

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against MICHELE MARIE DANIELSON,
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 contained in the attached June 3, 1999, stipulation for probation (Exhibit I) 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 May 12, 1988. Respondent currently practices law in St. Paul, Minnesota. Respondent was suspended on January 1, 2000, for non-payment of attorney registration fees.

INTRODUCTION

On June 3, 1999, respondent and the Director entered into a stipulation for private probation. Respondent's probation was based upon an admission that respondent neglected and failed to communicate adequately with a marriage dissolution client resulting in a default judgment against the client. The court ordered respondent to pay \$350 in sanctions to the court and \$3,557.50 in attorney fees to the adverse party. In addition, respondent failed to cooperate with the investigation of that complaint. She also failed to timely file state and federal income tax returns for four years. Respondent's conduct violated Rules 1.3, 1.4, and 8.4(d), Minnesota Rules of Professional Conduct (MRPC). In stipulating to private probation, the Director

considered respondent's chemical dependency and mental health problems during the period of her misconduct.

Among the conditions of respondent's probation was that respondent would abide by the Minnesota Rules of Professional Conduct and commit no further unprofessional conduct and that if, after giving respondent an opportunity to be heard, the Director concluded that respondent had not complied with the conditions of the probation, then the Director could file this petition without the necessity of Panel proceedings.

Also among the conditions of respondent's probation were the following:

a. Respondent shall be supervised by a licensed Minnesota attorney, appointed by the Director, to monitor compliance with the terms of this probation. Respondent was to provide the names of four attorneys who have agreed to be nominated as her supervisor within two weeks from the date the stipulation was executed. Until a supervisor signed a consent to supervise, respondent was to provide the Director with an inventory of active client files on the first day of each month and make active client files available to the Director upon request.

b. Respondent shall cooperate fully with the supervisor in her 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.

c. Respondent shall continue treatment with appropriate mental health providers approved by the Director until such time as her mental health providers discharge her as no longer in need of therapy and/or medication. Respondent shall comply with medication and other therapy recommendations and shall authorize her mental health providers to report to the Director's Office on at least a quarterly basis regarding such compliance.

d. Respondent shall timely file all state and federal tax returns, and timely pay the taxes due thereon. Respondent shall continue to comply with existing tax repayment agreements. Respondent shall affirmatively report to the Director, on or before the due date of the required returns, her compliance with filing and payment requirements. Such reports shall include copies of the required returns. On or before the filing deadline, respondent shall provide the Director with copies of all applications for filing extension and proof of approval of such applications. Respondent shall provide all of the documents and information required herein without specific reminder or request.

e. Within sixty days from the execution of this stipulation, respondent shall enter into an agreement satisfactory to the Internal Revenue Service (IRS) for the payment of all unpaid taxes relative to the year 1994. Respondent shall provide the Director with a copy of the payment agreement and proof of currency on payments required by the agreement. If after sixty days, agreement with the IRS has not been reached despite diligent effort by respondent, respondent shall report monthly to the Director concerning her progress in reaching an agreement. Such reports shall continue until a written agreement has been signed by the IRS.

After giving respondent an opportunity to be heard, the Director has concluded that respondent has not complied with the conditions of her probation.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Non-Cooperation and Non-Compliance with Probation

Probation Non-Compliance

1. On June 8, 1999, the Director wrote to respondent's attorney setting out respondent's obligations under her probation and requesting that she:
 - a. provide the names of four nominees for her supervisor within two weeks;
 - b. provide the Director with an inventory of active client files on or before the first day of each month until a supervisor is appointed;
 - c. direct her mental health provider to submit to the Director quarterly reports regarding compliance with medication and therapy recommendations. The first such report was due October 10, 1999; and
 - d. report monthly concerning her progress in reaching an agreement with the IRS for unpaid taxes.

The letter indicated that future correspondence would be directed to respondent unless her attorney objected.

2. On October 7, 1999, the Director wrote to respondent requesting that she provide the names of her potential supervisors, signed tax authorizations, a copy of any agreement reached with the IRS, an inventory of all active client files, and reminding her that a report was due from her mental health provider on October 10, 1999.

3. When respondent did not respond to the October 7, 1999, letter, the Director wrote to her scheduling a meeting for November 16, 1999, and requesting her immediate telephone call if she was unable to attend the meeting as scheduled.

4. On November 16, 1999, respondent left a message stating she was unable to attend the meeting. The Director left a message on respondent's answering machine

requesting her immediate call to reschedule. Respondent did not reply. By letter dated November 22, 1999, the Director scheduled a second meeting for November 29, 1999. Respondent failed to appear for or reschedule the meeting.

5. On November 30, 1999, respondent left a message stating that she was ill and had been hospitalized the week of November 22, 1999, but would call on December 1. On December 1, 1999, respondent called stating she was in out-patient chemical dependency treatment, but agreed to appear at the Director's Office on December 6, 1999, to discuss her obligations under her probation.

6. On December 6, 1999, respondent met with the Director, signed authorizations for medical records and tax information and identified two potential supervisors. Respondent explained that her failure to comply with her probation was due to depression resulting, at least in part, from the death of her colleague, Ken Erickson. Respondent stated she was receiving counseling and abstaining from alcohol and reaffirmed her commitment to cooperate with her probation.

7. On January 11, 2000, the Director appointed Barbara Penn to supervise. On that same day, the Director requested that respondent sign and return two copies of an agreement for supervision, provide Barbara Penn and the Director with inventories of active client files by no later than January 14, 2000, and provide verification of her attendance at some form of chemical dependency aftercare or Alcoholics Anonymous program. Respondent did not respond. Respondent never provided client inventories to either the Director or her supervisor. Nor did she respond to her supervisor's attempts to contact her.

8. Respondent's annual attorney registration fee was due January 1, 2000. She has, to date, failed to pay her fee. On January 21, 2000, the Director's Office wrote to respondent reminding her that her attorney registration fee was due January 1, 2000, and requesting an explanation of her failure to pay and her signed medical authorization within seven days. Respondent failed to respond.

9. Respondent's employment at Clapp & Erickson terminated as of December 1999. Donald Clapp or other attorneys at the client's discretion assumed representation of respondent's clients.

10. On February 7, 2000, the Director wrote to respondent scheduling a meeting for February 16, 2000, and requesting that she bring to the meeting her active client inventory, proof of payment of her attorney registration fee, a written explanation of her practice after January 1, 2000, her signed agreement for supervision, her signed medical authorization, and an explanation of her progress in resolving her unpaid tax obligations. Respondent failed to appear for or reschedule the meeting.

11. In late April respondent's psychiatrist reported that respondent appeared to be totally sober, meeting regularly with her psychologist and doing well. Respondent's psychologist, however, reported on April 24, 2000, that respondent had failed to appear for a January 31, 2000, appointment, cancelled a February 23 appointment, and in March unilaterally reduced her weekly appointments to every other week. Since that time respondent had not seen her therapist. Respondent missed her scheduled March 13, 2000, appointment and cancelled her March 31 and April 11, 2000, appointments.

12. Respondent's non-compliance with probation violated Rules 8.1(a)(3) and 8.4(d), MRPC.

Non-Cooperation with Disciplinary Investigation

13. On March 3, 2000, the Director sought authorization from the Lawyers Professional Responsibility Board Executive Committee to open an investigation regarding respondent's non-compliance with probation.

14. Following receipt of Executive Committee authorization, the Director mailed respondent an April 4, 2000, notice of investigation. The authorization requested that she meet with the Director's Office on April 13, 2000, to discuss her

non-compliance with the terms of her probation. Respondent did not appear for the meeting or notify the Director's Office that she would be unable to attend.

15. Respondent's non-cooperation violated the terms of her private probation and Rules 8.1(a)(3) and 8.4(d), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility.

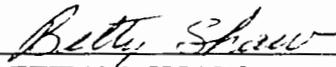
WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: May 2, 2000.



EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 17267
25 Constitution Avenue, Suite 105
St. Paul, MN 55155-1500
(651) 296-3952

and



BETTY M. SHAW
SENIOR ASSISTANT DIRECTOR
Attorney No. 130904