

**FILED**

**JUN 30 2016**

**IN THE SUPREME COURT  
STATE OF MISSOURI**

**CLERK, SUPREME COURT**

---

<b>IN RE:</b>	)	
	)	
<b>DOUGLAS A. WALKER, JR.</b>	)	<b>Supreme Court #SC95562</b>
	)	
<b>Respondent,</b>	)	

---

---

**DEFENDANT BRIEF**

---

**Douglas A. Walker, Jr.    #49249**  
**Defendant**  
**8627 Joseph Ave.**  
**St. Louis, MO 63144**  
**(314) 703-4886**  
**dougwalker1212@gmail.com**

**SCANNED**

## **TABLE OF CONTENTS**

TABLE OF CONTENTS -----	1
TABLE OF AUTHORITIES -----	2
STATEMENT OF JURISDICTION -----	3
STATEMENT OF FACTS -----	4
ARGUMENT -----	6
CONCLUSION -----	7
CERTIFICATE OF SERVICE -----	8

## **TABLE OF AUTHORITIES**

### **CASE**

*In re Coleman*, 298 S.W.3d 857 (Mo. Banc 2009)

### **OTHER AUTHORITIES**

ABA Standards for Imposing Lawyer Sanctions (1991 ed.)

## **STATEMENT OF JURISDICTION**

Jurisdiction over attorney discipline matters is established by this Court's inherent authority to regulate the practice of law, Supreme Court Rule 5, this Court's common law and Section 484.040 R.S.MO. 2000.

## **STATEMENT OF FACTS**

### **BACKGROUND**

In January of 2014 Defendant was suspended from the practice of law for failure to pay taxes. Defendant was reinstated on June 24, 2014. As admitted in the Disciplinary Hearing held on May 19, 2015, Defendant continued to practice law while suspended. By way of further answer Defendant states, Defendant was first became aware of the tax problem in February of 2014. I tried to correct this problem as soon as I became aware of it. This problem began when I closed a bank account due to cost of the account. I then reopened a new account at a different bank. However, I had an automatic withdrawal set up with the Missouri Department of Revenue. I had forgotten about the automatic withdrawal. When I was contacted by the Missouri Department of Revenue and told I was suspended, I questioned them on why I would be suspended, as I remembered taking care of the problem. They were unable to explain what had happened, but they did tell me I could not make arrangements, only pay in full. I then went back into my records and discovered what I had done. When I called the Department of Revenue to explain what had happened, I was told again there was unfortunately nothing that could be done, except payment in full. However, they did tell me I would be owed a past tax refund when I returned the 1040 with my signature. I was also hoping to get a tax refund for 2013. This was the only way for me to be able to pay the amount owed. It turned out I did not get a refund for 2013 but owed more. I then went to a family member and borrowed the money necessary to pay the Department of Revenue.

While I was trying to correct my error with the Department of Revenue, my partner and I worked at keeping me away from meeting with clients and going to their meetings. However, my partners husband is going through chemotherapy for cancer. As our firm is made up of the two of us, it was very difficult not to help. While many people do not believe the type of law I practice, Bankruptcy, is important, I take the help I provide to my clients very seriously. When my clients come to me they feel the weight of the world on their shoulders. They have been harassed by collectors and told all of the terrible things that will happen to them, including foreclosure. Many of my clients are not educated regarding debt collection and what is possible for collectors to do to them. They come to me and I must teach and represent them at the same time. They are in a stressful situation and I could not completely abandon them.

For further answer, Defendant states, the Special representative states in his brief, that I am currently suspended for failure to comply with his continuing legal education obligations. This is true, after the DHP finding of April 16, 2016, Defendant has discontinued the practice of law pursuant to the recommendation. While not practicing I have undergone treatment for alcoholism. I have received therapy and attended meetings to help me. While undergoing said treatment, I have completely stepped away from the practice of law, with the intent at the end of my suspension of submitting all necessary paperwork to be reinstated.

## **ARGUMENT**

While admitting the misconduct, I can only request leniency based upon the Court's reliance on the ABA Standards for Imposing Lawyer Sanctions as stated in *In re Coleman*, 298 S.W.3d 857, 869 (Mo. Banc 2009).

The ABA Standards to be considered are, “(a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of any aggravating or mitigating factors.” ABA Standards 3.0.

Defendant admits to the violation of the duty.

As to Defendant's state of mind, I had always been what is termed a functioning alcoholic. After the death of my father in November of 2013, I began drinking more and becoming less functional. It took a long time, but with the help of my family, I understand the toll the alcohol was taking on me. This was one of the many factors in the destruction of my partnership. Also the pressure of the decline of my firm and the jobs of the people depending on me lead to the decision to keep practicing.

As to the extent of actual or potential harm, Defendant's ability to practice Bankruptcy Law, is not based upon the ability to pay taxes to the state of Missouri. None of my clients suffered any harm by my practice of the law while suspended on the basis of not paying my taxes. While this is a terrible argument, I only use it to show my state of mind and for a request of leniency.

While I cannot argue the aggravating circumstance for the most part. The admonition letter and complaint dated October 10, 2008, came about due to the business plan of Legal Helpers, the firm I work for at that time. This Plan made it impossible for clients or trustees to

reach the individual attorney. All calls and correspondence was directed to Chicago, IL, where the main office was located. I was unaware of a problem with the client until after I filed their case. The basis of the admonition letter of September 24, 2013 is based upon an incorrect fact. In the letter it states that I did not inform Mr. McCloskey of whereabouts of his credit card until I was confronted. This is untrue. I was in Mr. McCloskey's waiting area, as he had taken my partner, Ms. Foley for her deposition. I had found the card in question and gave it to my partner, since she was to be deposed first. While waiting for them, I saw a female attorney, who I was later to learn was Mrs. McCloskey, searching the office. I asked if she was looking for the card and told her I had given to my partner. She did not approach or confront me about the card, in fact, I approached her. I know I should have made this argument at the time of the letter, but as I have stated above, I was too busy with the decline of my firm and my father's health, and I was allowed to continue practicing law. However, this finding has affected me since that time, and I do not understand by Mrs. McCloskey's memory was affected this way.

For mitigating circumstances I would point to my prior arguments and the Special Representative's brief, which state, I freely admitted my misconduct to the DHP and was cooperative throughout the investigation and proceedings.

### **CONCLUSION**

Based upon the forgoing argument, Defendant requests this Court should either find that Defendant has served enough punishment or maintain the DHP's finding of a six month suspension, allowing for the time served to date.



### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Defendant's Brief was served upon the persons listed below by first class mail, postage prepaid this 27<sup>th</sup> day of June 2016.

Barry Klinckhardt  
Special Representative, region XI  
609 Audobon Place Ct.  
Manchester, MO 63021

/s/ Douglas A Walker

Douglas A Walker #49249

Defendant

8627 Joseph Ave.

St. Louis, MO 63144

(314) 703-4886

dougwalker1212@gmail.com