

Client Sues Accountant Who Suggested Thieving Lawyer

A man whose attorney went to prison after admitting she stole almost \$290,000 from him has sued the lawyer's onetime employer, a certified public accountant who allegedly recommended that he park hundreds of thousands of dollars in the lawyer's escrow account as a tax-shelter measure.

The suit Andrew Clark filed last month in federal court accuses Kennesaw CPA Linda Ross of advising him to transfer more than \$500,000 into now-disbarred attorney Kristin Richbourg's IOLTA account in 2011. When Clark began having trouble contacting the lawyer, the suit said, Ross told him she had launched her own practice but still worked for the CPA. More than a year later, Ross admitted that Richbourg had long since been terminated from the accounting firm and "had not been used by Ross for nearly a year," Clark claimed.

"Ross told Clark that Richbourg had been terminated because she had mishandled clients' accounts and had an extensive criminal arrest record for crimes involving theft, fraud and drug charges," the complaint said.

In March 2013, Clark sued Richbourg in Fulton County Superior Court seeking \$289,045 she siphoned from his account, and the following month she was arrested and charged with forgery and theft by taking. In October, Richbourg pleaded guilty to the criminal charges and was sentenced to 15 years, with four to serve and the balance on probation, and was ordered to surrender her law license. At the same time she entered into a consent agreement to pay Clark the \$289,045 to settle the civil suit.

The suit against Ross and several of her companies, including LS Ross CPA & Financial Services and Ross & Associates CPAs, includes allegations of professional negligence, fraud, breach of contract, negligent hiring and retention, negligent entrustment and conversion.

The March 25 complaint was filed in the federal court for the Northern District of Georgia by **Richard Robbins, Jason Alloy and Craig Kunkes of Robbins Ross Alloy Belinfante Littlefield.**

"This is as bad as it gets," said Alloy. "I just don't see what possible defense Ms. Ross has. This is not a question of whether her employee took the money: She's in jail, she entered into a consent agreement to pay it back."

The Daily Report found records that Richbourg was arrested on felony drug charges in Fulton and DeKalb counties in 2005 as it reported her arrest last year, and the complaint asserts that "any background check would have revealed that Richbourg had been arrested multiple times for violating the Georgia Controlled Substance Act, possession of methamphetamine and GHB (the 'date rape' drug), and financial transaction card theft."

"This is not the kind of person you want to employ and put in a position of trust over hundreds of thousands of dollars of someone's money, or have them giving legal advice," said Alloy.

Ross' attorney, Carlock Copeland & Stair partner Johannes "Joe" Kingma, said that—although his client regretted Richbourg's theft of Clark's money—the agreement he signed with Richbourg does not include Ross at all. "It's clear that Ms. Richbourg was engaged in the private practice of law concurrently when she was employed with Linda Ross," said Kingma. "If you look at the Trust Maintenance Agreement between Mr. Clark and Kristin Richbourg, it says Ms. Richbourg agreed to hold onto Mr. Clark's money. She breached this agreement, and the reason he doesn't have his money is because she breached it."

As to Ross' failure to check into Richbourg's criminal past, Kingma said "the evidence is going to be uncontroverted that she didn't do a background check because Ms. Richbourg was hired through a temp agency that was supposed to have investigated her background. It's not an unusual arrangement."

Kingma said that Ross first hired Richbourg about 2007, not as an attorney, but to perform "detailed tax work, and she was apparently very good at it." Ross never specifically instructed Clark to place the money in Richbourg's account, and the trust that was established was—other than the purloined funds—perfectly appropriate, he said.

The complaint said Clark first contacted Ross in January 2011 to discuss a method for reducing his tax liability stemming from nearly \$800,000 he was to receive as the second half of a severance package from CSnet, the company he formerly served as president and CEO. Clark had been hit hard by the taxes on the first half and, according to the complaint, Ross advised him to place the money into a trust so that it could be doled out over three years at a lower deferred tax rate than if he had to pay all the taxes at once.

In an email that month, Ross wrote Clark that she had "talked with Kristen the attorney in my office. She can take your \$\$\$ in her trust account and work with whatever final arrangement is decided."

In subsequent discussions, it said, Clark asked whether the funds should be placed in a separate bank account.

"Ross told Clark that the funds had to remain in the attorney's IOLTA trust account," it said. "Ross explained to Clark that an IOLTA account was a special account held and administered only by lawyers and regulated by the Georgia State Bar."

At a meeting among all three, Clark signed an engagement letter with Ross and the trust document with Richbourg, the complaint said; then Clark arranged for \$535,000 to be transferred in Richbourg's IOLTA account.

Distributions from the funds proceeded as scheduled through 2012, the suit said. Even so, in December 2011, Clark called Ross, concerned that Richbourg was not responding to his emails. He asked "whether Richbourg had been terminated or there was any problem" with her.

According to the complaint, Ross replied that Richbourg had a new email address and had opened her own office, and "simply wanted to expand her clientele base beyond working just for defendants and that Richbourg still performed work for defendants."

"It was later discovered that this was a lie," the complaint said. "Ross terminated Richbourg or had required Richbourg to resign because of, among other things, criminal arrests in her past and because Richbourg had mishandled clients' accounts, including Clark's."

Beginning in May 2011, it said, Richbourg had begun making unauthorized withdrawals from her trust account and continued to do so in 2012.

"According to news reports," it said, "Richbourg used the money for her wedding, restaurant meals, and clothes, and money was traced to the Pink Pony (an Atlanta strip club). Clark also learned that Richbourg used the money to pay off her law school loans."

In March 2013, the complaint said, Ross "admitted to Clark that Richbourg had been terminated by defendants in December 2011, and had not been used by her for nearly a year."

In April after Clark sued Richbourg, Ross called him, the suit said.

"Clark asked Ross why she had not been truthful about the circumstances of Richbourg's past criminal activity and her termination," the suit said; Ross replied that an attorney had told her "not to say anything negative" about Richbourg, or Ross "might get sued."

"Clark asked why she was only now telling him this information," the suit said, "and Ross said she had recently hired a new lawyer who 'said it was OK to tell anybody anything as long as it was true' and so she no longer feared a potential lawsuit."

The case is Clark v. Ross, No: 1:14-cv-00859.

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