

## **Ethics and the Indiscriminate Liar**

By: Carmen Bannon, John T. Lay & Sharon Caffrey

I. How did one lawyer become a monster and violate numerous ethics rules?

A. Living in small town America and born into privilege and power

Alex Murdaugh was born into a family who controlled much of the legal power in the Low Country of South Carolina. Both his father and grandfather were former Solicitors for the 14<sup>th</sup> judicial district. In fact, a Murdaugh held the office of solicitor from 1920 until 2006. Power apparently played a role in how people treated Alex Murdaugh and why he was able to steal from clients for years.

Amongst his thefts to which he has pleaded guilty are:

Plyler Sisters—These two minor girls were involved in an automobile accident in which their mother and brother were tragically killed and the two sisters were seriously injured on July 15, 2006. The Plyler sisters were poor and had a difficult family situation once their mother was gone, bouncing from relative to relative and at one point living in a car. Alex represented them in a lawsuit related to the accident and asked to have Russell Lafitte, a friend and local banker, appointed as a conservator for the two girls. The case settled and the court approved the settlement on December 18, 2008. Russell gave the girls very little money to live on and charged significant fees for his services as the conservator. He and Alex took low interest loans from the girl's funds. In 2016 Murdaugh settles the wrongful death case involving the Plyler girls' mother and brother. On May 16, 2017 he stills the vast majority of the wrongful death settlements. He also took low interest rate "loans" from the Plyler girls' settlement funds, with the assistance of Russell Lafitte, who Alex had appointed as the girls' conservator.

Hakeem Pinkney—A high school athlete from a poor family, Hakeem was tragically injured on August 9, 2009, and became a paraplegic. Alex Murdaugh represented Hakeem and the Pinkney family in the negligence action; he settled the case on October 7, 2011. On December 21, 2011, he stole the vast majority of the settlement.

Arthur Badger—Arthur was another personal injury victim, injured on January 28, 2011, who Alex Murdaugh represented. On September 11, 2012, Badger's case was settled by Murdaugh without Badger's knowledge. In January/ February 2013 Murdaugh and banker Russell Laffitte request fake checks from PMPED to embezzle the money received from the Badger settlements.

Gloria Satterfield—The Murdaugh family's long time housekeeper, Gloria fell at the Murdaugh's home on February 2, 2018; she died from her injuries two weeks later. Murdaugh convinced her two sons that he would take care of them and recommended that they retain one of his friends to represent them to sue his homeowner's insurer. On March 28, 2018, one of Gloria's sons, Tony Satterfield, is appointed personal representative of Gloria's estate. The case was settled and the first payment was received on December 4, 2018, from Lloyd's of London. On December 18, 2018, banker Chad Westendorf was appointed as personal representative of Gloria Satterfield's estate,

replacing her adult son, Tony. On December 19 2018, the first settlement is approved in the Satterfield matter, without Tony's knowledge or approval. The first deposit is made on January 7, 2019 into the Forge account from Satterfield funds. Alex Murdaugh has a fake company "Forge" which is similar to the name of a structured settlement company. Alex uses the Forge account to deposit settlement funds and withdraw money.

The unraveling of Alex's many deceptions began with a boat crash involving his son Paul on February 24, 2019, in which Mallory Beach is killed. At the hospital after the boat crash, Alex appears to be trying to place the blame of the boat crash on one of Paul's friends who was on the boat. Attorney Mark Tinsley files a wrongful death lawsuit for the Beach family on March 29, 2019. Paul Murdaugh was charged with three felony counts in connection with the boat crash on April 18, 2019. Alex's wife Maggie and son Paul were murdered on June 7, 2021. Alex becomes the prime suspect and is ultimately convicted of murdering his wife and son and was sentenced to two life sentences without the possibility of parole. He is seeking a new trial, claiming the court clerk, Becky Hill, made prejudicial statements to the jurors during deliberations.

B. A receiver is appointed to muster Alex's assets for the victims.

**1. Rule 413 South Carolina Appellate Court Rules, Rules for Lawyer Disciplinary Enforcement, Rule 31 Order of Receivership**

Receiver "[t]akes custody of the lawyer's active and closed files and trust, escrow, operating and any other law office accounts;" notify clients of the Receivership; release papers to clients; file necessary motions as the client's lawyer until substitute counsel is appointed, and publish notice of the Receivership. Term is generally limited to 9 months.

**§ 35-11-735. Appointment of receiver for licensee.**

Arises out of the South Carolina Anti-Money Laundering Act and provides guidelines for how the role of receivership is to be pursued, including the purpose of the receivership to "conserve the assets."

**§ 35-1-603. Civil Enforcement.**

Arises out of the South Carolina Uniform Securities Act of 2005 and provides the Court may appoint a receiver at the request of the Securities Commissioners maintains an action against a defendant who violates the chapter.

**§ 6-17-200. Appointment of receiver of enterprise.**

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**§ 34-30-780. Appointment of receiver; confirmation of appointment; power and authority; compensation; tender of appointment to Federal Deposit Insurance Corporation; procedure; contesting of proceedings; reimbursement of expenses and attorney fees**

Allows for a receiver to be appointed for a state savings bank if the bank is in an impaired condition or engaging in practices which treated to result in an impaired condition. Interestingly, this statute compares the receiver to a conservator and includes the receiver has additional powers to liquidate assets.

**§15-65-10 Appointment of Receiver**

A Receiver may be appointed by a judge of the circuit court, either in or out of court:

(1) Before judgment, on the application of either party, when he establishes an apparent right to property which is the subject of the action and which is in the possession of an adverse party and the property, or its rents and profits, are in danger of being lost or materially injured or impaired, except in cases when judgment upon failure to answer may be had without application to the court;

(2) After judgment, to carry the judgment into effect;

(3) After judgment, to dispose of the property according to the judgment or to preserve it during the pendency of an appeal or when an execution has been returned unsatisfied and the judgment debtor refuses to apply his property in satisfaction of the judgment;

(4) When a corporation has been dissolved, is insolvent or in imminent danger of insolvency or has forfeited its corporate rights, and, in like cases, of the property within this State of foreign corporations; and

(5) In such other cases as are provided by law or may be in accordance with the existing practice, except as otherwise provided in this Code.

**2. S.C. Rule of Civil Procedure 66. Receivers.**

**(a) Action Where Receiver Appointed.** An action in which a receiver has been appointed shall not be dismissed except by order of the court. The practice in the administration of estates by receivers or by other similar officers appointed by the court shall be in accordance with the laws of this State. In all other respects the action in which the appointment of a receiver is sought or which is brought by or against a receiver is governed by these rules.

**(b) Powers of Receiver.** In addition to the powers conferred by law, every receiver of the property and effects of a debtor shall, unless restricted by order of the court, have general power and authority to sue for and collect the debts, demands and rents belonging to the debtor, and to compromise and settle such as

are of a doubtful value. He may also sue and defend in the name of the debtor where it is necessary or proper for him to do so.

### 3. South Carolina Case Law on Receiverships

a. *Virginia-Carolina Chemical Co. v. Hunter*, 84 S.C. 214, 66 S.E. 177 (1909)

- Plaintiff was a purported creditor of defendant G. Wash Hunter and sought the appointment of a receiver over all of Mr. Hunter's assets and not just the assets or property that was the subject of the plaintiff's claim.
- In the Complaint, the Plaintiff alleged (a) Mr. Hunter had placed his assets beyond the reach of potential creditors, (b) transferred assets to third persons without consideration, (c) made statements that he was effectively insolvent and broke, yet other records indicate Mr. Hunter had received proceeds from his crops and, (d) in the absence of a receivership, Mr. Hunter's assets would likely be handled by his wife because Mr. Hunter faced incarceration for an unrelated charge of manslaughter.
- South Carolina Supreme Court affirmed the Circuit Court's appointment of a receiver stating:

*"[W]hen a debtor is trying to defeat his creditors by an act or course of conduct which indicates moral fraud – a conscious intent to defeat, delay, or hinder his creditors in the collection of their debts – then a court of equity will grant any relief within its jurisdiction appropriate and effective to protect creditors against the fraud without requiring the creditor to run the risk of losing his debt from the delay of obtaining judgment .....*

b. *Regenstein v. Pearlstein*, 30 S.C. 192 (1889)

c. *McClary-Broadway Co. v. Dingle*, 107 S.C. 384, 92 S.E. 1051 (1917)

d. *First Carolinas Joint Stock Land Bank v. Knotts*, 191 S.C. 384, 1 S.E.2d 797 (1939)

The appointment of a receiver was justified where a mortgagee bank, in a creditors' suit attacking judgments obtained by debtor's sister, alleged fraudulent conveyances on the part of debtor defendant to his sister.

e. *Whilden v. Chapman*, 80 S.C. 84, 61 S.E. 249 (1908)

Good cause existed for the appointment of a receiver in an action between two partners in a partnership not a corporation when one fraudulently deprived another of assets.

f. *Harman v. Wagner*, 33 S.C. 487, 12 S.E. 98 (1890)

The appointment of a receiver upon a showing by the creditors that the executor was wasting or mismanaging assets was proper, regardless that the creditors were not entitled to the possession of such assets.

- g. *Wilson v. Jonathan W. Brooks*, County of Richland, case no: 2013-CP-40-01316

Receiver is necessary for the protection of assets and property acquired with investor funds. Defendants were essentially operating a Ponzi scheme, which required careful consideration of the repayment of creditors.

- C. Order granting receivership in Murdaugh case gives Receiver the power and authority to:
- (i) to investigate, identify and attempt to locate all of the Subject Assets;
  - (ii) to collect, marshal and administer all of the Subject Assets;
  - (iii) to accept service on behalf of Alex Murdaugh and/or Buster Murdaugh with respect to Alex Murdaugh Assets and/or Buster Murdaugh Assets, as the case may be;
  - (iv) to engage counsel on behalf of Alex Murdaugh and/or Buster Murdaugh as it relates to Alex Murdaugh Assets and/or Buster Murdaugh Assets, as the case may be; and
  - (v) to take any and all steps necessary to identify, recover, protect, collect, preserve, receive, manage, liquidate, sell, administer and marshal, and to do all things incidental, necessary and/or appropriate thereto, all of the Subject Assets during the pendency and final resolution of this lawsuit.
- D. Why was a Receivership necessary for Murdaugh?
- 1. Number of Creditors
  - 2. Length of litigation of each claimant/creditor
  - 3. Standing issue regarding collection of assets
  - 4. Alex attempting to circumvent line of creditors for family/friends gain – obstruction of justice
  - 5. Orderly administration of claims
  - 6. Claimants fighting to be paid first
  - 7. Ensure equitable treatment of victims
  - 8. Alex giving financial agency to others while incarcerated

II. What were the ethical violations?

A. There are 3 Orders from the South Carolina Supreme Court relating to Murdaugh's misdeeds.

1. The first Order placed Alex Murdaugh on interim suspension based on information indicating he had stolen funds from PMPED. June 16, 2022.

“However, here, Respondent has admitted to conduct that amounts to clear and convincing evidence of dishonesty in violation of the Rules of Professional Conduct. *See* Rule 8.4(d), RPC, Rule 407, SCACR (prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation); Rule 7(a)(1), RLDE, Rule 413, SCACR (providing a violation of the Rules of Professional Conduct is grounds for discipline).

Includes admissions from Alex Murdaugh about Satterfield stolen funds

2. The second Order cancelled the hearing for Alex Murdaugh's hearing regarding his disbarment, as he does not contest the Court's "authority and decision" to disbar him. June 21, 2022
3. The third Order disbarred Alex Murdaugh, relating to the 80 criminal charges and his admissions. July 12, 2022:

Fn. 2: "Particularly, we emphasize this Court may issue supplemental orders on issues such as costs and restitution, especially if full restitution is not awarded in other proceedings. *See In re Moody*, 429 S.C. 627, 541 S.E.2d 327 (2020) (finding restitution was an appropriate additional sanction for conduct that occurred prior to the lawyer's disbarment in 2014); see also Rule 7(b), RLDE, Rule 413, SCACR (setting forth various sanctions including restitution, disgorgement, reimbursement to Lawyers' Fund for Client Protection, assessment of costs, assessment of a fine, and "any other sanction or requirement as the Supreme Court may determine is appropriate").

**B. The Rules Violated Include**

- 1. Ethics Rule 8.4--Misconduct**

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) Commit a criminal act involving moral turpitude;
- (d) Engage in conduct involving dishonest, fraud, deceit or misrepresentation<sup>1</sup>;**
- (e) Engage in conduct that is prejudicial to the administration of justice;
- (f) State or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (g) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

**2. Ethics Rule 7(a)—Grounds for discipline; sanctions imposed; deferred discipline agreement**

(a) Grounds for Discipline. It shall be ground for discipline for a lawyer to:

- (1) Violate or attempt to violate the Rules of Professional Conduct, Rule 407, SCACR, or any other rules of this jurisdiction regarding professional conduct of lawyers;**
- (2) Engage in conduct violating applicable rules of professional conduct of another jurisdiction;
- (3) Willfully violate a valid order of the Supreme Court, Commission or panels of the Commission in a proceeding under these rules, willfully fail to appear personally as directed, willfully fail to comply with a subpoena issued under these rules, or knowingly fail to respond to a lawful demand from a disciplinary authority to include a requests for a response or appearance under Rule 19(b0(1), (c)(3) or (c)(4);
- (4) Be convicted of a crime of moral turpitude or a serious crime;
- (5) Engage in conduct tending to pollute the administration of justice or to bring the courts or the legal profession into disrepute or conduct demonstrating an unfitness to practice law;
- (6) Violate the oath of the office taken to practice law in the state and contained in Rule 402, SCACR;
- (7) Willfully violate a valid court order issued by a court of this state or of another jurisdiction;
- (8) Employ a person in violation of Rule 34;

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<sup>1</sup> Those sections highlighted among the rules are those Alex Murdaugh was found to have violated.



- (9) Willfully fail to comply with the terms of a finally accepted deferred disciplinary agreement or any terms of a finally accepted agreement for discipline by consent; and,
  - (10) Willfully fail to comply with a final decision of the Resolution of Fee Disputes Board.
- **(b) Sanctions. Misconduct shall be grounds for one or more of the following sanctions:**
    - (1) Disbarment;**
    - (2) Suspension for a definite period from the office of attorney at law. The period of the suspension shall not exceed 3 years and shall be set by the Supreme Court;
    - (3) Public reprimand;
    - (4) Admonition, provided that an admonition may be used in subsequent proceedings as evidence of prior misconduct solely upon the issue of sanction to be imposed;
    - (5) Restitution to persons financially injured, repayment of unearned or inequitable attorney's fees or costs advanced by the client, and reimbursement of the Lawyers' Fund for Client Protection;

**C. Every Ethics Rule Alex Murdaugh Violated**

1. **Rule 1.2:** Scope of Representation and Allocation of Authority Between Client and Lawyer
2. **Rule 1.5:** Fees
3. **Rule 1.15:** Safekeeping Property
4. **Rule 1.18:** Duties to Prospective Clients
5. **Rule 2.1:** Advisor
6. **Rule 3.3:** Candor Toward the Tribunal
7. **Rule 3.4:** Fairness to Opposing Party and Counsel
8. **Rule 4.1:** Truthfulness in Statements to Others
9. **Rule 4.2:** Communication with person Represented by Counsel

III. What do you do when you encounter someone in the profession, whom you suspect is engaged in violations of the Rules of Professional Conduct?

**A. Duty to Report**

**S.C. R. Prof'l. Cond. 8.3**

**(a)** A lawyer who is arrested for or has been charged by way of indictment, information or complaint with a serious crime shall inform the Commission on Lawyer Conduct in



writing within fifteen days of being arrested or being charged by way of indictment, information or complaint.

(b) A lawyer who is disciplined or transferred to incapacity inactive status in another jurisdiction shall inform the Commission on Lawyer Conduct in writing within fifteen days of discipline or transfer.

**(c) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.**

**(d) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's honesty, trustworthiness, or fitness for office in other respects shall inform the appropriate authority.**

(e) This Rule does not require disclosure of information otherwise protected by Rule 1.6.

(f) Inquiries or information received by the South Carolina Bar Lawyers Helping Lawyers Committee or an equivalent county bar association committee regarding the need for treatment for alcohol, drug abuse or depression, or by the South Carolina Bar law office management assistance program or an equivalent county bar association program regarding a lawyer seeking the program assistance, shall not be disclosed to the disciplinary authority without written permission of the lawyer receiving assistance. Any such inquiry or information shall enjoy the same confidence as information protected by the attorney-client privilege under applicable law.

## **B. Risk of Reporting**

*In the matter of a Member of the Bar of the Supreme Court of Delaware, Richard L. Abbott, Esquire*, Del. Supreme Court, No. 25-2023, November 9, 2023.

Mr. Abbott, a now disbarred former member of the Delaware Supreme Court, was reported to the Office of Disciplinary Counsel by the Vice Chancellor based on Abbott's conduct in *Seabreeze Homeowners Assoc. v. Jenney*, C.A. No. 8635-VCG (Del. Ch.), known as the "Seabreeze Litigation." The case involved a dispute about tree trimming between two neighbors. Following a court order for Abbott's client to trim his trees within 10 days, Abbott suggested that the client transfer the property to his wife (with an intention to transfer the property back after the litigation) to avoid complying with the order. The Vice Chancellor reported Abbott to the Office of Disciplinary Counsel. Following this, Abbott "unleashed a persistent flurry of false invective impugning the integrity of the trial judge, ODC, and eventually this Court." *Id.* at p. 2.

Following his disbarment on November 9, 2023, Abbott refused to cooperate with the assigned Receiver, but has thrown more accusations and vitriol at the Delaware Supreme

Court. *See First Accounting and Request for Relief from Order*, C.A. No. 2023-1141  
JJC, December 18, 2023.