

Bringing Exploiters to Justice

Lessons Learned from
State v. William Dawson
Leanne Robbin, AAG

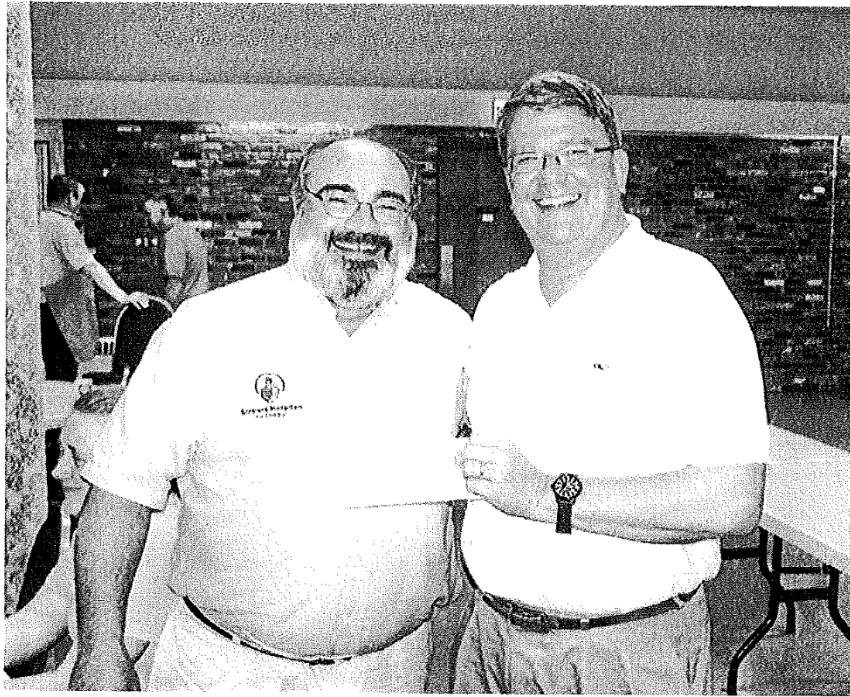
Schmidt Checks into Dawson's Acct

(07-03-2012 to 03-22-2013)

CHECK DATE	BANK	CHECK NO.	AMT	MEMO	DEPOSITED
7/3/2012	Key Bank	1304	3,000.00	None	7/3/2012
7/9/2012	Key Bank	1376	4,000.00	None	7/9/2012
7/16/2012	Key Bank	1309	3,500.00	None	7/16/2012
7/25/2012	Key Bank	1311	4,200.00	None	7/25/2012
8/6/2012	Key Bank	1316	3,500.00	None	8/6/2012
8/13/2012	Key Bank	1324	3,500.00	None	8/13/2012
8/22/2012	Key Bank	1406	2,000.00	None	8/24/2012
8/30/2012	Key Bank	1408	4,000.00	None	8/30/2012
9/6/2012	Key Bank	1801	2,800.00	None	9/6/2012
9/11/2012	Key Bank	1410	3,500.00	None	9/11/2012
9/14/2012	Camden Ntl Bank	1802	2,500.00	None	9/14/2012
9/21/2012	Key Bank	1418	2,500.00	None	9/21/2012
9/27/2012	Camden Ntl Bank	1803	4,000.00	None	9/27/2012
10/5/2012	Key Bank	1420	3,600.00	None	10/5/2012
10/15/2012	Camden Ntl Bank	1804	3,500.00	None	10/15/2012
10/19/2012	Key Bank	1353	3,500.00	None	10/19/2012
10/24/2012	Camden Ntl Bank	1807	3,200.00	None	10/24/2012
10/31/2012	Key Bank	1423	4,250.00	None	10/31/2012
11/9/2012	Key Bank	1354	3,750.00	None	11/9/2012
11/15/2012	Camden Ntl Bank	1809	3,000.00	None	11/15/2012
11/16/2012	Key Bank	1355	2,600.00	None	11/16/2012
11/21/2012	Camden Ntl Bank	1811	4,400.00	None	11/21/2012
11/27/2012	Key Bank	1356	3,500.00	None	11/27/2012
12/11/2012	Key Bank	1365	4,600.00	None	12/11/2012
12/18/2012	Camden Ntl Bank	1812	4,600.00	None	12/17/2012
12/24/2012	Key Bank	1368	3,400.00	None	12/12/2012
12/28/2012	Camden Ntl Bank	1814	3,600.00	None	12/28/2012
1/4/2013	Key Bank	1371	3,700.00	None	1/4/2013
1/7/2013	Camden Ntl Bank	1818	3,600.00	None	1/7/2013
1/11/2013	Key Bank	1372	3,600.00	None	1/11/2013
1/18/2013	Camden Ntl Bank	1819	3,800.00	None	1/18/2013
1/25/2013	Key Bank	1374	3,750.00	None	1/25/2013
1/30/2013	Camden Ntl Bank	1820	3,150.00	None	1/30/2013
2/12/2013	Key Bank	1429	3,600.00	None	2/12/2013
2/15/2013	Camden Ntl Bank	1822	3,850.00	None	2/15/2013
3/6/2013	Camden Ntl Bank	1823	2,800.00	None	3/6/2013
3/22/2013	Camden Ntl Bank	1754	2,800.00	None	3/22/2013

Total: 129,150.00

12/19/2012	Camden Ntl Bank	3564	\$3,500.00	None
12/28/2012	Camden Ntl Bank	3571	\$3,500.00	None
2012 TOTAL			\$149,150.00	
1/7/2013	Camden Ntl Bank	3573	\$3,750.00	None
1/14/2013	Camden Ntl Bank	3576	\$2,000.00	None
1/22/2013	Key Bank	3609	\$3,500.00	None
1/31/2013	Camden Ntl Bank	3577	\$3,000.00	None
2/14/2013	Camden Ntl Bank	3588	\$3,200.00	None
2/21/2013	Key Bank	3615	\$3,600.00	None
3/18/2013	Camden Ntl Bank	3597	\$3,600.00	None
2013 TOTAL			\$22,650.00	
		2009 Total	\$28,500.00	
		2010 Total	\$117,000.00	
		2011 Total	\$174,500.00	
		2012 Total	\$149,150.00	
		2013 Total	\$22,650.00	
	Aggregate Total		\$491,800.00	





ADM
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RESIDEN

Resident Name			Preferred Name	Unit
Pendleton, Veronica				Assisted Living
Previous address				
7 Seaside Road Belfast United Sta				
Sex	Birthdate	Age	Marital Status	Re
F	7/23/1927	85	Widowed	Ca
Admitted From			Ad	
Private home/apt. with no home health services				
Medicare (HIC) #				

Can Key Bank disclose confidential bank records to APS/law enforcement?

- In a guidance issued September 24, 2013, all eight federal agencies involved in bank privacy **say yes**.
- Reporting financial abuse of older adults to appropriate authorities does not, in general, violate the privacy provisions of the Gramm-Leach-Bliley Act.
- Disclosure permitted to protect against actual or potential fraud or unauthorized transactions.
- http://files.consumerfinance.gov/f/201603_cfpb_recommendations-and-report-for-financial-institutions-on-preventing-and-responding-to-elder-financial-exploitation.pdf

Title 9-B: FINANCIAL INSTITUTIONS

§162. DISCLOSURE OF FINANCIAL RECORDS PROHIBITED; EXCEPTIONS

5. Disclosure to the Department of Health and Human Services upon suspicion of financial exploitation. The financial records are disclosed to the Department of Health and Human Services pursuant to Title 22, section 3479 because a financial institution authorized to do business in this State or its affiliate or a credit union authorized to do business in this State or its affiliate has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation;

Title 22 M.R.S. §3479. OPTIONAL REPORTING

Any person may make a report to the department when that person has reasonable cause to suspect an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation.

9. Exploitation. "Exploitation" means the illegal or improper use of an incapacitated or dependent adult or that adult's resources for another's profit or advantage.

- Key Bank cuts Dawson off and reports him to Harbor Hill.
- Harbor Hill makes a report to APS.
- Dawson continues to write checks from Camden National accounts.

Dawson to Cookson

“I ask you to take a look at [the bank records] without already thinking that something is wrong.”

“These ladies take a great deal of time. Veronica is very demanding.”

Dawson and his legal assistant are on the phone with her two or three times a day and they go there everyday, seven days a week.

- APS refers to Waldo County DA's Office.
- APS initiates proceeding for temporary guardianship and emergency conservatorship.
- Susan Thiem for the “wards.”
- Steve Hanscom for DHHS.

TO: William Dawson, Esq. of Belfast, Maine

YOU ARE COMMANDED in the name of the State of Maine to appear for the purpose of testifying at the Probate Court located at 39A Spring Street, Belfast, Maine 04915 on , 2013, at and to remain until discharged for the purpose of testifying.

YOU ARE COMMANDED in the name of the State of Maine to appear before a , at the offices of at , , Maine, on , 20 , at , to testify and give evidence by deposition pursuant to the Maine Rules of Civil Procedure, an application having been filed for this deposition in this court.

YOU ARE COMMANDED to produce and permit inspection and copying of the following designated things or premises on , 20 , at , at .

☒ **YOU ARE COMMANDED** to permit inspection and copying of the following designated things or premises: The complete file of Veronica Pendleton including all billing records.

Time and place of inspection: Office of William Dawson on August 20, 2013 at 9am,
This subpoena is issued on behalf of Veronica Pendleton whose attorney is Susan C. Thiem, Esq.

If you object to the subpoena, you must file a timely motion in court to quash or modify it. If you object to the inspection or copying of any of the materials or premises designated above, you must serve notice of that objection in writing upon the party or attorney, Susan C. Thiem, Esq. before August 9, 2013.

WARNING AND NOTICE.

**FAILURE TO COMPLY WITH THIS SUBPOENA MAY SUBJECT YOU TO
ARREST AND BEING HELD IN CONTEMPT OF COURT.**

**SEE THE REVERSE SIDE OF THIS SUBPOENA FOR A STATEMENT
OF YOUR RIGHTS AND DUTIES PURSUANT TO THIS SUBPOENA
AS SET OUT IN RULES 45(c) AND (d) OF THE MAINE RULES OF
CIVIL PROCEDURE**

Date: 8/2/2013

Sharon H. Peavey

IN RE: Doris S.

WITNESS SUBPOENA FOR:

TO: William Dawson, Esq. of Belfast, Maine
_____ TRIAL _____ DEPOSITION
_____ HEARING X INSPECTION

_____ YOU ARE COMMANDED in the name of the State of Maine to appear for the purpose of testifying at the Probate Court located at 39A Spring Street, Belfast, Maine 04915 on _____, 20____, at _____ and to remain until discharged for the purpose of testifying.

_____ YOU ARE COMMANDED in the name of the State of Maine to appear before _____ a _____, at the offices of _____ at _____, Maine, on _____, 20____, at _____ to testify and give evidence by deposition pursuant to the Maine Rules of Civil Procedure, an application having been filed for this deposition in this court.

_____ YOU ARE COMMANDED to produce and permit inspection and copying of the following designated things or premises on _____, 20____, at _____, at _____.

X YOU ARE COMMANDED to permit inspection and copying of the following designated things or premises: The complete file of Doris Schmidt including all billing records.

Time and place of inspection: Office of William Dawson on August 20, 2013 at 9am.

This subpoena is issued on behalf of Doris Schmidt whose attorney is Susan C. Thiem, Esq.

If you object to the subpoena, you must file a timely motion in court to quash or modify it. If you object to the inspection or copying of any of the materials or premises designated above, you must serve notice of that objection in writing upon the party or attorney, Susan C. Thiem, Esq. before August 7, 2013.

WARNING AND NOTICE.

FAILURE TO COMPLY WITH THIS SUBPOENA MAY SUBJECT YOU TO
ARREST AND BEING HELD IN CONTEMPT OF COURT.

SEE THE REVERSE SIDE OF THIS SUBPOENA FOR A STATEMENT
OF YOUR RIGHTS AND DUTIES PURSUANT TO THIS SUBPOENA
AS SET OUT IN RULES 45(c) AND (d) OF THE MAINE RULES OF
CIVIL PROCEDURE

Date: 8/2/2013Sharon H. Peavy

WALDO COUNTY

On Aug 2, 2013, I subpoenaed the above named William Dawson, Esq by delivering a copy of this subpoena. (At the same time I tendered and paid to NA the sum of \$ _____ as fees for travel and one days attendance).

Fees: Travel
Service

Signature Susan C. Thiem

STATEMENT
LAW OFFICES OF
William L. Dawson, Jr.
Attorney at Law
326 Lincolnville Ave., P.O. Box 302
Belfast, ME 04915-0302



TEL: (207) 338-9650
FAX: (207) 338-1540

August 19, 2013

Doris R. Schmidt
31 Race Street
Belfast, ME 04915

<u>DATE</u>	<u>SERVICE</u>	<u>TIME</u>
<u>Statement for Professional Services Rendered, as follows:</u>		
06/25/12	Telephone conferences with Denise Martin, Public Nurse, re: gravity of Mrs. Schmidt's circumstances; Travel to House, Conference with client; Telephone conference with Alice Pearse;	3.5
06/26/12	Preparation of Durable Power of Attorney; Travel to home; Conference with client; Telephone conferences with Harbor Hill; Travel to Harbor Hill Center;	5.0
06/28/12	Review file; Telephone conference with Jamie P., re: Gould Assessment; Telephone conferences with Harbor Hill;	1.2
06/29/12	Travel to Hannaford to purchase fresh food, groceries and new tea pot for Doris; Travel to house; Conference with client;	3.0

Q: Now, you acknowledged during your responding to Ms. Thiem's questions that a substantial amount of your work was not, shall we say, what I would call a lawyer's work, for lack of a better term.

Housekeeping details, would you acknowledge that?

A: I'm not sure what you mean by housekeeping details.

Q: --reviewing mail, buying Depends, buying a walker, going over and holding her hand and talking to her for a while.

A: I never held her hand.

Q: A figure of speech, Mr. Dawson.

A: I'm not sure what you mean by that.

Q. Would you acknowledge that a lot of your work is not work that requires an attorney's training or expertise?

A: Yes.

Q: And yet you still billed \$250 per hour for that?

A: It was work that had to be done, Mr. Hanscom, which I took away from my law practice to perform.

Q: Now, did you actually buy the Depends yourself?

A: Most of the time.

Q: Did you try to find someone to perform some of these non-legal responsibilities, such as buying Depends, doing things like that?

A: Number one, I didn't mind doing it. I don't believe that I abused Mrs. Schmidt because I was the one that ended up buying the Depends.





Q: This even has you plowing her driveway on one occasion, on December 11th, \$250 an hour to plow her drive way.

A: Yeah, it didn't take that long.

Q: Didn't think of calling somebody else up who might do it for a little bit lesser rate?

A: When it did snow, Mr.

Hanscom, I mean I have a pickup and a plow, and it was just as easy to go down there and plow her driveway when I picked up the mail.

Q: Would it be fair to say you were checking on the house and picking up and processing mail at least twice a week?



A: It varied from week-to-week, sometimes more, and to be fair you need to understand that we're talking a terrific volume of mail, financial and otherwise, but a tremendous volume of financial mail.

Q: And for the period that you've indicated here, at a \$250 per hour rate, for 655.5 hours, you would agree that that is slightly over 12 hours per week of billable time that you have charged Mrs. Schmidt?

A: Whatever the math works out to, Mr. Hanscom. And I think the math speaks for itself.

Q: With that I would agree.

Q: During the time you were acting as agent for Mrs. Schmidt, did you change any of her investments?

A: No.

Q: So the investments that Mrs. Schmidt had at the time the power of attorney was signed are the same investments she has today?

A: Yes.



Q: Do you feel the \$250 an hour, to these two very elderly women, is unreasonable?

A: I don't.

How it finally gets to our office.

- Hanscom makes referral to Board of Overseers of the Bar.
- “I would like to note that I have been practicing law since December of 1974. I have never previously filed a complaint against another attorney, but feel compelled to do so in this instance as I feel the charges go well beyond being just excessive and/or unreasonable...I have never received 1/10th of what William L. Dawson, Jr., has charged each of these two women in any year.”
- Overseers make criminal referral to AG.

- So does the Waldo District Attorney's Office.
- Conflict?
- Resources?

- Does unreasonable and excessive billing by lawyer as power of attorney amount to theft?
- Does the State have to prove that the billing is fictitious?

§353. THEFT BY UNAUTHORIZED TAKING OR TRANSFER

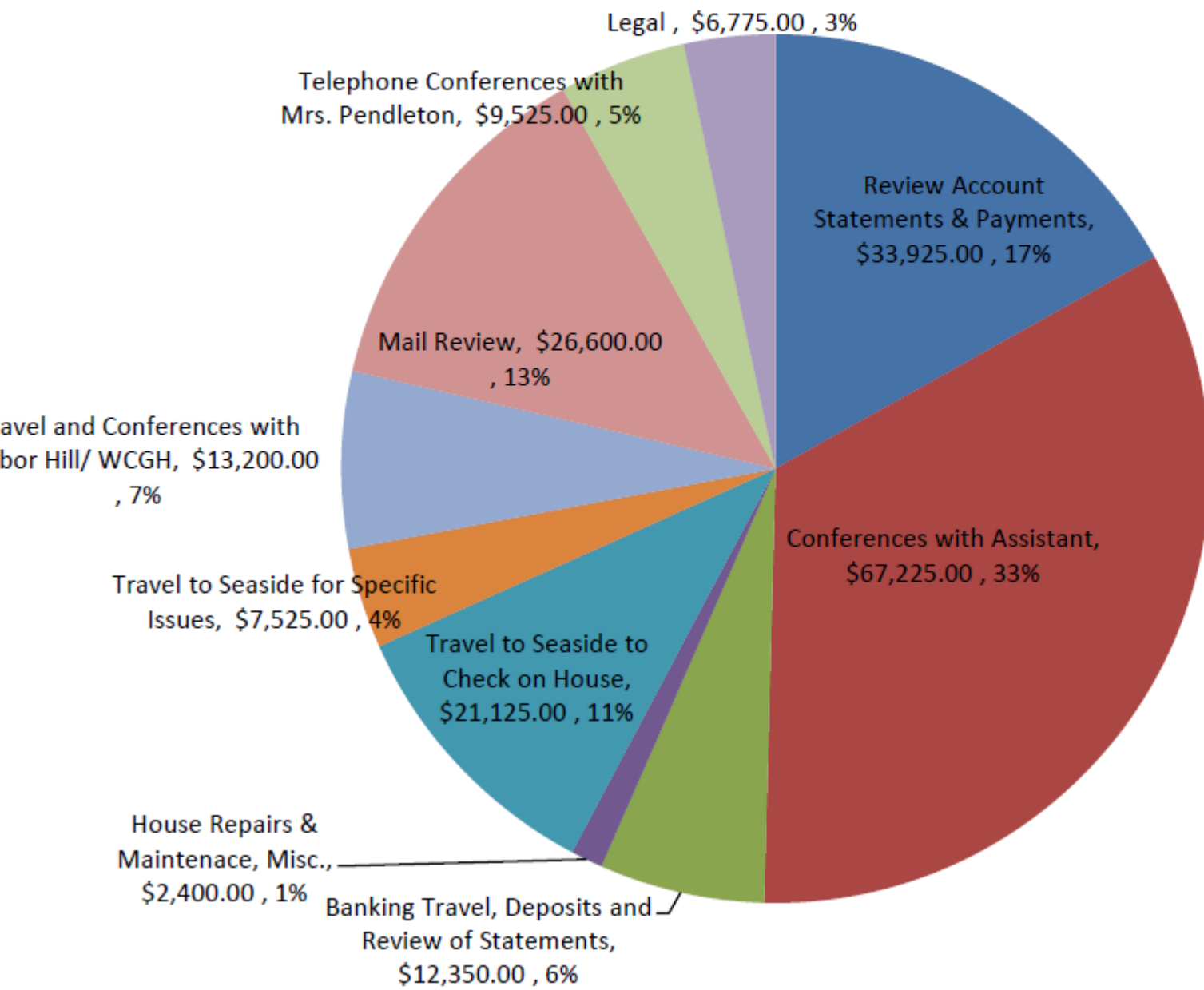
A person is guilty of theft if:

The person obtains or exercises
unauthorized control

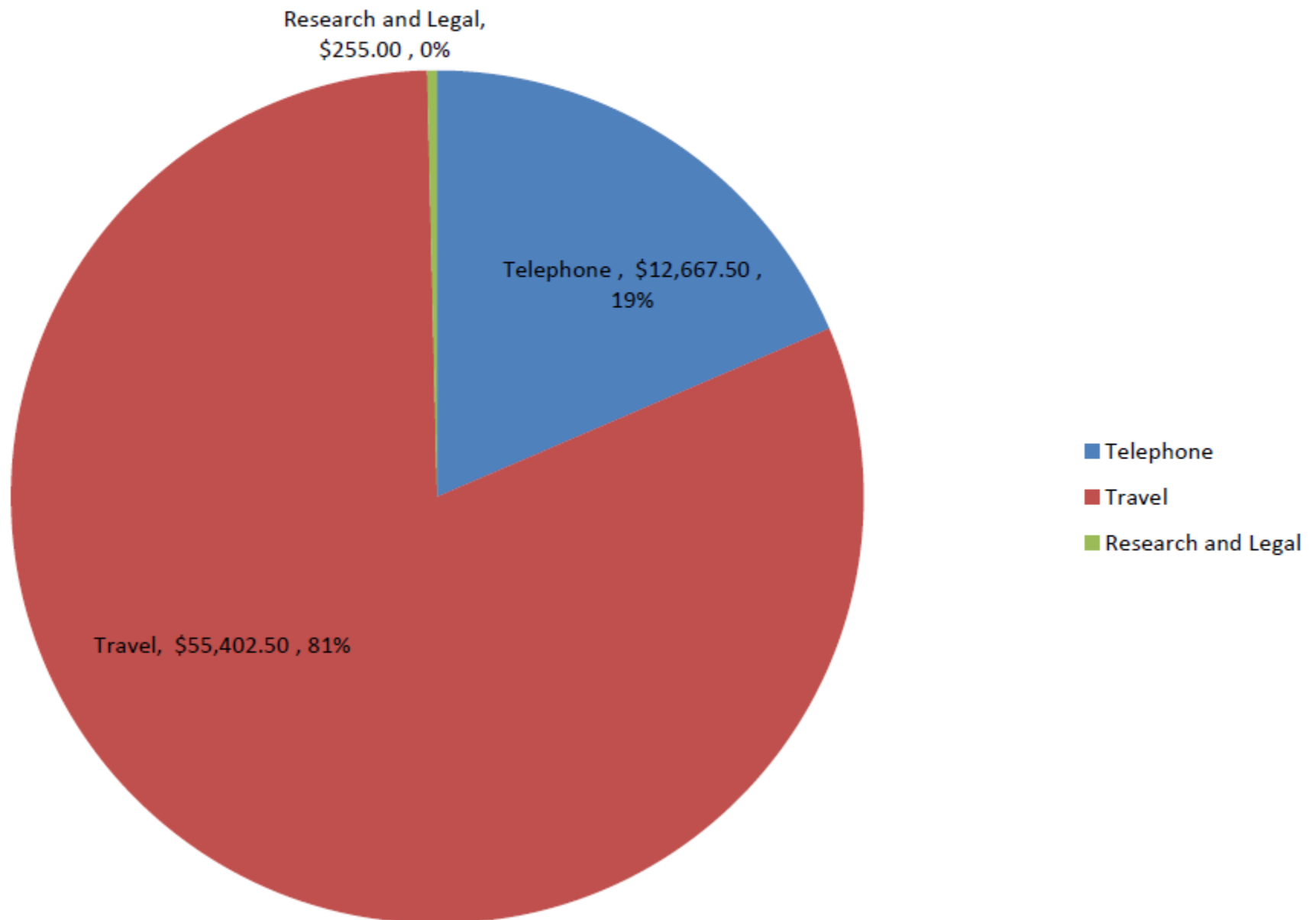
over the property of another

with intent to deprive the other person of
the property

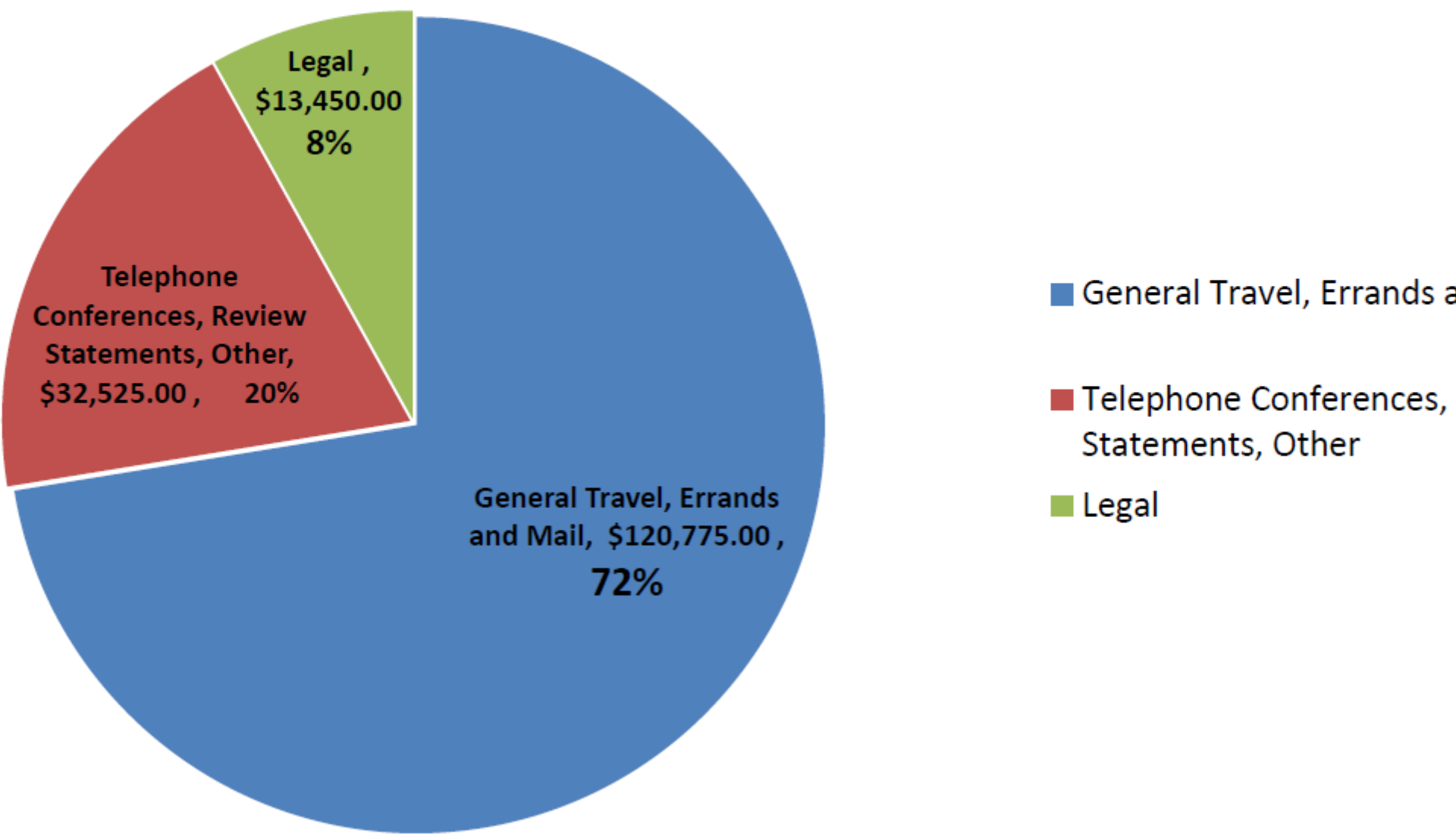
3 Year Breakdown (2011, 2012 & 2013) Itemized Billing Detail of Services Provided by Attorney Dawson for Veronica Pendleton



3 Year Breakdown (2011, 2012 & 2013) Itemized Billing Detail of Services Provided by Dawson's Assistant



Summary of Charges by Description for Doris Schmidt
- William L Dawson, Jr. Billing Rate of \$250/hour Total Billed



Auditor's Conclusion

- The payments received by Attorney Dawson appear to be erratic, inconsistent with billable time and rates, and spontaneous.
- Payments could not be traced or tied to a specific billing cycle or period.
- It appears that Attorney Dawson randomly wrote checks to himself for services rendered without specific basis or invoice.
- No client invoices were provided or ledger showing a running balance for the client.

What would a probate lawyer say...?

(This is what our expert said.)

- Attorneys should track time and bill as power of attorney as for other clients.
- Obligated to manage money in client's best interest.
- Redirect mail to office, instead of making multiple trips to client's home.
- OUTSOURCE work where possible: e.g. maintenance of home (if home is not sold.)
- Hours are excessive.

- In the experience of the probate lawyer expert, it would take 4 to 10 hours a month to handle the affairs of wealthy incapacitated adult.

10 X \$250 = \$2,500/MONTH
OR \$30,000/ YEAR

- For Pendleton, he would have exceeded a reasonable bill by a total of **\$384,800**
- \$19,000 for four months in 2009,
- \$87,000 for the calendar year 2010,
- \$144,500 for 2011,
- \$119,150 for 2012, and
- \$15,150 for three months in 2013.

- For Schmidt, the theft amount is **\$97,950**.
- \$70,800 in 2012 and
- \$27,150 for the first three months of 2013.

WILLIAM L. DAWSON, JR.,
(DOB 12/21/1953)
326 Lincolnville Ave.
Belfast, Maine

Defendant

SEX/MALE HGT/509 WGT/250
HAIR/BROWN EYE/BROWN

Incident No.: 2013-037-02B
ATN No.: 107900B

UNAUTHORIZED TAKING
(17-A M.R.S.A. § 353) (CLASS B)
AND TWO COUNTS MISUSE OF
ENTRUSTED PROPERTY
(17-A M.R.S.A. § 903) (CLASS D)

THE GRAND JURY CHARGES:

COUNT 1
THEFT BY UNAUTHORIZED TAKING
17-A M.R.S.A. § 353 (CLASS B)
ATN: 107900B / CTN: 001
SEQUENCE #: 8424

From on or about February 2, 2009, to on or about March 19, 2013, in the County of Waldo, State of Maine, Defendant William L. Dawson, Jr. did commit theft pursuant to one scheme or course of conduct by obtaining or exercising unauthorized control over the property of Veronica Pendleton, such property consisting of money with an aggregate value in excess of \$10,000, with the intent to deprive Veronica Pendleton thereof, all in violation of 17-A M.R.S.A. §§ 352(5)(B), 353 (A) and (B)(1)(Supp. 2013).



Defense Position

- His legal assistant “oftentimes made several trips per day to visit with Mrs. Pendleton and to attend to her demands and needs...[M]ost times she went in response to a demand from Mrs. Pendleton related to some perceived crisis. Before leaving for Harbor Hill, Elizabeth would confer with Mr. Dawson about the situation. When she returned, she report to Mr. Dawson about what had occurred so that Mr. Dawson was updated. The conferences took up a considerable amount of time, but they were important to providing the appropriate service to Mrs. Pendleton.”

- “Mr. Dawson also spent considerable time and effort addressing Mrs. Pendleton’s needs. Mr. Dawson made regular trips to Harbor Hill to meet with Mrs. Pendleton to discuss her living arrangements, and he also spent considerable time checking on Mrs. Pendleton’s home and property for her. Mr. Dawson had previously represented an elderly client whose home had been severely damaged when pipes had burst during the wintertime while nobody was present to take care of the issue. Mr. Dawson always had that incident in the back of his mind, and he was extremely careful to ensure nothing like that would happen to when he was serving as POA for either Ms. Pendleton or Mrs. Schmidt.”

- “Mr. Dawson was in charge of lining up any necessary repairs to the home.”
- “Mr. Dawson would have to drive to the house to check on it at the request of Mrs. Pendleton. Whenever it snowed, Mrs. Pendleton would call Mr. Dawson and demand that he go to her home to plow it out.”
- “These services provided by Mr. Dawson and Elizabeth consumed a great deal of time each week, and that caused significant disruption to Mr. Dawson’s law practice.”
- “..Mr. Dawson continued to provide diligent care to Mrs. Pendleton because he felt it was his obligation as agent, and because he genuinely cared for Mrs. Pendleton and he wanted to see that she was properly taken care of.”
- “To Mr. Dawson’s knowledge, Mrs. Pendleton did not have anyone else to perform this valuable service.”

Veronica Pendleton interview

- Never paid him anything other than \$3,000 for doing the will.
- Dawson's daughter came to visit her on a daily basis, but not on weekends.
- Dawson paid her bills.
- She did not know that she was paying the daughter to visit or Dawson to pay her bills.

Mrs. Schmidt

- “Mr. Dawson spent hours going through Mrs. Schmidt’s mail and financial records in order to properly organize the records.”
- “Mr. Dawson found piles of unopened financial mail at her home, along with other miscellaneous mail.”
- “He also spend considerable time attending to Mrs. Schmidt’s home, including...cleaning up and arranging for repair of a backed up sewer drainage pipe and regularly checking on the house.”
- “The service provided for Mrs. Schmidt’s care—and the organization of her finances—took substantial amount of time from Mr. Dawson’s law practice.”

And Mrs. Schmidt?

- Mrs. Schmidt was not competent to sign the power of attorney.
- She was not competent to be a witness to Dawson's exploitation of her funds.
- By the time the investigation was opened, she was not competent for an interview or to testify at trial.



William Dawson.mp4

I want the Court to know how heartbreaking all this is to me. It's heartbreaking too to my family. My wife and I are raising two grandchildren, who are in their teen years.

I also acknowledge and know that this was heartbreaking to Mrs. Pendleton and Mrs. Smith. I even asked Mrs. Pendleton's forgiveness while she was here on earth. I know that she is in a better place.

But I want the Court to know that I cared for both of these clients sincerely and worked on a day to day basis to do my very best to help them with their personal needs and make their lives happier than would have been otherwise.

It's a heavy burden to care for older clients.

I stand here before the Court with a lifetime of experience that affected my approach to taking care of these clients.



Maine Correctional Center

MDOC# 154450

LAST: Dawson

FIRST William

DOB 12/21/1953

1953