



**Ballard
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PERSISTENT. UNWAVERING.

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Monday, January 09, 2012

Via U.S. Mail and Facsimile
Honorable James R. Barber III
Honorable William H. Seals, Jr.
Richland County Judicial Center
PO Box 2766
Columbia, SC 29202

Re: *John Rakowsky vs. Adriann Falgione, et al.*
Case No: 2008-CP-40-6656

Dear Judge Barber and Judge Seals:

As your Honors are aware, Mr. Spencer and his associates have appealed the orders issued by each of you regarding discovery. They have also moved for sanctions against my client and me.

The enclosed materials were brought to my attention by a disinterested third-party. It is after careful consideration that I submit the publications to the Court for its consideration and attention. We believe that Mr. Spencer and the other *pro se* "stigmatized" parties, as they call themselves, are engaging in this slanderous campaign in effort to intimidate and harass my client and me, while also smearing the Courts. I believe it is my duty to take steps to preserve the integrity of the judicial system and thus turn this matter into your hands to address as you deem proper or appropriate.

With warm personal regards, I am,

Sincerely yours,

Stephanie Weissenstein
stephanie@desaballard.com

- c. John Rakowsky (via email)
- Adrian Falgione (via email)
- James Spencer (via email)
- Irene Santacroce (via email)
- Rodney Lail (via mail)
- Marguerite and Ricky Stephens (via mail)
- Andy Lindemann (via email)



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Is Justice Truly Blind?

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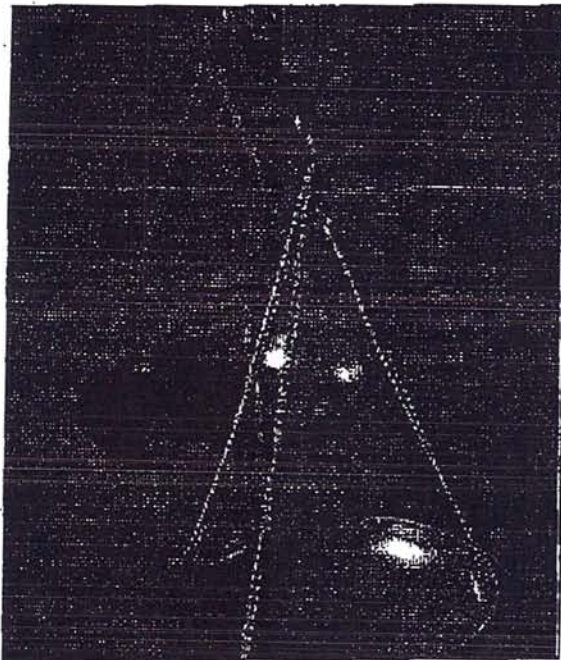
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[gran3689](#)

Tags:

[James Spencer](#) [John Rakowsky](#) [S.C. Code of Professional Conduct](#) [S.C. Judicial Department](#) [Southern Holdings](#) [Stephanie Weissenstein](#)



By Paul Gable

An accounting for expense funds in the Southern Holdings case provided Sep. 15, 2011, to James Spencer, former CEO of Southern Holdings, Inc., does not conform to S.C. reporting requirements for attorney trust funds.

The accounting, which, reportedly, comes from trust account records of attorney John Rakowsky, was provided to Spencer by attorney Stephanie Weissenstein of the Desa, Ballard, Weissenstein Law Firm. Weissenstein is representing Rakowsky in an interpleader action of the remaining Southern Holdings expense funds held in trust by Rakowsky. Rakowsky represented Spencer and his co-plaintiffs in the Southern Holdings case,

Under deposits, an amount of \$67,500 is shown with no identification of who provided the funds or when they were provided. Rule 417 of the S.C. Judicial Department and Rule 1.15 of the South Carolina Rules of Professional Conduct require the date, source and description of each amount deposited to be included in the records.

Additionally, disbursements of various amounts are identified only by a name or purpose for each disbursement amount. The above referenced S.C. rules require the date, payee and purpose of each disbursement.

According to records of the Southern Holdings plaintiffs, three firms, LawMax, Lit Funding and Resolution Settlement Corporation, provided funds for expenses of the plaintiffs in the Southern Holdings case. The funds provided, according to these records, total considerably more than the \$67,500 shown in Rakowsky's records.

Rakowsky acknowledged funds from LawMax and Lit Funding during a Sep. 15, 2011, court hearing on the interpleader case. He has not acknowledged, on the record, receiving any funds from Resolutions Settlement Corp.

However, Bruce Benson, CEO of RSC, sent a notarized, certified letter dated over one year earlier (July 10, 2010) to Weissenstein, Spencer and the court requesting an accounting of the RSC provided funds.

During a July 25, 2011, hearing on the interpleader case, Judge William Seals, of the S.C. 5th Judicial Circuit, quashed a subpoena prepared by Spencer requesting all records with regards to the Southern Holdings expense funds held in trust by Rakowsky. Seals signed an order, prepared by Weissenstein, calling the funds held in trust "privileged financial records" of Rakowsky.

It is unclear why a S.C. circuit court judge would rule funds held in trust for expenses incurred in litigating a case to be privileged financial records of an attorney, rather than require a full accounting of those funds, when requested, as required by law.

It is unclear why the limited accounting ultimately provided to Spencer does not conform to the requirements of S.C. rules cited above

It is unclear why Benson's request for an accounting of the funds provided by RSC has been ignored. Third parties with interest in funds held in trust have a right to request an accounting of those funds according to the S.C. rules cited above.

It is especially unclear why the \$67,500 listed as a deposit does not match the total amount of funds provided by LawMax, Lit Funding and Resolutions Settlement Corp.



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Can Attorneys and Judges Ignore the Law?

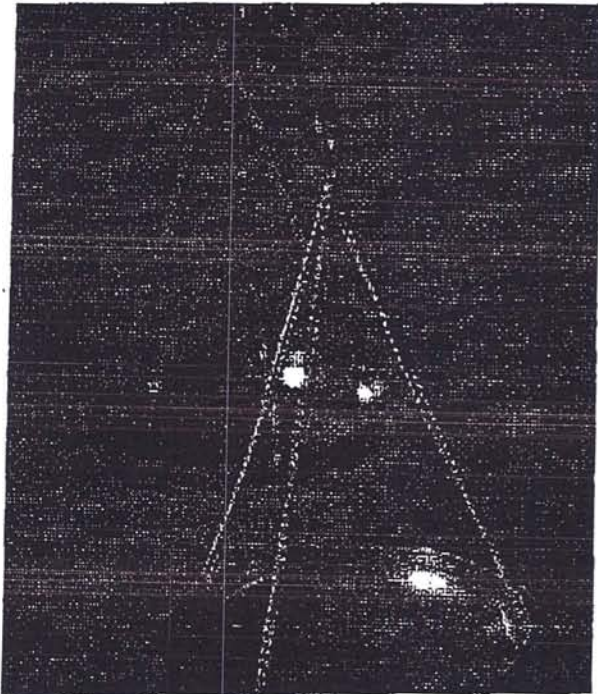
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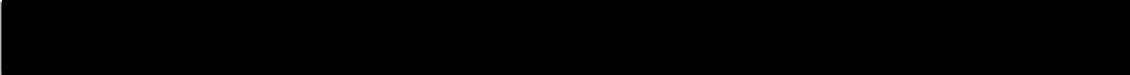


By Paul Gable

There seems to be a de facto informal system within the South Carolina criminal justice system whereby officers of the court protect each other regardless of what laws and regulations require.

Those of you who have served in the military, especially the Army, may be familiar with the term West Point Protection Association.

This was a term derisively used, especially during the Vietnam War, to describe an informal system whereby West Point graduates protected the records of each other regardless of rank or other considerations. One West Pointer protected another regardless of what actually happened in the field.



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Can Attorneys and Judges Ignore the Law?

The same type of protection seems to be going on with respect to attorneys that represented the plaintiffs in the Southern Holdings case, Case No. 02-CV-01859-RBH.

Attorneys John Rakowsky and Adrian Falgione, who represented the plaintiffs in the Southern Holdings case, have been in a three-year fight to not provide the plaintiffs with an accounting of how money provided for litigation of the case was spent.

After the Southern Holdings case was "settled" in court in May 2007, the plaintiffs tried to get a full accounting of the money they had provided to their attorneys Rakowsky and Falgione.

Such a "full accounting" is required under Rule 1.15 of the South Carolina Rules of Professional Conduct. Additionally, the scope of a "full accounting" is defined under Rule 417 of the South Carolina Judicial Department. A full accounting as defined under Rule 417 is exactly what was requested by the Defendants.

The following are extracts of Rule 1.15 and Rule 417

Rule 417 S C Judicial Code

Rule 1

- a) receipt and disbursement journals containing a record of deposits to and withdrawals from client trust accounts, specifically identifying the date, source, and description of each item deposited, as well as the date, payee, and purpose of each disbursement
- b) ledger records for all client trust accounts showing, for each separate trust client or beneficiary, the source of all funds deposited, the names of all persons for whom the funds are or were held, the amount of such funds, the descriptions and amounts of charges or withdrawals, and the names of all persons or entities to whom such funds were disbursed;

Rule 3

Records required by Rule 1 shall be readily accessible and shall be readily available to be produced upon request of a client or third person who has an interest as provided in Rule 1.15 of the South Carolina Rules of Professional Conduct,

Personally identifying information in records produced upon request of a client, third person, or disciplinary authority shall remain confidential and shall be disclosed only in a manner to ensure client confidentiality as otherwise required by law or court rule.

Rule 1.15 S C Code of Professional Conduct:

- (a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property
- (c) A lawyer shall deposit into a client trust account unearned legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.
- (d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall

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promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

Important dates with respect to these attempts to get an accounting of receipts and expenses and access to remaining funds are as follows:

On February 21, 2008, in response to Defendants' requests for return of the remaining litigation funds and an accounting of funds provided to Plaintiff Rakowsky and Defendant Falgione, attorney Stephanie Weissenstein and/or her firm, representing Rakowsky, filed an ex-parte motion to interplead the remaining litigation funds in South Carolina Federal District Court in the case captioned Southern Holdings, Inc., et al. vs. Horry County, et al.

On August 12, 2008, the South Carolina Federal District Court denied Weissenstein's and/or her firm's ex-parte motion to interplead the remaining litigation funds.

On August 22, 2008, attorney Weissenstein and/or her firm informed Defendant Spencer by mail that she had take control of the remaining litigation funds and informed Defendant Spencer that he and the other former clients of John Rakowsky and Adrian Falgione in the Southern Holdings case, were not to have any contact with their former attorney John Rakowsky and that if Spencer and the other former clients wanted access to the remaining litigation funds and the financial records, Defendant Spencer and the other former clients of John Rakowsky and Defendant Adrian Falgione would have to bring a lawsuit against John Rakowsky.

On September 12, 2008, Plaintiff Rakowsky filed an Interpleader Complaint in the South Carolina Court of Common Pleas in Richland County, South Carolina. Included in the filing was a claim by Rakowsky that he held \$9,855.00 of remaining litigation funds in his trust account.

Some of these funds were provided by legal funding organizations LawMax, Lit Funding and Resolution Settlement Corporation.

In the Interpleader filing, LawMax and Lit Funding were listed as defendants but Resolution Settlement Corporation was not listed even though it provided approximately \$60,000 in funds to help pay for litigation costs in the Southern Holdings case.

Twice in the ensuing years Weissenstein and/or her firm asked for several continuances to amend Plaintiff Rakowsky's Interpleader Complaint based on the "stigmatized defendants" answers to each successive filed Interpleader Complaint.

On December 1, 2009, Defendant Spencer submitted his first request for production and his first round of interrogatories to Weissenstein to be answered by Plaintiff Rakowsky. Weissenstein failed to respond to the request for production and the interrogatories.

On July 10, 2010, Bruce Benson, CEO of Resolution Settlement Corporation, sent a notarized letter to Weissenstein, Spencer and the Court regarding Weissenstein's and Rakowsky's refusal to account for funding provided by RSC in the Southern Holdings case.

On January 7, 2011, Defendant Spencer again submitted both his first request for production and his first round

Why has the S.C. circuit court system not required sworn Officers of the Court to abide by the law?

3 Comments



• *Dr. Dave Klapmeier*

December 30, 2011

1:06 pm

First of all, lets get everything perfectly clear. Judge William Seals, of the 5th Judicial Circuit, has performed like a genuine "dick-head". Why do I state this fact you ask? The Resolution Settlements Corp. did not have a large chunk of money just laying around. It took investors like me to supply the money that is at question here. It is my money that is missing in action. Lets be even more clear. The crooked attorney, the low life bum himself, John "the crook" Rakowsky took my money and wont even acknowledge it. There is something called common Courtesy. The statues of law states that if you take someones money—you should at least let them know how you squandered it away. Attorneys are exceptionally good at taking large chunks of money and making them disappear. When Judge Bill Seals ruled that his legal crony, John "the crook" Rakowsy, did not have to follow the rules and is free to just "screw" his clients, all legal creditability went right out the window. If you walk up to a stranger and blow their head off, Old Wild Bill "I do not have to follow the law" Seals could easily rule that the guilty can get of jail free and the arrest warrant should be squashed. In some states the rules of the land are to be followed. Wild Bill Seals is beyond normal comprehension. Keep it up Judge Seals—make us all proud of are corrupt judicial system.

Reply



• *Irene*

January 1, 2012

10:45 pm

I have been asking for records since July 2007 and John Rakowsky has refused to produce them. Even I can see the corruption through my thick glasses.

Reply



• *Rodney*

January 4, 2012

7:53 pm

"Dick-Head" is an understatement!! However, it is standard with a sheepskin law degree in this state.

Reply



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Can Attorneys and Judges Ignore the Law?

of interrogatories to Plaintiff Rakowsky after Weissenstein stated she never received the first requests for production and interrogatories.

On February 10, 2011, Pro Se Defendant Spencer learned from Weissenstein that Defendant Rakowsky was not going to respond to the "stigmatized defendants" requests for production or the Defendants' interrogatories. Spencer issued a subpoena for the documents that Rakowsky and his lawyers refused to provide to the defendants.

On July 25, 2011, Judge William Seals of the SC 5th Judicial Circuit signed an order, prepared by Weissenstein, that quashed the subpoenas issued by Spencer claiming the records sought were "privileged financial records" of Rakowsky and Falgione.

During a September 15, 2011 court hearing, Rakowsky explained his reason for the Interpleader action was to settle the question of who the remaining \$9,855.00 belonged to. He stated there, "...were lending institutions that paid funds into the case prior to the settlement. And our position was that they might or might not have a claim. So, that's why we included them all." However, only LawMax and Lit Funding were named in Rakowsky's Interpleader. RSC funding was ignored.

The court, in contradiction to S.C. law, has not required Rakowsky and Falgione to provide an accounting of the funds provided to them for litigation of the Southern Holdings case. Why not?

Approximately \$60,000 in funds from Resolution Settlement Corporation is not accounted for. Again, why not?

So far, it appears that an informal S.C. Officers of the Court Protection Association is working against Spencer and his co-defendants to hide what happened to the money!

There is no real recourse for the general public in South Carolina. While there is a Commission on Judicial Conduct and a Commission on Lawyer Conduct, each of which receive and review complaints, the majority of members (14 of 26) on judicial conduct are judges and the majority of members (34 of 50) on lawyers are attorneys!

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