

FILE NO. A05-1473

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against ARNE D. ANDERSON,
a Minnesota Attorney,
Registration No. 266401.

**AMENDED AND SUPPLEMENTARY
PETITION FOR DISCIPLINARY
ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

On July 26, 2005, upon the parties' agreement pursuant to Rules 10(a) and 12(a), Rules on Lawyers Professional Responsibility (RLPR), the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, filed a petition for disciplinary action against the above-named attorney, hereinafter, respondent. Respondent filed and served his answer to the petition on August 30, 2005.

The Director has conducted additional investigation and, based on that investigation, hereby issues this amended and supplementary petition for disciplinary action.

Respondent was admitted to practice law in Minnesota on October 25, 1996. At the time of the July 26, 2005, petition in this matter, respondent was current in his attorney registration fee. Since January 1, 2006, however, respondent has been suspended for failure to pay his attorney registration fee.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

1. In June 2001 respondent stipulated to a two-year supervised private probation. Respondent stipulated that his representation of a client violated Rules 1.1

(Competence), 1.3 (Diligence) and 1.4(a) and (b) (Communication), Minnesota Rules of Professional Conduct (MRPC).

2. In April 2003, while on probation, respondent was issued an admonition for failing to deposit an advance fee into his trust account in violation of Rule 1.15(a)(2) and (f), MRPC, as interpreted by Lawyers Professional Responsibility Board (LPRB) Opinion No. 15.

3. In June 2004 respondent was issued an admonition for failing to timely cooperate with the District Ethics Committee (DEC) investigation and for asking the complainant to dismiss his complaint in return for a reduction in fees, in violation of Rules 8.1(a) and 8.4(d), MRPC, and Rule 25, RLPR.

4. In September 2004 respondent was issued an admonition for again failing to deposit an unearned advance fee into his trust account in violation of Rules 1.4(b) and 1.15(a), MRPC, as interpreted by LPRB Opinion No. 15.

FIRST COUNT

Non-Cooperation

1. By notice of investigation dated December 2, 2004, the complaint of Tom Kukowski was forwarded to respondent at his last known address. Respondent was instructed to provide a complete written response to the DEC investigator within 14 days. On December 7, 2004, the DEC Chair sent a letter to respondent's last known address identifying the investigator and requesting respondent provide his written response directly to the investigator. Respondent did not respond.

2. By letter dated January 4, 2005, the investigator wrote to respondent and again requested his response. Respondent did not respond.

3. On January 5, 2005, an Assistant Director in the Director's Office spoke with the investigator, who relayed the status of the investigation, including information that respondent's office telephone was disconnected and his office appeared to be

closed. By letter dated January 6, 2005, the Director withdrew the matter from the DEC and began to conduct the investigation directly.

4. On January 13, 2005, an Assistant Director spoke with the DEC Chair concerning the matter. On January 18, 2005, the Chair was able to provide a residential address for respondent. All mail thereafter sent to respondent at this address has not been returned to the Director's Office. On information and belief, respondent has received all mail at least since this date.

5. By letter dated January 31, 2005, respondent was again notified that the Kukowski complaint was now under investigation by the Director's Office.

6. By notice of investigation dated February 8, 2005, the complaint of Teresa Axelson was sent to respondent and he was requested to provide a complete written response to the Director's Office within 14 days. Respondent did not respond.

7. By notice of investigation dated March 11, 2005, the complaint of Shawn Follett was sent to respondent and he was requested to provide a complete written response to the Director's Office within 14 days. Respondent did not respond.

8. By separate letter dated March 11, 2005, copies of the Kukowski and Axelson complaints were again sent to respondent. Respondent's written responses were again requested by March 21, 2005, and the Assistant Director requested a personal meeting, offering to do so in Duluth. Respondent did not respond.

9. By notice of investigation dated March 25, 2005, the complaint of Dale Ostby was sent to respondent and he was requested to provide a complete written response to the Director's Office within 14 days. Respondent did not respond.

10. By letter dated March 29, 2005, the Director's March 11 letter was sent again to respondent, stating that if respondent did not begin to cooperate immediately, the Director would have to issue charges of unprofessional conduct.

11. On April 7, 2005, respondent contacted the assigned Assistant Director by telephone. He provided a telephone number at which respondent represented he could

be reached, confirmed that the residential address being used by the Director's Office was accurate, and promised to submit written responses by the following Monday (April 11). No responses were received.

12. On April 14, 2005, the assigned Assistant Director called the telephone number provided by respondent. A woman answered who stated the respondent was "not around." The Assistant Director left a message requesting respondent to call. Respondent did not call the Director's Office.

13. By notice of investigation dated April 19, 2005, the complaint of Caroline Tondryk was sent to respondent and he was requested to provide a complete written response to the Director's Office within 14 days. Respondent did not respond.

14. On April 28, 2005, the Assistant Director attempted to contact respondent at the telephone number provided by respondent. A message was left in an automated voicemail system. On May 10, 2005, another attempt was made to contact respondent by telephone. A message was again left with the woman who answered the call.

15. On May 19, 2005, the Assistant Director contacted the DEC Chair and an LPRB member in the Duluth area. The Board member is familiar with respondent and promised to try to contact him and encourage him to cooperate.

16. On June 2, 2005, respondent contacted the Director's Office by e-mail stating that he had placed in the mail a response to one of the complaints, and would submit responses to the other complaints, one each day for the next four days. In fact, no responses were received by the Director's Office.

17. On June 8, 2005, the Assistant Director replied to respondent's e-mail, stating that respondent should submit written responses immediately. As of the date of this petition, respondent has not responded or submitted any written responses.

18. On June 21, 2005, the Director issued charges of unprofessional conduct against respondent. At the July 7, 2005, pre-hearing meeting, respondent admitted the above allegations.

19. Respondent's conduct violated Rule 8.1(a)(3), MRPC, and Rule 25, RLPR.

SECOND COUNT

Pattern of Non-Communication and Other Client Misconduct

20. Respondent represented Tom Kukowski beginning in August 2004. Kukowski paid respondent a \$1,500 advance fee. Respondent failed to communicate with Kukowski and failed to provide proof of any work performed despite repeated requests from Kukowski.

21. Respondent represented Teresa Axelson in civil litigation beginning in September 2004. Axelson paid respondent \$500 by check and \$500 in cash as an advance fee. Respondent failed to communicate with Axelson and failed to provide proof of work performed.

22. Respondent represented Shawn Follett in a marital dissolution beginning in August 2004. Follet paid respondent an advance fee of at least \$1,000. Respondent failed to communicate with Follett or provide proof of work performed.

23. Respondent represented Dale Ostby in a property dispute. Ostby paid respondent a \$700 advance fee. Respondent failed to communicate with Ostby and has not returned Ostby's original documents despite requests that he do so.

24. Respondent represented Caroline Tondryk in a grandparent custody matter beginning in October 2004. Tondryk paid respondent a \$2,000 advance fee. Respondent failed to communicate with Tondryk or notify her that he had closed his office. Respondent failed to refund Tondryk's advance fee despite a request that he do so.

25. At the July 7, 2005, pre-hearing meeting, respondent admitted the above allegations.

26. Beginning in June 2004, respondent represented a business owned by Carol Jensen in a bankruptcy. Jensen paid respondent an \$800 advance fee.

Respondent thereafter failed to communicate with Jensen or to perform any meaningful work on her business bankruptcy.

27. Respondent's conduct violated Rules 1.3, 1.4, and 1.16(d), MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent from the practice of law, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: February 2, 2006.



BETTY M. SHAW
ACTING DIRECTOR, OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 130904
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

and



MARTIN A. COLE
FIRST ASSISTANT DIRECTOR
Attorney No. 148416