

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against SUSAN R. ANDERSON,
a Minnesota Attorney,
Registration No. 209612.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of a Lawyers Professional Responsibility Board Panel Chair, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(d) and 12(a), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 26, 1990. Respondent currently practices law in Alexandria, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Marietta Becker Sogge Matter – Lack of Diligence, Failure to Communicate with Client and Failure to Account

1. In March 2006, Marietta Becker Sogge (“Becker”) retained respondent to represent her in a marriage dissolution matter. At that time, Becker paid respondent a \$3,000 retainer. Becker later paid respondent an additional \$500 retainer.

2. Respondent prepared and arranged for service of a summons and petition. The summons and petition were served on Becker’s husband in November 2006. Becker’s husband retained counsel, who served an answer to the petition in December 2006.

3. During the period November 2006 to March 2007, respondent failed to work diligently on Becker's case.

4. In January 2007, respondent left the law firm for which she had been working when Becker retained her and started her own law firm. Thereafter, respondent discontinued providing billing statements to Becker, failed to affirmatively communicate with Becker regarding the status of her case and failed to respond to Becker's multiple telephone and written attempts to reach respondent.

5. In March 2007, respondent and Becker met for several hours with Becker's husband and his attorney in an effort to reach agreement on property and other issues. The parties were unable to reach a comprehensive agreement.

6. During the period March 2007 to May 2008, respondent failed to work diligently on Becker's case.

7. In May 2008, respondent and Becker met again with Becker's husband and his attorney. As a result of this meeting, the parties reached agreement to terminate their marriage relationship and regarding division of most of their personal property. The parties were not able to reach an agreement regarding maintenance or division of their real estate.

8. On June 17, 2008, a judgment and decree based on the parties' partial agreement was entered. Respondent failed to promptly inform Becker of the judgment and decree or to provide her with a copy. Becker learned of the judgment and decree from her former husband.

9. On July 18, 2008, the parties appeared for a pre-trial conference. During this conference, the parties reached agreement regarding maintenance, division of their real estate and all other outstanding issues. Among other things, the agreement awarded Becker's husband the parties' real estate and required him to pay Becker the sum of \$161,671 for Becker's interest in the real estate (\$131,671) and as a lump-sum payment of maintenance (\$30,000). The agreement included a schedule by which Becker's husband was to pay Becker the \$161,671 awarded to her.

10. Thereafter, Becker's husband sought to secure financing that would enable him to make the required \$161,671 payment to Becker in a lump-sum, resulting in a delay in the completion of the parties' written marital termination agreement.

11. Finally, on October 28, 2008, the court's supplemental judgment and decree incorporating the terms described in paragraph 9 above was entered. By that time, Becker's husband believed he had secured financing to enable him to immediately pay the entire \$161,671 to Becker in a lump-sum. On that basis, the supplemental judgment and decree required Becker's husband to pay her the full \$161,671 within 30 days.

12. Becker's husband was ultimately not approved for the financing he believed he had secured. Accordingly, on January 22, 2009, the parties entered into an amended marital termination agreement. The amended marital termination agreement reinstated the payment schedule that had been agreed to at the July 18, 2008, pre-trial conference. Specifically, the parties agreed that Becker's husband would make an immediate payment of \$100,000 to Becker and would pay the additional \$61,671 in increments over the course of the five-year period that followed.

13. On February 11, 2009, the amended judgment and decree based on the parties' amended marital termination agreement was entered.

14. Respondent received the \$100,000 payment on Becker's behalf and, on February 27, 2009, deposited it into her trust account. Respondent thereafter disbursed all but \$10,674 of Becker's funds to Becker and her creditors. Respondent stated to Becker that she would retain the additional \$10,000 in her trust account pending completion of her final billing statement to Becker.

15. Thereafter, Becker called and wrote to respondent on multiple occasions regarding respondent's billing statement and disbursement of her remaining funds. Respondent failed to respond to Becker's communications. To date, respondent has not provided Becker with a billing statement or any refund of her \$10,674.

16. As is further detailed below, the Director obtained copies of respondent's trust account bank statements, cancelled checks, deposit slips and deposit offsets from respondent's bank. The Director's review of those materials reflected that, at least through May 2011, the balance in respondent's trust account was sufficient to cover Becker's funds.

17. Respondent's conduct in failing to work diligently on Becker's legal matter, failing to affirmatively communicate with Becker or respond to Becker's multiple efforts to communicate with her and failing to provide Becker with a billing statement or any accounting of her trust funds violated Rules 1.3, 1.4(a) and (b), and 1.15(b), (c)(3) and (4), Minnesota Rules of Professional Conduct (MRPC).

SECOND COUNT
Failure to Cooperate with Investigation

18. On January 13, 2011, Becker submitted a complaint against respondent to the Director.

19. On January 20, 2011, the Director issued to respondent notice of investigation of Becker's complaint. The notice requested that respondent provide her written response to Becker's complaint to the assigned District Ethics Committee (DEC) investigator within 14 days. Respondent failed to do so.

20. On February 23, 2011, the DEC investigator wrote to respondent to request her written response to the Becker complaint. Respondent failed to respond.

21. On March 21, 2011, the DEC investigator wrote again to respondent to request her written response to the Becker complaint. Again, respondent failed to respond.

22. On April 1, 2011, the DEC investigator called respondent's office and left a message with respondent's receptionist. Respondent failed to respond.

23. As a result of respondent's failure to cooperate with the DEC, the Director withdrew Becker's complaint from the DEC and assumed responsibility for the investigation of that complaint.

24. On April 27, 2011, the Director wrote to respondent and requested her appearance at a May 11, 2011, meeting to discuss the Becker complaint. This letter and the ones sent subsequently to respondent were not returned by the postal service. The Director asked respondent to bring her Becker file and billing and time records to the meeting. Respondent failed to appear for the meeting.

25. On May 18, 2011, the Director wrote to respondent and requested her written response to the Becker complaint, together with various trust account books and records and her time and billing records in the Becker matter. The Director informed respondent that (a) failure to cooperate with a disciplinary investigation can constitute an independent basis for discipline, and (b) if she failed to produce the requested trust account books and records, the Director would request an investigatory subpoena pursuant to Rule 8(c), RLPR. Respondent failed to respond.

26. The Director thereafter requested and obtained approval of an investigatory subpoena.

27. On June 10, 2011, the Director served a subpoena on Bremer Bank, where respondent maintained her trust account, and provided respondent with notice of service of the subpoena. On June 24, 2011, the Director received bank statements, cancelled checks, deposit slips and deposit offsets pursuant to the subpoena from Bremer Bank.

28. A representative of the Director left telephone messages for respondent on June 7, June 14 (two messages), June 15 and June 16, 2011. Respondent failed to return any of the Director's messages.

29. To date, respondent has not provided any response to Becker's complaint or responded to any of the Director's communications.

30. On August 10, 2011, the Director served respondent with charges of unprofessional conduct. Pursuant to Rule 9(a)(1), RLPR, respondent's answer to the charges of unprofessional conduct were due to the Director and Panel Chair by August 29, 2011.

31. To date, the Director has not received respondent's answer to the charges of unprofessional conduct. Further, respondent has not contacted the Director at any time since the charges of unprofessional conduct were mailed to her.

32. Respondent's conduct in failing to cooperate in the investigation of Becker's complaint violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent or imposing otherwise appropriate discipline, 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: Aug. 31, 2011.



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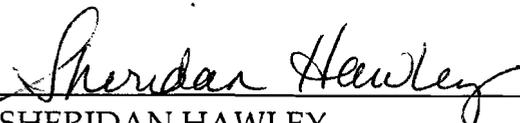
and



KEVIN T. SLATOR
ASSISTANT DIRECTOR
Attorney No. 204584

This petition is approved for filing pursuant to Rules 10(d) and 12(a), RLPR, by the undersigned Panel Chair.

Dated: Sept. 8, 2011.



SHERIDAN HAWLEY
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD