

FILE NO.

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary  
Action against DONALD B. DAVISON,  
a Minnesota Attorney,  
Registration No. 21568.  
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**PETITION FOR REVOCATION OF  
PROBATION AND FOR FURTHER  
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 pursuant to Rule 12(a), Rules on Lawyers Professional Responsibility, and pursuant to this Court's July 2, 2008, order in the matter.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 1, 1976. Respondent currently practices law in Grand Marais, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

A. Respondent was issued a private admonition on September 26, 1989, for failure to exercise diligence in representing a client, and failure to communicate with a client, in violation of Rules 1.3 and 1.4, Minnesota Rules of Professional Conduct (MRPC).

B. Respondent was issued a private admonition on December 2, 2002, for failure to exercise diligence in representing a client, failure to communicate with a client, and failure to cooperate with the Director's requests for information, in violation of Rules 1.3, 1.4, and 8.1, MRPC.

C. Respondent received a public reprimand and two years probation on July 2, 2008, for failing to exercise diligence in representing a client, failing to expedite litigation, failing to comply with a court order, failing to respond to a request for information from the Director, engaging in conduct prejudicial to the administration of justice, and failing to cooperate with the Director's investigation, in violation of Rules 1.3, 3.2, 3.4(c), 8.1(b), and 8.4(d), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

FIRST COUNT

Failure to Comply With Terms of Probation

1. The Court's July 2, 2008, order placing respondent on probation contained the following terms:

- a. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with the terms of this probation and shall 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 that 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.
- b. Respondent shall abide by the Minnesota Rules of Professional Conduct.
- c. With respect to the representation, whether paid or pro bono, of any clients other than the City of Grand Marais and its officials, agencies, and employees during the period of probation, respondent shall be subject to supervision by a licensed Minnesota attorney, appointed by the Director to monitor compliance with the terms of this probation. Within 10 days of agreeing to represent such a client, respondent shall notify the Director and provide the Director with the names of two attorneys who have agreed to be nominated as respondent's supervisor. 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, respondent shall on

the first day of each month provide the Director with information concerning respondent's representation of the private client, as described in paragraph (d) below. Respondent shall make private client files available to the Director upon request.

- d. Respondent shall cooperate fully with the supervisor in his or her efforts to monitor compliance with this probation. During such time as respondent is representing a private client, respondent shall contact the supervisor and schedule a minimum of one in-person meeting per calendar quarter. Before each quarterly meeting, respondent shall submit to the supervisor an inventory of all active files for private clients showing 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 as the Director may reasonably request. Once respondent's representation of the private client ceases, respondent shall notify the supervisor and the Director.
- e. Respondent shall initiate and maintain office procedures that ensure that there are prompt responses to correspondence, telephone calls, and other important communications from clients, courts, and other persons interested in matters that respondent is handling, and that will ensure that respondent regularly reviews each and every file and completes legal matters on a timely basis.

2. On July 16, 2008, the Director wrote to respondent and requested a statement from him to the effect that he has no clients other than the City of Grand Marais, as contemplated by paragraph (c) above, and a copy of his new office procedures, in accordance with paragraph (e) above. On August 15, 2008, respondent sent an e-mail message to a representative of the Director's Office, in which he stated:

I have only been able to work part-time and have not taken on any new private cases.

I have surgery on Monday. . .and will be away from work until after Labor Day at the earliest. Obviously, I will not be practicing at all during this period.

I will contact you again when I return to work.

Respondent did not contact the Director further, and did not send to the Director a copy of the requested office procedures.

3. On September 9, 2008, the Director wrote to respondent and repeated the requests from July 16, 2008. The Director has received no response.

4. On October 20, 2008, the Director wrote to respondent and repeated the requests from July 16, 2008, and September 9, 2008, and requested that he appear for a meeting with a representative of the Director on December 9, 2008. The Director has received no response.

5. A representative of the Director's Office left a telephone message for respondent on December 4, 2008, in which respondent was reminded of the December 9, 2008, meeting. The Director has received no response.

6. Respondent did not appear at the designated time and place for the requested meeting.

7. On February 18, 2009, as a result of the failure to respond to the Director's inquiries, the failure to cooperate with the Director in efforts to monitor his probation, and the failure to appear at a scheduled meeting with the Director, a new disciplinary file was opened against respondent.

8. Respondent's conduct in this matter violated Rule 8.1(b), MRPC, Rule 25, RLPR, and the terms of his public probation.

#### SECOND COUNT

##### Failure to Respond to Probation Violation Notice of Investigation

9. Respondent was required to submit a written response to the February 18, 2009, notice of investigation within fourteen days. As of the date of this filing, the Director has received no response.

10. On March 11, 2009, a representative of the Director's Office sent a letter to respondent requesting a response to the notice of investigation within ten days. The Director has received no response.

11. On March 26, 2009, a representative of the Director's Office sent a letter to respondent requesting a response to the notice of investigation within seven days. The Director has received no response.

12. On April 8, 2009, a representative of the Director's Office called respondent at his work telephone number and requested a return call. The Director has received no response.

13. On April 9, 2009, a representative of the Director's Office sent a letter to respondent. In that letter, the representative requested that respondent appear at the Director's Office on April 22, 2009, and produce a copy of the written responses to both the February 18, 2009, notice of investigation and the March 19, 2009, notice of investigation. The Director has received no response.

14. On April 20, 2009, a representative of the Director's Office called respondent at his office phone number and left a message requesting a return call acknowledging the date and time of the meeting. The Director has received no response.

15. On April 21, 2009, a representative of the Director's Office called respondent at his office phone number and left a message requesting a return call acknowledging the date and time of the meeting. The Director has received no response.

16. On April 22, 2009, respondent failed to appear for the scheduled meeting.

17. Respondent's conduct in this matter has violated Rule 8.1 (b), MRPC, Rule 25, RLPR, and the terms of his public probation.

### THIRD COUNT

#### Jackson Matter

18. Respondent drafted the will of Eleanor Annis, who resided in Lutsen, Minnesota, at some time prior to September 22, 2008. Ms. Annis passed away on September 22, 2008. Her niece, Laura S. Jackson, was appointed personal representative

of the estate. Respondent began representing Ms. Jackson in her capacity as personal representative sometime after September 22, 2008.

19. The terms of respondent's probation required him to notify the Director's Office within ten days of beginning representation of any client who was not the City of Grand Marais. The Director's Office has received no notice from respondent that he had resumed representing private clients.

20. Ms. Jackson sent an e-mail message to respondent on November 30, 2008, in which she asked respondent to respond to specific questions regarding the valuation of items in her aunt's estate. Respondent did not respond to this request for information.

21. Ms. Jackson sent another copy of the November 30, 2008, e-mail message to respondent on December 20, 2008. Respondent did not respond to this request for information.

22. On February 25, 2009, Ms. Jackson sent respondent a letter terminating the representation, and requesting a copy of the file and the return of keys to a piece of property which had been owned by her aunt. Respondent did not respond to this request.

23. On March 4, 2009, the district court approved the substitution of new counsel for respondent. The court also ordered that respondent deliver the items requested in Ms. Jackson's February 25, 2009, letter to Ms. Jackson's new attorney.

24. Subsequent to the entry of this order, Ms. Jackson's new attorney wrote to respondent and requested the return of Ms. Jackson's property.

25. As of the date of this filing, Ms. Jackson's new attorney has received neither of the requested items of her property.

26. Respondent's actions in this matter violated of Rules 1.3, 1.4(a)(3), 1.4(a)(4), 1.15(c)(4), 1.16(d), 3.2, and 3.4(c), MRPC, and the terms of his public probation.

FOURTH COUNT

Failure to Respond to the Complaint of Judge Sandvik

27. The judge hearing Ms. Jackson's matter, Honorable Kenneth A. Sandvik, filed a complaint with the Director's Office against respondent based upon respondent's conduct in the Jackson matter. The Director's Office issued a notice of investigation dated March 19, 2009. Respondent was required to respond within fourteen days of the notice. The Director has received no response.

28. On April 6, 2009, a representative of the Director's Office sent respondent a letter, in which a response was requested to the March 19, 2009, notice of investigation within ten days. The Director has received no response.

29. Respondent's conduct in this matter has violated Rule 8.1(b), MRPC, and Rule 25, RLPR, and the terms of his public probation.

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 27, 2009.



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