

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against SCOTT KEVIN BAILEY,
an Attorney at Law of the
State of Minnesota.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition upon the parties' agreement pursuant to Rules 10(a) 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 February 1, 1988. Respondent does not currently practice law. Respondent was suspended on January 1, 1996, for nonpayment of attorney registration fees.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

1. On February 26, 2002, the Internal Revenue Service (IRS) filed a complaint with the Director's Office indicating that respondent had pled guilty to failure to timely file his 1997 federal individual income tax return. The Director investigated and obtained the following filing information from the IRS:

| <u>Year</u> | <u>Date Filed</u> | <u>Timely</u> | <u>Amount Owed</u> |
|-------------|-------------------|---------------|--------------------|
| 1996 | 5/16/00 | No | \$4,932.52 |
| 1997 | 5/16/00 | No | 3,501.05 |
| 1998 | 5/15/00 | No | 4,296.17 |
| 1999 | 10/18/00 | Yes | 3.55 |
| 2000 | 4/15/01 | Yes | 0.00 |

2. The Director contacted the Minnesota Department of Revenue (DOR) regarding respondent's state individual income tax filing status. The DOR reported that respondent had not timely filed his 1996, 1997, 1998 and 1999 state individual income tax returns as follows:

| <u>Year</u> | <u>Date Filed</u> | <u>Timely</u> | <u>Amount Owed</u> |
|-------------|-------------------|---------------|--------------------|
| 1996 | 8/30/01 | No | \$7,086.17 |
| 1997 | 8/30/01 | No | 0.00 |
| 1998 | 8/30/01 | No | 626.71 |
| 1999 | 10/15/00 | Yes | 0.00 |

3. On October 16, 2001, respondent pled guilty to, and on February 22, 2002, was sentenced for, failing to file his 1997 individual income tax return with the IRS in violation of Title 26, United States Code, § 7203. On February 22, 2002, respondent was sentenced to 30 days work release followed by one year supervised release, to include 150 days home monitoring.

4. Respondent's failure to timely file his 1996, 1997 and 1998 state and federal individual income tax returns violated Rules 8.4(b) and (d), Minnesota Rules of Professional Conduct, and the Minnesota Supreme Court's holding in *In re Bunker*, 199 N.W.2d 628 (Minn. 1972).

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: June 21, 2002.



EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
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and



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