

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against SUZANNE K. BASIAGO,  
a Minnesota Attorney,  
Registration No. 237139.  
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**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 October 22, 1993. Respondent currently practices law in Bloomington, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Trust Account Shortages and Trust Account Books and Records Deficiencies

1. On January 2, 2002, a \$2,263.33 overdraft occurred on respondent's Highland Bank client trust account number 2001931 (hereinafter "trust account"). The overdraft resulted from the bank's payment of respondent's trust account check numbers 2941, 2945 and 2951. Pursuant to Rule 1.15(j) through (o), Minnesota Rules of Professional Conduct (MRPC), the Director received notice of the overdraft on January 9, 2002.

2. By letter dated January 14, 2002, the Director requested respondent to provide an explanation for, and various trust account books and records related to, the overdraft.

3. On January 27, 2002, respondent responded to the Director's letter. Respondent attached documents to her response reflecting that she had issued check numbers 2941, 2945 and 2951 to third parties in two client matters, including the "Smith-13<sup>th</sup>" matter. Respondent further explained:

The reason for the overdraft is because of my error in entering checks from the Smith closing for 13<sup>th</sup> Avenue. I had taken funds from the account at the end of November which I believed represented amounts owed to Basiago Law Office. However, as I discovered this was incorrect.

\* \* \*

I hope this answers your questions. I am not the most diligent about keeping my trust account up to date. Since I have not had a problem in the past, I had not worried about it. However, your letter has prompted me to make sure my account is accurate and to change how I handle the account for reimbursement of Basiago Law Office.

4. Respondent's explanation was incomplete and inaccurate. As set forth more fully below, respondent's trust account balance was not sufficient to cover the checks presented on January 2, 2002, because respondent had a practice of transferring funds in and out of her trust account for personal purposes without client knowledge or authorization.

5. In her January 27, 2002, letter, respondent also stated, "there are now sufficient funds in the account to cover the remaining escrows held." Respondent's explanation was incomplete and inaccurate. The balance in respondent's trust account on January 27, 2002, was \$1,538.24 less than that necessary to cover the aggregate client balances.

6. On May 13, 2002, the Director converted the trust account overdraft inquiry to a formal disciplinary investigation and requested respondent to provide her January 1, 2001, to April 30, 2002, trust account books and records.

7. Based on the trust account books and records respondent produced, including reconstructed client subsidiary ledgers, the Director audited respondent's trust account for the period January 1, 2001 to May 23, 2002 ("the audit period").

8. During the period from January 1, 2001, to January 2002, respondent, without entitlement or attribution to any individual client, withdrew or transferred funds from her trust account for her own use and benefit. Respondent made 37 withdrawals and transfers in amounts ranging from \$50 to \$6,000. These 37 withdrawals and transfers totaled \$48,205.35.

9. During the audit period, respondent periodically replaced withdrawn or transferred trust account funds by depositing, transferring or retaining her own funds in the account.

10. As a result, the Director's audit revealed a pattern of substantial shortages in respondent's trust account. During the periods January 18 to February 8, 2001, February 12, 2001, to March 14, 2002, and March 21 to at least May 23, 2002, the balance in respondent's trust account was continuously less than that necessary to cover aggregate client balances. This shortage ranged in amount from \$63.51 (on January 18, 2001) to \$16,439.99 (on October 19, 2001). By May 23, 2002, the end of the audit period, respondent had reduced the shortage in her trust account to \$198.93. In August 2002 respondent deposited sufficient additional funds to eliminate the shortage.

11. During the audit period, respondent failed to maintain all trust account books and records required by Rule 1.15, MRPC, as further interpreted by Lawyers Professional Responsibility Board (LPRB) Opinion No. 9.

12. Specifically, respondent failed to maintain a proper checkbook register, client subsidiary ledgers, trial balances and reconciliations.

13. Respondent's conduct violated Rule 1.15, MRPC, as further interpreted by LPRB Opinion No. 9, and Rules 8.1(a)(3) and 8.4(c), MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court imposing 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.

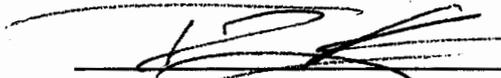
Dated: March 12, 2003.



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