

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against WILLIAM L. BODENSTEINER,
a Minnesota Attorney,
Registration No. 149093.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

At the direction of a Lawyers Professional Responsibility Board Panel, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 21, 1983. Respondent currently practices law in Austin, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

A. On May 18, 1994, respondent was issued an admonition for failing to pursue a workers' compensation matter diligently, failing to communicate with his client adequately, and commencing litigation against his client while still representing the client, in violation of Rules 1.3, 1.4(a) and 1.7(b), Minnesota Rules of Professional Conduct (MRPC).

B. On June 30, 2003, respondent was placed on probation for two years for commingling his own funds with client funds, failing to maintain proper trust account

books and records, and permitting non-attorneys to sign checks drawn on his trust account, in violation of Rules 1.15(a), (b), (c), and (h), MRPC, as further interpreted by Lawyers Professional Responsibility Board Opinion Nos. 9 and 12.

COUNT ONE

Lack of Thoroughness and Preparation - Barber Matter

1. On February 27, 2003, Russell and Jennifer Barber retained respondent to represent them in a bankruptcy. The Barbers signed a retainer agreement that provided they would pay respondent for the \$200 filing fee and \$1,000 for attorney's fees. The Barbers paid for the filing fee and \$300 toward respondent's fees.

2. During their initial meeting with respondent, the Barbers stated their intent to reaffirm two automobile loans and the loan underlying Wells Fargo's first mortgage on their home.

3. Respondent prepared and filed their bankruptcy petition.

4. On April 25, 2003, Jennifer Barber wrote to respondent and inquired about the status of the Wells Fargo loan reaffirmation.

5. On June 24, 2003, the order of discharge in the Barbers' bankruptcy was issued. The Barbers thereafter discovered that respondent had not, in fact, obtained a reaffirmation agreement regarding the loan underlying their first mortgage obligation to Wells Fargo.

6. Respondent's conduct violated Rule 1.1, MRPC.

COUNT TWO

Neglect and Non-Communication - Tieman Matter

7. On June 11, 2004, Judy Tieman, a resident of Las Vegas, Nevada, retained respondent to represent her in a child custody matter. Tieman had been granted sole physical custody of her daughter, but her former husband had removed her daughter from her custody in Las Vegas and brought her daughter to Minnesota. Tieman

explained to respondent that she intended to be in Minnesota only for the summer and for the sole purpose of arranging for her daughter's return. Tieman signed a retainer agreement that required payment of a \$1,000 retainer and an additional \$100 per month beginning in July 2004. Tieman paid the \$1,000 retainer and agreed to obtain her former lawyer's file. Respondent, in turn, agreed to prepare and file the necessary custody motion and to schedule a hearing on the motion to occur sometime during the summer of 2004.

8. On June 16, 2004, respondent wrote to Tieman confirming their June 11 meeting. Respondent stated that upon receipt of the file of Tieman's former lawyer, respondent would "look it over, . . . research the custody and jurisdiction act, and then ask that you call my office for an appointment so that I can discuss the matter with you and then we can decide how to proceed."

9. Within a few days of June 11, 2004, Tieman provided to respondent her former lawyer's file. Tieman began attempting to reach respondent to schedule the meeting respondent referred to in his June 16 letter. No meeting was scheduled. Respondent states that Tieman demanded an evening or weekend appointment, which respondent was not willing to schedule. Tieman states that respondent did not return her calls and was on vacation for a two-week period of time. In any event, respondent did not have any substantive communications with Tieman after June 11, 2004, did not conduct any legal research in Tieman's matter and did not complete the necessary custody motion.

10. On July 26, 2004, respondent refunded \$715 to Tieman.

11. Respondent's conduct violated Rules 1.3 and 1.4(a), 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: May 24, 2005.



KENNETH L. JORGENSEN
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