

FILE NO. C9-99-2181

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against STEVEN THOMAS APPELGET,
an Attorney at Law of the
State of Minnesota.

**PETITION FOR EXTENSION
OF PROBATION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rule 12(a), Rules on Lawyers Professional Responsibility, and pursuant to this Court's January 10, 2000, order in the matter.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 22, 1993. Respondent currently practices law in St. Paul, Minnesota.

INTRODUCTION

By January 10, 2000, order, this Court publicly reprimanded respondent and ordered respondent placed on probation for two years. A copy of the Court's order is attached as Exhibit 1.

Respondent's discipline was based upon respondent's failure to timely remit mortgage payments received from and on behalf of a client to the mortgagee resulting in the commencement of foreclosure proceedings against the client and respondent's failure to keep required trust account books and records while falsely certifying to the Court that he kept the appropriate records in violation of Rules 1.3, 1.15 and 8.4(c), Minnesota Rules of Professional Conduct (MRPC), and Lawyers Professional Responsibility Board Opinion No. 9.

Among the conditions of respondent's probation was the following:

1. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation and promptly respond to the Director's correspondence by the due date. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

2. Respondent shall abide by the Minnesota Rules of Professional Conduct.

3. Respondent shall be supervised by a licensed Minnesota attorney, appointed by the Director to monitor compliance with the terms of this probation. Respondent shall provide to the Director the names of four attorneys who have agreed to be nominated as respondent's supervisor within two weeks from the date this stipulation is executed. If, after diligent effort, respondent is unable to locate a supervisor acceptable to the Director, the Director will seek to appoint a supervisor. Until a supervisor has signed a consent to supervise, the respondent shall on the first day of each month provide the Director with an inventory of active client files described in paragraph four below. Respondent shall make active client files available to the Director upon request.

4. Respondent shall cooperate fully with the supervisor in his efforts to monitor compliance with this probation. Respondent shall contact the supervisor and schedule a minimum of one in-person meeting per calendar quarter. Respondent shall submit to the supervisor an inventory of all active client files by the first day of each month during the probation. With respect to each active file, the inventory shall disclose the client name, type of representation, date opened, most recent activity, next anticipated action, and

anticipated closing date. Respondent's supervisor shall file written reports with the Director at least quarterly, or at such more frequent intervals as may reasonably be requested by the Director.

5. Respondent shall initiate and maintain office procedures which ensure that there are prompt responses to correspondence, telephone calls, and other important communications from clients, courts and other persons interested in matters which respondent is handling, and which will ensure that respondent regularly reviews each and every file and completes legal matters on a timely basis.

6. Respondent shall maintain law office and trust account books and records in compliance with Rule 1.15, MRPC, and LPRB Opinion No. 9. These books and records include the following: client subsidiary ledger, checkbook register, monthly trial balances, monthly trust account reconciliation, bank statements, canceled checks, duplicate deposit slips and bank reports of interest, service charges and interest payments to the Lawyer Trust Account Board. Such books and records shall be made available to the Director within 30 days of the approval of this stipulation and thereafter shall be made available to the Director at such intervals as he deems necessary to determine compliance.

Respondent has committed the following unprofessional conduct warranting extension of respondent's probation:

FIRST COUNT

Failure to Comply with Terms of Probation

1. On January 10, 2000, respondent was placed on public probation for a two-year period (*see* Exhibit 1). Paragraphs (3) and (6) of the probation order required respondent to promptly provide this Office with the names of four possible supervisors, an inventory of all active client files, written office procedures ensuring prompt responses to all communications, and complete trust account books and records.

2. Respondent received letters from this Office on January 12, February 14, and March 10, 2000, which requested that respondent provide the names of four potential supervisors, a monthly inventory of all active client files, written office procedures ensuring prompt responses to all communications, and complete trust account books and records from January 1, 1999, through December 31, 1999 (Exhibits 2, 3, and 4).

3. On March 17, 2000, respondent provided his trust account books and records in the form of a report prepared by using the financial record system *Quickbooks Pro*. Respondent failed to provide a check register, monthly reconciliation, or trial balances. Respondent also provided a short description of his office procedures and an inventory of all active client files, but failed to provide the names of four potential supervisors.

4. After March 2000, respondent failed to provide the Office with monthly inventories of all active client files.

5. On April 25 and November 9, 2000, respondent again received letters from this Office again requesting the names of four supervisors (Exhibits 5 and 6). Respondent was given ten days to respond to the request for information. Respondent failed to respond.

6. On December 21, 2000, respondent received a notice of investigation for failure to cooperate with the terms of his two-year probation and failure to correct shortages in his attorney trust account. On January 24, 2001, more than a year after his two-year probation had begun, respondent provided the Office with a list of four potential supervisors. Due to respondent's lack of cooperation, a supervisor was not appointed until August 2, 2001.

7. Respondent's failure to cooperate with the Director's Office in monitoring his probation violated the terms of his Court-ordered probation and Rule 3.4(c), MRPC.

SECOND COUNT

Failure to Maintain Trust Account Books and Records

8. After review of respondent's trust account books and records for the period of January 1999 through December 1999, respondent received a letter from this Office, dated June 19, 2000, which included a memorandum reflecting a one thousand four hundred thirty-eight dollars and eighty-five cents (\$1438.85) shortage in respondent's trust account balance (Exhibit 7).

9. On July 10, 2000, respondent met with this Office to discuss his trust account books and records. On July 13, 2000, respondent received a follow-up letter from this Office indicating that while respondent had corrected some shortfalls in his trust account that he had not yet corrected all negative balances (Exhibit 8). The letter requested that respondent provide verification that he had reimbursed the following negative balances in client funds: M.C. for ninety-five dollars (\$95.00), J.D. for ten dollars (\$10.00), L.D. for five hundred dollars (\$500.00), and O.W. for two hundred dollars (\$200.00).

10. After review of respondent's January through May 2000 trust account books and records, respondent received a letter, dated September 28, 2000, indicating that he had failed to correct the above-mentioned trust account shortfalls (Exhibit 9). The letter indicated that respondent also had an additional unaccounted for shortage of one hundred thirty-five dollars and twenty-five cents (\$135.25) in his trust account. Respondent's trust account books and records reflected a continuing negative balance in the amount of one thousand one hundred twenty-three dollars and twenty-five cents (\$1123.25). The letter requested that respondent provide immediate verification that he had reimbursed his trust account for the full amount of the continuing shortage.

11. A review of respondent's June through September 2000 trust account books and records indicated that respondent had again failed to correct the negative balances in the above-mentioned client funds and had a continuing negative balance in

the amount of one thousand one hundred thirty-eight dollars and thirty cents (\$1138.30). A disciplinary file was opened on this matter as a result of respondent's continuing non-cooperation and failure to correct continuing trust account shortages.

12. This Office was not able to complete a review of respondent's January through June 2001 trust account books and records until September 6, 2001, due to respondent's failure to provide complete books and records as requested by this Office. Respondent did not correct all of the above-mentioned trust account shortages until January 10, 2001.

13. Respondent's failure to maintain required books and records and failure to rectify shortages in his attorney trust account violated the terms of his Court-ordered probation and Rules 3.4(c) and 1.15, MRPC.

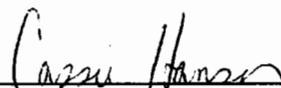
WHEREFORE, the Director respectfully prays for an order of this Court extending respondent's current supervised probation for an additional two years or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: October 23, 2001.



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