IN THE SUPREME COURT
STATE OF MISSOURI

IN RE:	)	
	)	
JAMES C. ROBINSON,	)	**Supreme Court No. SC95849**
	)	
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

James C. Robinson was licensed to practice law in Missouri in 1995. His disciplinary history consists of an admonition, issued in December of 2011, for violation of Rules 4-1.1 (competence) and 4-1.3 (diligence) in that Respondent failed timely to file a certificate of completion for a required debtor education course in a client's bankruptcy case, resulting in the dismissal of the client's case.

Respondent is a long-time practitioner in the bankruptcy court in the eastern district of Missouri. Respondent 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. 5-8, 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. 8-10.** 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.**

On May 7, 2013, Respondent Elbert Walton entered his appearance on behalf of Robinson dba Critique Services, L.L.C., and 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 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. The court's alternate choice for satisfying the contempt was not accepted by Respondents. **App. 32, 146.**

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 by suspending them from practice before the United States Bankruptcy Court for the Eastern District of Missouri, and ordered that its opinion 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 Robinson, but stayed the proceeding pending resolution of any disciplinary action the Missouri Supreme Court may take. **App. 172-173.**

POINTS RELIED ON

I.

THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT'S LICENSE BECAUSE THE FEDERAL COURTS HAVE ADJUDGED HIM GUILTY OF PROFESSIONAL MISCONDUCT IN THAT HIS CONDUCT IN REPRESENTING A BANKRUPTCY CLIENT VIOLATED MULTIPLE RULES, INCLUDING THE RULES REQUIRING COMPETENCE, DILIGENCE, COMMUNICATION, AND TO PROTECT THE CLIENT'S INTERESTS UPON TERMINATION OF REPRESENTATION, AND BECAUSE HIS CONDUCT VIOLATED RULES OWED THE LEGAL SYSTEM IN THAT HE OBSTRUCTED DISCOVERY AND ENGAGED IN 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 DISCIPLINE RESPONDENT'S LICENSE BECAUSE THE FEDERAL COURTS HAVE ADJUDGED HIM GUILTY OF PROFESSIONAL MISCONDUCT IN THAT HIS CONDUCT IN REPRESENTING A BANKRUPTCY CLIENT VIOLATED MULTIPLE RULES, INCLUDING THE RULES REQUIRING COMPETENCE, DILIGENCE, COMMUNICATION, AND TO PROTECT THE CLIENT'S INTERESTS UPON TERMINATION OF REPRESENTATION, AND BECAUSE HIS CONDUCT VIOLATED RULES OWED THE LEGAL SYSTEM IN THAT HE OBSTRUCTED DISCOVERY AND ENGAGED IN 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 for an expedited procedure for disciplining lawyers "adjudged guilty of professional misconduct in another jurisdiction." Respondent Robinson, a long-time practitioner in the United States Bankruptcy Court for the Eastern District of Missouri, had been adjudged guilty of professional misconduct and suspended from practicing in that court 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 federal discipline was imposed in this case both due to Robinson's unethical representation of his debtor/client, Ms. Steward, and due to Robinson/Walton's conduct in proceedings before the bankruptcy court on Ms. Steward's motion to disgorge attorney's fees. The procedural history preceding the federal courts' imposition of discipline leads to the irrefutable conclusion that Respondent was accorded generous due process in the federal proceedings. Having been afforded notice at every step of the process and opportunity to be heard on multiple occasions over nearly twelve months regarding the conduct that is the basis for this reciprocal proceeding, protection of the public through imposition of reciprocal discipline is necessary and appropriate.

To summarize Respondent Robinson's misconduct, after Ms. Steward received her Chapter 7 discharge, she learned from speaking to an attorney friend that it was not necessary to her future borrowing needs to reaffirm the debt she owed on her vehicle (more

than $10,000.00). She learned she could rescind the reaffirmation if she acted within a certain time frame. Ms. Steward's multiple efforts to contact Respondent Robinson with her inquiries about rescission were unavailing. She finally physically presented herself at the Critique office, where an employee told her she had missed the deadline to rescind the reaffirmation by two days.

After surrendering her vehicle and enduring garnishment of her wages and bank account, Ms. Steward filed a pleading, pro se, in the bankruptcy court against the creditor, alleging the debt should be discharged due to Respondent Robinson's poor representation of her interests. Mr. Robinson was given notice of Ms. Steward's filing. The bankruptcy court dismissed the creditor from what had been considered an adversary proceeding, but advised Ms. Steward she could file a new pleading alleging whatever she felt appropriate regarding Robinson/Critique's representation of her.

The two-page document that Ms. Steward thereafter filed on April 5, 2013, contains the assertions by Ms. Steward regarding the false information elicited from her by Critique personnel for use in her Chapter 7 petition, the loss of the documentation proving she attended a mandatory class and her pay stubs, the failure of Robinson/Critique to return her calls regarding creditor harassment before the bankruptcy was filed, and the facts regarding the vehicle loan reaffirmation. It also describes what Ms. Steward was told she would have to do to get her file - - pay a "$100.00 office fee and $5.00 per page." Ms. Steward asked the court to give her a "monetary settlement," including the $495.00 fee she had paid Robinson/Critique.

The bankruptcy judge, in accordance with bankruptcy law requiring liberal construction of pro se pleadings, directed that the two-page document filed by Steward on April 5, 2013, be considered a motion to disgorge the fee Steward had paid Robinson. The two-page pleading was docketed in Steward's main case and electronically mailed to Robinson at his email address of record. Ms. Steward's allegations in the document were, at this stage of the proceeding, just that - - allegations. It was Respondent Robinson's subsequent refusal, over many months, to comply with discovery requests and court orders that resulted, ultimately, in the June 2014 order striking his claims and defenses. Thus, Mr. Robinson's complaints in his suggestions opposing the imposition of reciprocal discipline that the federal discipline was based on an unsworn declaration or affidavit is an objection directly attributable to Respondent's own misconduct in failing to comply with discovery and court orders. Respondent Robinson's opportunity to refute the statements in Ms. Steward's April 5, 2013, pleading was denied him by his own refusal to comply with multiple discovery deadlines and orders over nearly a year's time.

"Discovery is a vital aspect of the truth-seeking mechanism of the adjudicative process." *In re Carey and Danis*, 89 S.W.3d 477, 497 (Mo. banc 2002). Lawyers, whether acting in a representative capacity or as party litigants, are expected to comply with discovery rules. To do otherwise "impedes and impairs the integrity of forensic fact-finding." *Carey and Danis*, 89 S.W.3d at 497, quoting from *State ex rel. Bar Ass'n vs. Lloyd*, 787 P.2d 855, 859 (Okla. 1990). Carey and Danis denied the existence of documents and information requested in discovery in a case in which they had been sued for breach of fiduciary duty. They denied that documents responsive to the discovery existed; an

assertion proven false. The judge before whom the case was pending sanctioned the lawyers by striking their answer to the complaint, which resulted in a default judgment entered against them for $850,000.00. 89 S.W.3d at 491-492. Here, the bankruptcy court went further and, in addition to striking Respondent's claims and defenses, disciplined their licenses by suspension, in large part due to their contumacious failure to provide responses to discovery.

The facts developed in the bankruptcy court's opinion and the two decisions affirming it establish by more than a preponderance of evidence Respondent Robinson's violation of multiple Rules of Professional Conduct. He violated Rule 4-1.1 (competence) by failing to provide legal assistance to Ms. Steward in her efforts timely to rescind the reaffirmation of her debt to Ford Motor Credit. He failed to provide a reliable procedure whereby his client could contact him regarding her legal needs and to provide her assistance in a timely manner, thereby effectively abandoning her. He also lost documents she had acquired to substantiate that she had taken a class required as part of the bankruptcy process, necessitating that she pay again and retake the class.

Robinson violated the diligence rule, 4-1.3, by prolonging a relatively straightforward Chapter 7 bankruptcy case over a matter of years. He violated the communication rule, 4-1.4(a), by not returning Ms. Steward's many calls and efforts to communicate with him about her case and about her questions regarding rescinding the reaffirmation of her debt to Ford Motor Credit. Robinson violated Rule 4-1.16(d) by not turning Ms. Steward's file over to her upon her request. Instead, he told her she would have to pay an office fee and $5.00 per page for the file. "The client's files belong to the

client, not to the attorney representing the client." *In re Cupples*, 952 S.W.2d 226, 234 (Mo. banc 1997). As such, the attorney may not ethically withhold the file, except for items for which the attorney has borne out of pocket expenses. Supreme Court Advisory Committee, Formal Opinion #115.

Robinson violated Rule 4-3.3(a)(1) by stating repeatedly in motions to recuse, in a motion for leave to file an appeal, and in a petition for writ of mandamus falsehoods about the bankruptcy judge's employment history and prior job responsibilities, suggesting conflicts of interest that did not exist. Robinson violated rule 4-3.4(a) by litigating in bad faith and abusing the judicial process at nearly every step of discovery in the litigation over the motion to disgorge fees. He violated Rule 4-3.4(d) over an eleven-month period by vexatiously litigating his discovery obligations. Robinson's failure to produce discovery prejudiced the efficient administration of justice by unduly prolonging the bankruptcy litigation over a period of years, in violation of Rule 4-8.4(d).

Respondent Robinson's suggestions opposing imposition of reciprocal discipline misapprehend Rule 5.20. 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.

Mr. Robinson argues in his suggestions opposing discipline that he "never had an opportunity to be heard in bankruptcy court." Suggestions in Opposition, at 6. This is simply an untrue statement. Robinson received electronic notice that, on December 4, 2012, Ms. Steward filed a pro se complaint against Ford Motor Credit. He chose not to attend the hearing on that matter. After Ms. Steward's pleading describing her allegations against Robinson/Critique was redocketed as a motion to disgorge fees in Steward's main bankruptcy case, Robinson was electronically mailed a copy of Steward's pleading. Mr. Walton thereafter entered his appearance on Robinson's behalf before the first scheduled hearing in the matter, in May of 2013. Robinson's participation in the case was thereafter through his counsel of record, Mr. Walton. Walton actively, if unethically, participated in the proceedings thereafter as counsel for Robinson/Critique. Robinson was heard through his counsel of record. The statement that he was not afforded the opportunity to be heard is counter to the record.

Robinson states, at page 6 of his suggestions in opposition, that he has not been disciplined by the United States District Court for the Eastern District of Missouri. That statement is true as far as it goes. A fairer and more accurate statement is that on June 30, 2014, the district court sitting in the eastern district of Missouri "ordered that a disciplinary action shall be commenced in the matter of James Clifton Robinson," but that the disciplinary proceeding be stayed pending resolution of any disciplinary action by the

Missouri Supreme Court, which is where the matter currently stands. *In re Robinson*, No. 4:14 MC 354 CDP (E.D. Mo. June 30, 2014).

Respondent Robinson's citation to § 484.240 RSMo is inapposite. This attorney discipline matter is not premised on the commission of a crime.

Respondent Robinson points to his financial payments to Ms. Steward and her attorneys as a mitigating factor. The ABA Standards for Imposing Lawyer Sanctions, at Rule 9.4, do not recognize "forced or compelled restitution" in mitigation of sanction. Respondent was ordered to pay Ms. Steward $30,000.00, to pay $19,720.00 for attorneys' fees ($18,010.00 of which was paid to charities inasmuch as Steward's counsel served on a pro bono basis), and to disgorge the $495.00 fee paid by Steward to Respondent. That Respondent has paid those sums, for which he and Mr. Walton were jointly and severally liable, is appropriate, but should not be accorded much weight in mitigation of sanction.

Finally, as was noted in a footnote in the Information and Motion for Reciprocal Discipline, Respondent Robinson is currently a defendant in *State ex rel. Koster v. Diltz*, Case No. 1622-CC00503 (22d Circuit Court), a case, filed in March of 2016, seeking relief against defendants under the Merchandising Practices Act. Pleadings available on Case.net reveal that Mr. Robinson has made a blanket assertion of the Fifth Amendment right against self-incrimination in his answer to every paragraph of the State's petition, every one of the State's interrogatories and requests for production of documents, and every question posed to him at oral deposition. The case is currently pending.

Respondent Robinson knowingly, if not intentionally, engaged in a pattern of misconduct against a vulnerable client. He caused actual injury to his client by, in effect,

abandoning her regarding the reaffirmation/rescission issue. He had at least fifteen years experience practicing law when the misconduct occurred. "Suspension is generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client." ABA Standards, Rule 4.41(b). "Mr. Robinson runs a business that is a low-rent petition preparation mill masquerading as a law practice, where non-attorneys solicit false information, the attorney provides no real legal representation, and money is made off the exploitation of the vulnerable." *Steward v. Robinson (In re Steward)*, Case No. 11-46399-705 (Bankr. E.D. Mo. June 11, 2014), at 83. Informant recommends that the Court indefinitely suspend Respondent's license with no leave to apply for reinstatement for one year.

CONCLUSION

Respondent's adjudication of misconduct by three federal courts is conclusive for purposes of facilitating the orderly and efficient administration of discipline from this Court in accordance with Rule 5.20. Respondent violated rules implicating duties owed to clients and the legal system. He did so knowingly. He caused actual financial injury to his client (ameliorated by his payment of sanctions as ordered by a court) and wasted judicial resources by obstructing discovery. Respondent has been practicing law since 1995 and is a long-time bankruptcy practitioner. He received an admonition in 2011 for conduct similar to one aspect of this case. This case involves multiple rule violations. Informant recommends that Respondent's license be suspended with no leave to apply for reinstatement for one year.

Respectfully submitted,

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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:

James C. Robinson
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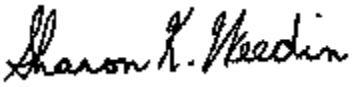
St. Louis, MO 63177-1812

Respondent

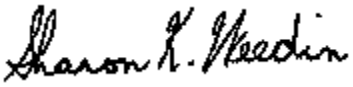


Sharon K. Weedin

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 6,202 words, according to Microsoft Word, which is the word processing system used to prepare this brief.



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