

201366-0

Received
Washington State Supreme Court

OCT 29 2014

Ronald R. Carpenter
Clerk

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

CHRISTOPHER W. BAWN,
Lawyer (Bar No. 13417).

Supreme Court No.

DECLARATION OF
DISCIPLINARY COUNSEL M
CRAIG BRAY

I, M Craig Bray, declare and state:

1. I am the disciplinary counsel assigned to the disciplinary investigation involving Respondent Christopher William Bawn. This statement is submitted based on personal knowledge and on a review of the files in this matter.
2. On October 18, 2013, the Office of Disciplinary Counsel (ODC) received a Trust Account Overdraft Notification regarding Respondent's IOLTA Account No. 950010835. Appendix A.
3. ODC opened grievance file number 13-01983 to investigate.
4. On October 25, 2013, ODC's Audit Manager sent Respondent a letter requesting that he provide a full explanation for the overdraft and provide relevant records to ODC within 30 days. Appendix B.
5. Respondent did not respond.
6. On January 7, 2014, Disciplinary Counsel sent Respondent a letter asking him to respond by January 21, 2014, informing him that if he

did not respond he may be subpoenaed for a deposition, and could be subject to interim suspension. Appendix C.

7. Respondent did not respond.

8. On April 1, 2014, ODC issued a subpoena duces tecum requiring Respondent to appear for a deposition on May 1, 2014 and to bring certain records. Appendix D.

9. Respondent was personally served with the subpoena on April 3, 2014. Appendix E.

10. Respondent appeared at the May 1, 2014 deposition and brought requested records.

11. During his deposition, Respondent agreed to provide additional records within a week.

12. Respondent did not provide the additional records as agreed.

13. On May 23, 2014, ODC sent Respondent a letter requesting that he provide an additional response and additional records to ODC within 30 days. Appendix F.

14. Respondent did not respond.

15. On June 26, 2014, ODC sent Respondent a letter asking him to respond to ODC's additional request for response by July 9, 2014, and informing him that failure to respond could subject him to another deposition and/or interim suspension. Appendix G.

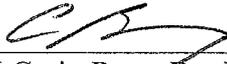
16. Respondent telephoned ODC on July 14, 2014. He acknowledged receiving the letter from ODC requesting additional information and stated that he was preparing a response.

17. ODC advised Respondent that the deadline for him to respond had passed and that he should submit a response as soon as possible.

18. As of the date this declaration was signed, Respondent had not responded.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

10/24/2014; Seattle, WA
Date & Place


M Craig Bray, Bar No. 20821
Disciplinary Counsel

APPENDIX A

RECEIVED

OCT 18 2013

Washington State Bar Association
Disciplinary Board
1325 4th Ave. Ste. 600
Seattle, WA 98101-2539

WSBA OFFICE OF
DISCIPLINARY COUNSEL

October 16, 2013

Columbia Bank
Operations Support
PO Box 2156 MS-0241
Tacoma, WA 98401

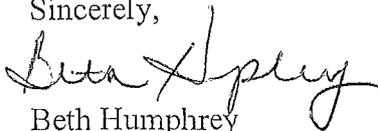
Re: IOLTA Account NSF/Overdraft Notification
Christopher W Bawn
1700 Cooper Point Rd SW A-3
Olympia, WA 98502

Account #950010835

To Whom It May Concern:

On October 15, 2013 the account listed above had 1 item presented against insufficient funds. Check #1110 for \$200.00 was presented against an available balance of \$182.64. This item was paid on the account and the account now has an available balance of -\$17.36. If you have any questions regarding this matter please contact me at the address listed above.

Sincerely,



Beth Humphrey
OP-0241
Operations Support Specialist

APPENDIX B



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Marsha Matsumoto
Senior Disciplinary Counsel
206-727-8233

Rita Swanson
Audit Manager
206-727-8242
email: ritas@wsba.org

October 25, 2013

REQUEST FOR RESPONSE
TRUST ACCOUNT OVERDRAFT NOTIFICATION

WSBA File No. 13-01983

Christopher William Bawn
Attorney at Law
1700 Cooper Point Rd SW Ste A3
Olympia, WA 98502-1109

Dear Mr. Bawn:

Enclosed is a copy of a Trust Account Overdraft Notice received by the Association. We have opened a grievance file against you, with the file number indicated above, based on the overdraft notice. I will be working with the Disciplinary Counsel assigned to this matter. You must personally assure that all records, files, and accounts related to the grievance are retained until you receive written authorization from us, or until this matter is concluded and all possible appeal periods have expired.

Pursuant to Rule 15.4(d) of the Rules for Enforcement of Lawyer Conduct (ELC), please provide a full explanation of the cause of the overdraft and how the overdraft was corrected. You are free to provide any documents you believe are relevant, but we ask that you provide the following documents for your trust account:

1. bank statement for the month in which the overdraft occurred and the preceding month;
2. deposit slips, cancelled checks, deposit items and checks that were returned by the bank, and/or other withdrawals for the month in which the overdraft occurred and the preceding month;
3. check register for the month in which the overdraft occurred and the preceding month;
4. ledgers for any client matter on which there was activity or a balance during the month in which the overdraft occurred and the preceding month;
5. your reconciliation between the bank statements and the check register for the month in which the overdraft occurred and the preceding month;
6. your reconciliation between the check register and the client ledgers for the month in

- which the overdraft occurred and the preceding month; and
7. records supporting your explanation of how the overdraft was corrected.

With regard to this request for your trust-account records, we require the production of the records as they existed prior to your receipt of this letter. If you do not have existing documents responsive to one or more of these items, please so state. If you make any modifications to your records during the grievance investigation or disciplinary proceedings, you must retain your original records as they existed before the overdraft occurred.

This request for a response does not mean that we have reached any conclusions regarding this overdraft notice. However, we are required to make this inquiry in order to comply with our responsibilities to the Supreme Court of the State of Washington.

The ELC govern grievances, including trust account overdrafts. You may want to familiarize yourself with these rules. The enclosed copies of ELC 5.3(e), ELC 15.4, and related rules set out the obligations of a respondent lawyer, including the duty to promptly respond to this request. If you do not respond to this request within **thirty (30) days** from the date of this letter, we will take additional action under ELC 5.3(f) to compel your response.¹

Please direct your response to my attention.

Sincerely,



Rita Swanson
Audit Manager

Enclosures: overdraft notice
ELC 5.3(e) and (f), ELC 15.4, and related rules

¹ If any of the requested documents are not yet available, please identify the documents that are not available, explain why they are not available, and state when you expect them to be available. Supplement your response when the documents are available.

APPENDIX C



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Marsha Matsumoto
Senior Disciplinary Counsel
206-727-8233
email: marsham@wsba.org

Rita Swanson
Audit Manager
206-727-8242
ritas@wsba.org

January 7, 2014

Christopher William Bawn
Attorney at Law
1700 Cooper Point Rd SW Ste A3
Olympia, WA 98502-1109

Re: Trust Account Overdraft
ODC File No. 13-01983

Dear Mr. Bawn:

On October 25, 2013, we asked you to provide to our Audit Manager a written response and records regarding the above referenced overdraft. To the best of my knowledge, your response, which is required by Rule 5.3 of the Rules for Enforcement of Lawyer Conduct (ELC), has not been received.

Under ELC 5.3(h), you must file a written response and provide the records within ten days of this letter, i.e., on or before January 21, 2014. If we do not receive your response within the ten-day period, we will subpoena you for a deposition. If we must serve a subpoena, you will be liable for the costs of the deposition, including service of process, and attorney fees of \$500.

You should be aware that failing to respond is, in itself, grounds for discipline and may subject you to interim suspension under ELC 7.2(a)(3).

Please direct your response directly to our Audit Manager, Rita Swanson.

Sincerely,

A handwritten signature in cursive script that reads "Marsha Matsumoto".

Marsha Matsumoto
Senior Disciplinary Counsel

APPENDIX D

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6 BEFORE THE
7 DISCIPLINARY BOARD
8 OF THE
9 WASHINGTON STATE BAR ASSOCIATION

10 In re

11 Christopher William Bawn,
12 Lawyer (Bar No. 13417).

ODC File No. 13-01983

SUBPOENA DUCES TECUM

13 THE STATE OF WASHINGTON TO: Christopher William Bawn

14 YOU ARE HEREBY COMMANDED under Rule 5.3(h) of the Rules for Enforcement
15 of Lawyer Conduct (ELC) to be and appear at the Washington State Bar Association offices,
16 1325 4th Avenue, Suite 600, Seattle, WA 98101, on May 1, 2014 at 1:30 p.m., to testify in
17 investigatory proceedings being conducted by the Office of Disciplinary Counsel of the
18 Washington State Bar Association. The testimony will be recorded by a certified court reporter.

19 YOU ARE FURTHER COMMANDED to bring the following with you at the above
20 time:

21 1. Your complete trust account records for any and all trust accounts for the period
22 beginning September 1, 2013 up through and including October 31, 2013, including but not
23 limited to:

- 1 a) any and all bank statements;
- 2 b) copies (front and back) of all checks written on the trust account during this period,
3 including cancelled checks and checks returned for insufficient funds;
- 4 c) copies of all other withdrawals from the trust account, including but not limited to
5 cash withdrawals and wire transfers;
- 6 d) copies of all deposit slips and copies of all deposited items (front and back),
7 including deposited items that did not clear;
- 8 e) any and all client ledgers;
- 9 f) check register;
- 10 g) reconciliations between the bank statements and the check register and
11 reconciliations between the check register and the client ledgers; and
- 12 h) if you use Quickbooks or Quicken for your trust account recordkeeping, a backup or
13 portable company file for the Quickbooks file that contains your trust account
14 records, including any passwords required to access the file.

15 Dated this 1st day of April, 2014.

16 
17 _____
18 Craig Bray, Bar No. 20821
19 Disciplinary Counsel

20 CR 45 Sections (c) and (d):

21 (c) Protection of Persons Subject to Subpoenas.

22 (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue
23 burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this
24 duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things,
or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing
or trial.

(B) Subject to subsection (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days
after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or
attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If
objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant
to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the
person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel
production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying
commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden, provided that the court may condition denial of the motion upon a requirement that the
subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.

(B) If a subpoena

1 (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
2 (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute
3 and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the
subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or
material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably
compensated, the court may order appearance or production only upon specified conditions.

4 (d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall
organize and label them to correspond with the categories in the demand.

5 (2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation
materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things
not produced that is sufficient to enable the demanding party to contest the claim.

6 (B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the
person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must
7 promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is
resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the
information in camera to the court for a determination of the claim. The person responding to the subpoena must preserve the information until
8 the claim is resolved.

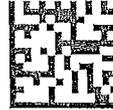
APPENDIX E

BEFORE THE DISCIPLINARY BOARD OF THE WASHINGTON STATE BAR
ASSOCIATION

In re Christopher William Bawn, Lawyer (Bar No. 13417)

Case No.: 13-01983

DECLARATION OF SERVICE



State of Washington
County of King ss.

The undersigned, being first duly sworn on oath deposes and says: That he/she is now and at all times herein mentioned was a citizen of the United States, over the age of eighteen years, not a party to or interested in the above entitled action and competent to be a witness therein.

That on **04/03/2014** at **3:10 PM**, at the address of **1822 Eastwood Drive SE , Olympia**, within **Thurston County, WA**, the undersigned duly served the following document(s): **Subpoena Duces Tecum; Notice of Intent to Take Deposition; and Letter dated April 1, 2014** in the above entitled action upon **Christopher William Bawn**, by then and there personally delivering 1 true and correct copy(ies) of the above documents into the hands of and leaving same with **Christopher William Bawn, Named Lawyer**.
Desc: Sex: Male - Skin: White - Hair: Brown - Age: 59 - Height: 5' 8" - Weight: Medium Build

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct:

Date: 4/7/14

X 

B. Varela
Registered Process Server
License#: 1116263 - Exp 3/8/2015
Seattle Legal Messenger Services, LLC
4201 Aurora Avenue North, #200
Seattle, WA 98103
206.443.0885

TOTAL: \$145.00



•150976•

APPENDIX F



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Rita Swanson
Audit Manager

direct line: (206) 727-8242
fax: 206-727-8325
email: ritas@wsba.org

May 23, 2014

ADDITIONAL REQUEST FOR RESPONSE TO GRIEVANCE

Christopher William Bawn
Attorney at Law
1700 Cooper Point Rd SW Ste A3
Olympia, WA 98502-1109

Re: Grievance of ODC against you
ODC File No. 13-01983

Dear Mr. Bawn:

I am the Audit Manager with the Office of Disciplinary Counsel and I am assisting Mr. Bray with your trust account investigation. I have reviewed the May 1, 2014 deposition transcript and have some questions and also need to request some additional trust account records from you. I am enclosing a copy of the WSBA booklet, "Managing Client Trust Accounts," for your reference.

Regarding your Columbia Bank trust account #0835:

1. As of September 1, 2013, the bank statement balance for this account was \$4.67, \$.03 of which was interest. Who did the balance of \$4.64 belong to?
2. On October 11, 2013, check #1101 was issued to Michael Crittenden in the amount of \$50, with the description, "witnesss fee in Krysiak trial." Assuming Krysiak is your client, it doesn't appear that Krysiak had any funds in your trust account at the time. Is Krysiak your client? If so, why were funds disbursed at a time when it does not appear that Krysiak had any on deposit? If the client related to this transaction is not Krysiak, who was the client, associated with it? Please provide any documentation, invoices, etc., that you have to support your explanation.
3. There were two disbursements in the amount of \$42 and \$500 respectively made on September 20, 2013 and September 23, 2013. Which client funds were used to make these disbursements and what was the nature of the disbursements? Please provide all invoices and accountings supporting the disbursements.
4. You stated that you did some recordkeeping on the back of your bank statements. Please provide copies of the back of your bank statements for September and October, 2013.

5. You provided an explanation regarding the overdraft in October 2013, along with a listing of checks and deposits on a sheet of paper, which was marked as Exhibit 9¹ at your deposition. It appears this document was prepared in response to the overdraft and/or deposition. Please state when and under what circumstances exhibit 9 was prepared.

You are free to provide any additional documents you believe are relevant, but we ask that you provide at least the following documents:

6. Your complete trust account records for any and all trust accounts, including but not limited to the accounts with Columbia Bank, Key Bank and Heritage Bank, for the period beginning December 1, 2013 up through and including April 30, 2014 including but not limited to:
- any and all bank statements;
 - copies (front and back) of all checks written on the trust account, including cancelled checks and checks returned for insufficient funds;
 - copies of all other withdrawals from the trust account, including but not limited to cash withdrawals and wire transfers;
 - copies of all deposit slips and copies of all deposited items (front and back);
 - any and all client ledgers (see booklet page 18 for an example);
 - check register (see booklet page 17 for an example);
 - reconciliations between the bank statements and the check register and reconciliations between the check register and the client ledgers (see page 20 for examples); and
 - if you use Quickbooks or Quicken for your trust account recordkeeping, a backup or portable company file for the file that contains your trust account records, including any passwords required to access the file.
 - Any and all invoices supporting all payments of fees from your trust account during the time frame requested above.

With regard to this request for your trust-account records, we require the production of the records as they existed prior to your receipt of this letter. If you do not have existing documents responsive to one or more of these items, please so state.

If you do not respond to this request within **thirty (30) days** from the date of this letter, we will take additional action under ELC 5.3(h) to compel your response.

Sincerely,



Rita Swanson
Audit Manager

enclosures

¹ Exhibit 9 is enclosed

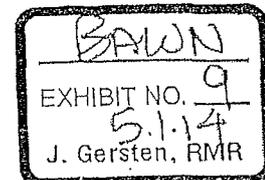
PER COLUMBIA BANK:

On October 15, 2013 the account listed above had 1 item presented against insufficient funds. Check #1110 for \$200.00 was presented against an available balance of \$182.64. This item was paid on the account and the account now has an available balance of \$17.36. If you have any questions regarding this matter please contact me at the address listed above.

1. BANK STATEMENTS FOR SEPTEMBER and OCTOBER 2013
2. DEPOSIT SLIPS Five (see below)
3. CANCELLED CHECKS Five (see below)
4. DEPOSIT ITEMS RETURNED None
5. CHECKS RETURNED None

September 2013 Beginning Balance	\$4.67	
09/06 #1124	\$320	Herb Dempsey
09/19 #5757	\$300	Ken Harper
09/20 #1108	-\$42	Chris Bawn
09/23 #2332	-\$500	Chris Bawn
09/25 #2332	-\$25	Error
09/26 #2332	-\$25	Error
Ending Balance	\$32.64	(should have been \$82.64)

October 2013 Beginning Balance	\$32.64	(should have been \$82.64)
10/09 Cash	\$200	Mike Hobbs
10/11 #1101	-\$50	Crittenden (Witness Fee in Krysiak Trial)
10/15 #1110	-\$200	Hobbs v. State - Brief of Appellant
10/16 Cash	\$52	Chris Bawn
10/30 Cash	\$519	Irene Ngugi
10/30 #1116	-\$519	Irene Ngugi - Copy of Clerks Papers
Ending Balance	\$34.64	



APPENDIX G



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Craig Bray
Senior Disciplinary Counsel
(206) 239-2110

Rita Swanson
Audit Manager
206-727-8242
email: ritas@wsba.org

June 26, 2014

Christopher William Bawn
Attorney at Law
1700 Cooper Point Rd SW Ste A3
Olympia, WA 98502-1109

Re: Trust Account Overdraft
ODC File No. 13-01983

Dear Mr. Bawn:

On May 23, 2014, we asked you to provide to our Audit Manager a written response and supplemental records regarding the above referenced overdraft. To the best of my knowledge, your response, which is required by Rule 5.3 of the Rules for Enforcement of Lawyer Conduct (ELC), has not been received.

Under ELC 5.3(h), you must file a written response and provide the records within ten days of this letter, i.e., on or before July 9, 2014. If we do not receive your response within the ten-day period, we will subpoena you for a deposition. If we must serve a subpoena, you will be liable for the costs of the deposition, including service of process, and attorney fees of \$500.

You should be aware that failing to respond is, in itself, grounds for discipline and may subject you to interim suspension under ELC 7.2(a)(3).

Please direct your response directly to our Audit Manager, Rita Swanson.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Bray".

Craig Bray
Senior Disciplinary Counsel

