86122 (December 21, 2004).

In May of 2013, Respondent Walton entered his appearance on behalf of Respondent James C. Robinson dba Critique Services, L.L.C., on a motion to disgorge fees matter pending before the United States Bankruptcy Court, Eastern District of Missouri. *Steward v. Robinson (In re Steward),* Case No. 11-46399-705 (Bankr. E.D. Mo. June 11, 2014). Review of Mr. Robinson's representation of debtor LaToya Steward leading up to the motion to disgorge fees and Respondent Walton's entry of appearance on Robinson's behalf is necessary to an understanding of this disciplinary case.

Respondent Robinson is a long-time practitioner in the bankruptcy court in the eastern district of Missouri. Robinson has represented to that court that he does business as Critique Legal Services LLC, an artificial legal entity. He has also represented that he does business as "Critique Services," a fictitious name but not an artificial legal entity. The factually accurate legal relationship that exists between Robinson and Critique has

important implications under bankruptcy law and to this case because Critique employees interacted with the debtor and received fees from the debtor. **App. 6-9, 142.**

In 2010, LaToya Steward engaged Respondent Robinson, dba Critique Services L.L.C. (Critique), to represent her in filing for Chapter 7 bankruptcy relief. Steward communicated about her case with Critique staff. **App. 9-11.** In a document filed by Ms. Steward with the bankruptcy court on April 5, 2013, Ms. Steward described how Critique staff solicited her to include false information regarding her place of residence and the existence of fictional dependents in her petition paperwork. The document described other aspects of Robinson's representation of Steward, including the fact that the documentation necessary to substantiate her participation in a mandatory class had been lost, as had her pay stubs. Steward also described how her many calls to Robinson/Critique were never returned. She described how the only way she could find out anything about her case was to go to the Critique office and sit for hours until someone would talk to her. Ms. Steward described why she had signed paperwork to reaffirm her debt ($10,966.00) to Ford Motor Credit for her vehicle (she feared she would never get financing for another vehicle if she did not). **App. 105-106.**

Ms. Steward obtained her discharge on November 21, 2011. Some time after the discharge, Ms. Steward learned, after talking to an "attorney friend," that the fears that were the basis for her decision to reaffirm the debt to Ford Motor Credit were not justified and that she should contact her attorney about canceling the reaffirmation. The attorney friend warned her there could be a time limit on canceling the reaffirmation. Ms. Steward described, in the document she filed with the bankruptcy court on April 5, 2013, how she

called Respondent Robinson many times after the conversation with the other attorney, but was only able to leave him messages, which he never returned. She finally drove to the Robinson/Critique office, whereupon the person who pulled her file told her she had missed the deadline to cancel the debt reaffirmation by two days. **App. 105-106.**

Ms. Steward then asked for her file to be given to her and for the return of the fee she had paid Robinson. At this point Mr. Robinson called Ms. Steward and asked her what the problem was. He told her she could have her file back for a $100.00 office fee charge and a $5.00 per page copying charge. **App. 105-106.**

Ms. Steward subsequently surrendered her vehicle to Ford Motor Credit, which garnished her wages and bank accounts for what she still owed. **App. 105-106.**

On December 4, 2012, Ms. Steward filed a pro se complaint against Ford Motor Credit in an adversary proceeding in her bankruptcy case. She claimed her debt to Ford Motor Credit should be discharged due to Robinson/Critique's failure to represent her in her effort to rescind, in a timely manner, the reaffirmation of the debt. Respondent Robinson received electronic notice of Ms. Steward's filing. At a hearing on Ford's motion to dismiss, Ms. Steward made an oral motion to substitute Robinson/Critique for Ford Motor Credit. The bankruptcy court granted Ford's motion to dismiss, denied Steward's motion to substitute parties, but gave her fourteen days to file whatever pleading she deemed appropriate against Robinson/Critique. **App. 142-143.**

On April 5, 2013, Steward filed a pleading reciting what had transpired between her and Robinson/Critique. The bankruptcy court, liberally construing the pro se pleading as required by bankruptcy law, determined that the document was the debtor's request for

disgorgement of attorney's fees and directed that it be redocketed to Steward's "main case." That document, now considered a motion to disgorge attorney's fees, was electronically mailed to Respondent Robinson at his email address of record. **App. 13.**

After docketing Ms. Steward's complaint as a motion to disgorge, the bankruptcy court, on April 8, 2013, noticed the matter for hearing on May 8, 2013. The notice of that hearing was electronically mailed to Robinson at his email address of record. **App. 14.**

It was at this point in the proceedings, on May 7, 2013, that Respondent Walton entered his appearance on behalf of Robinson dba Critique Services, L.L.C. Walton untimely filed a response to the motion to disgorge, which by local rule was required to be filed seven days before the hearing. The response could not have been seen by Ms. Steward before the hearing because Walton put it in the mail on the seventh. **App. 143.** The court continued the May 8 hearing to May 15, 2013. As the parties had not communicated prior to the May 15 hearing and had not prepared a joint stipulation of uncontested facts, as required by local bankruptcy rule, the court continued the May 15 hearing to June 26, 2013. **App. 143.**

On June 17, 2013, an attorney entered an appearance on Steward's behalf. On June 26, 2013, Steward's counsel served Robinson/Critique with interrogatories and requests for production, responses to which were due thirty days later. The discovery sought, among other information, to clarify the relationship between Robinson and Critique. On July 20, 2013, Robinson/Critique (through Mr. Walton) filed motions to quash the discovery, alleging that discovery is not permitted in contested matters. **App. 143.** On July 31, 2013, the bankruptcy court denied the motions to quash, noting it is well-established law that

discovery is permitted in contested matters and that Walton's motions to quash were in bad faith and examples of vexatious litigation. **App. 16-17.**

On August 14, 2013, Respondent Walton told the court that his client's discovery responses were complete and would be provided. The matter was set for a status conference on September 4, 2013. Respondents provided what they denominated "responses" to the discovery on September 3. The court continued the September 4 hearing to September 11, 2013. **App. 18.**

At the September 11, 2013, status conference, the court found the responses provided on September 3 were "grossly insufficient," as they were mostly refusals to respond based on untimely, non-specific objections to scope, vagueness, relevancy, work product, or harassment. **App. 144.**

The following incidents of misconduct occurred at the September 11, 2013, hearing.

- When addressing why Mr. Robinson had not produced the tax and financial information, Mr. Walton announced that, "I don't think [the Debtor's counsel is] entitled to [Respondent Robinson's] tax returns." He appeared to be drawing a distinction between the Respondents for purposes of that production. However, Mr. Robinson represented that Critique Services L.L.C. is his d/b/a. Therefore, he could not later turn around and claim that he is distinct from Critique Services L.L.C. Moreover, even if such distinction could have

been drawn, the objection has not been timely raised and therefore had been waived. And, even if Mr. Robinson is distinct from Critique Services L.L.C., that distinction does not excuse the non-production of the requested documents. Critique Services L.L.C. still must produce the documents through an agent.

- Mr. Walton blamed his clients for the failure to respond, accusing them of failing to give him the discovery - - despite the fact that Mr. Walton had represented three weeks earlier that the responses were complete and were ready to be provided.
- Mr. Walton accused the Debtor of perjury. He stated that he had looked at the docket sheets posted downstairs (presumably referring to the criminal docket sheets publicly posted outside the U.S. District Court), and saw people prosecuted for perjury. This was a bad faith argument offered in explanation for his clients' refusal to meet their discovery obligations. Whether the Debtor committed perjury was irrelevant to the issue of whether the Respondents were obligated to respond in full to the Requests for Discovery. Mr. Walton was simply trying to bully the Debtor with the suggestion of

a criminal prosecution if she continued to proceed on her Motion to Disgorge.

- Mr. Walton accused the Court of being "interested in dumping on Mr. Robinson," trying to blame the Court for the Respondents' situation, despite the fact that the Respondents' predicament was caused by their decision not to timely participate in the discovery process - - a decision that was made while they were represented by Mr. Walton.
- When the Court pointed out to Mr. Walton that his clients had failed to properly and fully respond to the Requests for Discovery, Mr. Walton argued with the Court, being either unwilling or incapable of accepting that the Respondents had not met their legal obligation to respond.
- Mr. Walton was obnoxious and disrespectful in his tone and demeanor. He accused the Court of ignoring his (irrelevant) accusations of perjury and his unpersuasive arguments. He insisted that he was correct about procedural issues when he was not, implying that the Court did not know the rules of procedure, and claiming (wrongly—twice), "that's what the rules say!" but

citing to no rule. This self-attributed expertise on procedure was ironic, given that it had been Mr. Walton who had filed the frivolous Motions to Quash and ignored the deadline for objecting to discovery.

- Mr. Walton insisted that the Debtor's counsel must "send me a pre-motion" before filing a motion to compel and seeking sanctions, because "[t]hat's the rules I looked at." The Court pointed out to Mr. Walton that the Debtor was not seeking sanctions under Rule 11, the rule that prohibits a party from filing a motion for sanctions thereunder without first providing to the other party an opportunity to withdraw or correct the challenged document.

App. 19-21.

Walton's misconduct continued at a September 18, 2013, status conference.

- When asked to describe "each oral communication between [the Debtor] and you or [a person who has worked for you, or with you, or with whom you have been professionally associated]," the Respondents responded that there had been "the usual and customary attorney client interview as to her bankruptcy filing the specific words of which the respondent has no present

recollection other than to set forth in general those areas of discussion that are usual and customary in providing advice and counsel to the movant as to the filing of a Chapter 7 bankruptcy case." Aside from being vacuous, non-specific nonsense, this response appears to refer to the personal memory of Mr. Robinson only. It does not offer a representation of Critique Services L.L.C.'s institutional memory. However, Mr. Robinson is responsible for not merely his own personal memory, but also the memory of Critique Services L.L.C., his purported d/b/a. And, even if Critique Services L.L.C. is not his d/b/a, Critique Services L.L.C. is still required to respond through an authorized agent. The Respondents could not avoid responding based on claims of personal ignorance related to Critique Services L.L.C. Moreover, the "usual and customary" description was deliberately vague. It revealed nothing about the content of the discussion, other than the fact that Mr. Robinson allegedly provided whatever he happens to subjectively believe to be "usual and customary." It provided no specifics, such as the date

or the length of the conversation, or any other relevant details.

- When asked to describe each complaint filed against the Respondents for a violation of Rule 4 of the Missouri Supreme Court's Rules of Professional Conduct, the Respondents refused. (This interrogatory specifically excluded from its request any information about the complainant or any attorney-client privileged information.) Instead of properly responding, the Respondents untimely raised objections based on breadth (without alleging what made the request overly broad), confidentiality (without citing with specificity any ground for such confidentiality), and privilege (despite the interrogatory excluding privileged information). Then, after raising these untimely, non-specific objections, the Respondents also responded by telling the Debtor to go get the information herself from the OCDC.
- Much of the requested material related to tax and financial information still was not provided, with the Respondents continuing to baselessly insist that the Debtor was not entitled to it.

- A document labeled "Case notes" was provided, but it appeared to be pulled from thin air, with no indication as to who prepared it or when.
- Other production was illegible, with key handwritten notes obscured. These responses are evidence of the Respondents' and Mr. Walton's bad faith in "responding" to the Requests for Discovery.
- Mr. Walton offered no excuse for the non-responsiveness. Instead, he insisted that the discovery requests were objectionable. When the Court again, and pointedly, told Mr. Walton that full response to the Requests for Discovery was required because the Respondents had waived their right to object, he simply proclaimed, "I haven't waived anything!"
- Mr. Walton argued that it was the Debtor who was proceeding in bad faith - - apparently because the Debtor had the nerve to point out the defectiveness of the Respondents' non-responsive "responses." Mr. Walton baselessly insisted that the Debtor was required to have notified him of the illegibility before she was permitted to raise the issue to the Court. However, it was the Respondents who chose not to provide the

documents timely; it was the Respondents who waited until shortly before the status conference to provide the documents; it was the Respondents who provided illegible documents; it was the Respondents who provided substantively non-responsive "responses"; and it was the Respondents who provided their supplemental "responses" so late that there was not time for the Debtor to contact Mr. Walton to ask for the documents to be re-submitted. It was the Respondents who were the perpetrators of bad faith, not the victims of it.

- Mr. Walton mischaracterized the requests made in the interrogatories, falsely alleging that the interrogatories did not request certain information that they clearly did. After he got caught in his lie when the Debtor's counsel read the interrogatory into the record, Mr. Walton dismissively asserted that, as far as he was concerned, the interrogatory was vague. That assertion, aside from being untrue, was irrelevant since the Respondents waived their objections, including an objection to vagueness.

- Mr. Walton repeatedly yelled at the Court, bellowing over the Judge and interrupting him, to insist that the Court must produce a written order on the Motion to Compel Discovery for him, outlining specifically for him what discovery had to be made - - as if the Court owed to him a how-to manual on responding to uncontested discovery requests.
- Mr. Walton accused the Court of trying to "trap him" to explain how Mr. Walton and the Respondents ended up in their situation in this matter.
- When the Court advised Mr. Walton that it did not appreciate his remarks at the last hearing that implied that the Court did not know the law, Mr. Walton denied that he made any such remarks. He asserted, "I didn't say you weren't an expert…" then, in a rare moment of self-reflection, asked to no one in particular, "…did I?" But Mr. Walton quickly recovered to his predictable temerity, concluding that he could not have made such a representation because, "I am not a fool!" The Court chose not to comment on this unsolicited self-assessment.

App. 22-25.

The bankruptcy court ruled that Respondents Walton and Robinson had waived any objections to discovery and ordered the discovery responses produced within seven days. The court ordered that financial information could be filed under seal. **App. 144.**

Instead of complying with the discovery order, Respondents filed multiple motions (e.g., judgment on pleadings, protective order, to dismiss for lack of subject matter), all of which were denied. **App. 162-163.**

On October 1, 2013, the court determined the discovery responses had not been provided and that there was no intention to produce them. The court sanctioned Robinson $1,000.00 for each day of non-compliance. On November 13, the court ended the accrual of monetary sanctions and found Robinson in contempt, noting he could purge the contempt by complying with the discovery process. **App. 163.**

In late November, Respondents again attempted to appeal, arguing that the sanctions order was a final order for criminal sanctions. Because Respondents could purge themselves of the contempt by producing the ordered discovery, however, the order was not appealable. The bankruptcy court issued notice on December 2, 2013, that if Respondents "decide to properly participate in discovery," the court would deem the sanctions unnecessary. The court noted that the sanctions could not be negotiated away by any sort of settlement reached among the parties. **App. 30-31.**

On January 23, 2014, the bankruptcy court again crafted an alternative to satisfying the monetary sanction. The court advised that if Robinson/Critique Services provided, under seal, information about the ownership and structure of Critique Services, filed a letter of apology for their contempt, admitted they made false representations, through Walton,

to the court, agreed to attend continuing legal education courses, and agreed not to be represented by Mr. Walton or serve as co-counsel with Mr. Walton before the bankruptcy court, the monetary sanctions could be satisfied. **App. 146.** The court's alternate choice for satisfying the contempt was not accepted by Respondents. **App. 32.**

In April of 2014, the bankruptcy court put Respondent Walton on notice that his own obstreperous conduct, as well as his role in facilitating Robinson's misconduct, was under sanction consideration. **App. 146.** Walton thereafter sued the bankruptcy judge in his personal capacity in state court, which case was dismissed. Motions to recuse were likewise unsuccessful. **App. 147.**

On June 10, 2014, the bankruptcy court found Robinson in contempt, struck his claims and defenses, and made final $30,000.00 in accrued monetary sanctions. The court also ordered that Respondent Walton be jointly and severally liable for the $30,000.00 in sanctions, and imposed additional sanctions on Robinson and Walton in the amount of $19,720.00 for attorney's fees incurred by Steward's counsel in litigating discovery. The court also sanctioned both Robinson and Walton for making false statements to the court by suspending them from practice before the United States Bankruptcy Court for the Eastern District of Missouri, and ordered that the attorneys' actions be referred to various courts and the Office of Chief Disciplinary Counsel for appropriate investigation and disciplinary consideration. Finally, the court awarded Ms. Steward a refund of the $495.00 in fees she had paid to Robinson. **App. 102.**

The bankruptcy court's decision was appealed to the United States District Court for the Eastern District of Missouri, which affirmed the bankruptcy court's judgment and

order in *Robinson v. Steward* (*In re Steward*), 529 B.R. 903 (E.D. Mo. 2015). **App. 138-155.** Appeal was then taken by Respondents to the circuit court of appeals, which affirmed the judgment of the district court in *Robinson v. Steward* (*In re Steward*), 828 F.3d 672 (8th Cir. 2016). **App. 156-171.**

On June 30, 2014, the United States District Court for the Eastern District of Missouri issued an order commencing disciplinary action against Respondent Walton, but stayed the proceeding pending resolution of any disciplinary action the Missouri Supreme Court may take. **App. 172-173.**

POINT RELIED ON

I.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT'S LICENSE BECAUSE THE FEDERAL COURTS HAVE ADJUDGED HIM GUILTY OF MISCONDUCT IN THAT HE VIOLATED MULTIPLE RULES REGARDING ADVOCACY, INCLUDING THE RULE REQUIRING HONESTY IN COMMUNICATIONS TO A COURT, THE RULE AGAINST OBSTRUCTING DISCOVERY OR ACCESS TO EVIDENCE, THE RULE PROHIBITING DISRUPTIVE CONDUCT IN COURT, AND THE RULE PROHIBITING CONDUCT PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE.

Steward v. Robinson (In re Steward), Case No. 11-46399-705 (Bankr. E.D. Mo. June 11, 2014)

Robinson v. Steward (In re Steward), 529 B.R. 903 (E.D. Mo. 2015)

Robinson v. Steward (In re Steward), 828 F.3d 672 (8th Cir. 2016)

Supreme Court Rule 5.20

ARGUMENT

I.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT'S LICENSE BECAUSE THE FEDERAL COURTS HAVE ADJUDGED HIM GUILTY OF MISCONDUCT IN THAT HE VIOLATED MULTIPLE RULES REGARDING ADVOCACY, INCLUDING THE RULE REQUIRING HONESTY IN COMMUNICATIONS TO A COURT, THE RULE AGAINST OBSTRUCTING DISCOVERY OR ACCESS TO EVIDENCE, THE RULE PROHIBITING DISRUPTIVE CONDUCT IN COURT, AND THE RULE PROHIBITING CONDUCT PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE.

This case was filed as an information seeking reciprocal discipline in accordance with the procedures set forth in Supreme Court Rule 5.20. That rule provides an expedited procedure for disciplining lawyers "adjudged guilty of professional misconduct in another jurisdiction." Respondent Walton has been adjudged guilty of professional misconduct by the United States Bankruptcy Court for the Eastern District of Missouri and suspended from practicing law in that jurisdiction for one year, with reinstatement subject to conditions set forth in the court's opinion. *Steward v. Robinson (In re Steward)*, Case No. 11-46399-705 (Bankr. E.D. Mo. June 11, 2014). The suspension, along with the court's findings and conclusions, was affirmed by the federal district court on March 31, 2015. *Robinson v. Steward (In re Steward)*, 529 B.R. 903 (E.D. Mo. 2015). That court's decision was affirmed by the United States Court of Appeals for the Eighth Circuit on July 7, 2016.

Robinson v. Steward (In re Steward), 828 F.3d 672 (8th Cir. 2016). Disciplinary counsel thereafter sought reciprocal discipline based on the federal courts' adjudication of misconduct and imposition of discipline. The federal discipline was a one-year suspension with conditions to be satisfied before reinstatement. For recent cases in a similar procedural posture, see *In re Bisges*, SC95332 (October 18, 2016), *In re McCrary*, SC95746 (October 5, 2016), *In re Meriwether*, SC95448 (March 1, 2016).

The basis for the federal discipline underlying the reciprocal information filed against Walton was Respondent's role in obstructing Ms. Steward's right to discover information and evidence and Respondent's unethical conduct directed toward the bankruptcy judge. With respect to the latter, it is important to note that Mr. Walton was reprimanded by this Court in December of 2004 for engaging in conduct intended to disrupt a tribunal (Rule 4-3.5(c) in 2004; currently Rule 4-3.5(d)). The evidence in the 2004 case was that Respondent Walton, in reacting to an adverse ruling by an associate circuit judge, rapidly approached the bench, leaned across and, while waving his hand within inches of the judge's face, said in a loud voice "You tricked me, you tricked me." Here, Judge Rendlen described Walton's tone and demeanor toward him as obnoxious and disrespectful. He stated that Walton repeatedly yelled at the court, bellowing over and interrupting the judge. Respondent accused Judge Rendlen of trying to "trap him" and insisted the judge did not know bankruptcy rules and procedures. Respondent Walton's disruptive conduct, in violation of Rule 4-3.5(d), was not only not curtailed by the Court's prior reprimand, but seems to have worsened.

Respondent Walton violated Rule 4-3.3(a)(1), which proscribes making knowing, false statements of fact or law to a tribunal, by making false statements about the Respondents' discovery responses, their intent to comply with discovery orders, and statements about the judge's former jobs in motions to recuse. Respondent Walton filed multiple motions to recuse Judge Rendlen, alleging conflicts of interest stemming from the judge's position ten years earlier as United States Trustee. The judge provided Mr. Walton with information refuting the allegation that he had any role in investigating, drafting pleadings, or prosecuting prior litigation against Critique while he was U.S. Trustee, but Walton continued to file pleadings asserting otherwise. Walton also alleged the judge engaged in personal attacks against Respondents Robinson and Walton, allegations not supported by the record. *Robinson v. Steward (In re Steward)*, 529 B.R. 903, 915 (E.D. Mo. 2015). "[T]he evidence indicates that Mr. Walton did not simply fail to make a reasonable inquiry before making these allegations; it also clearly and convincingly establishes that Mr. Walton willfully and in bad faith made these false allegations knowing that they were false." *Steward v. Robinson (In re Steward)*, Case No. 11-46399-705 (Bankr. E.D. Mo. June 11, 2014), at p. 93 (emphasis in original).

Respondent violated Rule 4-3.4(a) by not providing responses to Ms. Steward's discovery requests. The judge extended discovery deadlines multiple times and offered to allow responses to be filed under seal, to no avail. Nor did Respondents ever file timely objections to discovery or request protective orders. 529 B.R. at 908.

Mr. Walton violated Rules 4-3.4(d) and 4-8.4(d) over an eleven month period by vexatiously litigating their discovery obligations. He filed a motion to quash discovery,

alleging that discovery is not permitted in contested bankruptcy matters. In denying that motion, the judge noted it was frivolous and vexatious. "[Respondents] repeatedly ignored the bankruptcy court's orders despite being warned of the consequences, persistently refused to comply with the most basic requirements of litigation, and prejudiced Steward by forcing her to remain involved in the case while . . . [Respondents] engaged in a protracted power struggle with the bankruptcy court." *Robinson v. Steward (In re Steward)*, 828 F.3d 672, 686 (8th Cir. 2016).

Respondent Walton offered no specific legal arguments against imposition of reciprocal discipline beyond his statement that the case was required to be filed under Rule 5.11. Walton did not reference Rule 5.20 or suggest why that rule is inapplicable to this case. If an attorney is adjudged guilty of conduct inconsistent with professional standards and rules by one court, that attorney can be held accountable for the conduct by the Missouri Supreme Court without the necessity of relitigating the conduct. See *In re Veach*, 287 S.W.2d 753 (Mo. banc 1956). Reciprocal discipline brings to the attention of the Missouri Supreme Court conduct of lawyers licensed by the Court that may require action by the Court to protect the public. It provides an efficient process that preserves the valuable resources of the Court. *In re Hess*, 406 S.W.3d 37, 38, 42 (Mo. banc 2013). Respondent Robinson offers no justiciable cause why the federal adjudications of his misconduct should not be conclusive for purposes of discipline by this Court.

An attorney's mental state, identification of the duty violated, the extent of the injury caused by the misconduct, and consideration of aggravating and mitigating factors are all part of sanction analysis. See *In re Krigel*, 480 S.W.3d 294, 301 (Mo. banc 2016); ABA

Standards for Imposing Lawyer Sanctions, Theoretical Framework. Mr. Walton's misconduct primarily violated duties he owed the legal system. "Lawyers are officers of the court, and must abide by the rules of substance and procedure which shape the administration of justice." ABA Standards, Theoretical Framework. Respondent Walton's many violations of the rules concerning advocacy were knowing, if not intentional, violations. The court repeatedly warned Mr. Walton about disrupting the court, clarified factual matters regarding the judge's prior jobs and responsibilities, and made crystal clear Walton's obligation to produce his client's discovery responses. Walton nonetheless consciously chose to continue his obstreperous antics, continued repeating misstatements about the judge in pleadings, and never did produce the legally discoverable information. His conduct injured the legal system and, ultimately, his client Mr. Robinson (who is also a Respondent in disciplinary proceedings) and the opposing party, who has been involved in a legal process over discovery responses from the time the discovery was due in mid-2013 until the eighth circuit issued its decision in July of 2016.

In considering aggravating factors, Respondent Walton's prior disciplinary history is of particular concern. ABA Standards Rule 9.22(a). Walton had already been reprimanded by this Court for disrupting a tribunal and for engaging in conduct prejudicial to the administration of justice. He engaged in a pattern of misconduct by continuing to engage in unethical conduct even after the bankruptcy judge made clear to him that the conduct could result in sanctions. ABA Standards Rule 9.22(c). He has committed multiple rule violations. ABA Standards Rule 9.22(d). Ms. Steward, the debtor and his client's former client, was a vulnerable victim. ABA Standards Rule 9.22(h). And, Mr.

Walton has substantial experience practicing law. ABA Standards Rule 9.22(i). In mitigation, significant sanctions were imposed on Walton by the federal courts. ABA Standards Rule 9.32(k). It is noted that there is no suggestion that Respondent Walton satisfied, i.e., paid, any of the monetary sanctions.

Judge Rendlen summarized Respondents Walton and Robinson's misconduct as follows:

> They refused to obey a lawful discovery order in violation of Rule 37(a). They falsely represented their intent to meet their discovery obligations. They purposely and in bad faith stalled on making discovery, and what little discovery they did make was grossly inadequate. They made an unfounded personal attack on opposing counsel in a pleading. They violated Bankruptcy Rule 9011 by conducting no reasonable inquiry before making material factual allegations. They lied about the Judge in pleadings in an effort to obtain disqualification. They filed frivolous motions, took meritless legal positions, asserted waived objections, abused the judicial process and vexatiously litigated. Not only did Mr. Robinson and Mr. Walton show bad faith by delaying or disrupting the litigation and by hampering enforcement or court order, but by their actions, "the very temple of justice has been defiled".

Steward v. Robinson (In re Steward), Case No. 11-46399-705 (Bankr. E.D. Mo. June 11, 2014), at 96-97.

Mr. Walton had multiple notices and opportunities to respond before the federal courts adjudged him guilty of professional misconduct. The adjudication of his misconduct by those courts is appropriately the basis for reciprocal discipline by the Missouri Supreme Court.

CONCLUSION

Respondent was suspended from practicing before the bankruptcy court for one year. In light of the knowing, if not intentional, nature of Respondent's misconduct, including obstruction of process and disruption of a tribunal, and the fact that Respondent has previously been disciplined for conduct of that same nature, Informant recommends that the Court indefinitely suspend Respondent's license with no leave to apply for reinstatement for a minimum of eighteen months.

Respectfully submitted,

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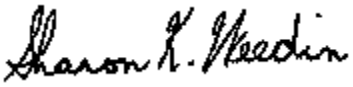
CHIEF DISCIPLINARY COUNSEL



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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of December, 2016, a true and correct copy of the foregoing was served via U.S. first class mail, postage prepaid, and via the Missouri Supreme Court e-filing system pursuant to Rule 103.08 to:

Elbert A. Walton, Jr.
2320 Chambers Rd.
St. Louis, MO 63136

Respondent

Sharon K. Weedin

_____
Sharon K. Weedin

RULE 84.06(c) CERTIFICATION

I certify to the best of my knowledge, information and belief, that this brief:

1. Includes the information required by Rule 55.03;
2. Complies with the limitations contained in Rule 84.06(b);
3. Contains 5,570 words, according to Microsoft Word, which is the word processing system used to prepare this brief.

Sharon K. Weedin

_____
Sharon K. Weedin