FILE NO. C1-98-589

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action against ERIC A. L. DE RYCKE, an Attorney at Law of the State of Minnesota.	**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 June 5, 2001, order in the matter.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on April 22, 1974. Respondent currently practices law in Benton, Minnesota.

INTRODUCTION

By June 5, 2001, order, this Court publicly reprimanded respondent and extended his supervised probation for a period of two years. A copy of the Court's order is attached as Exhibit 1.

Respondent's discipline was based upon his failure to cooperate with the Director in monitoring his earlier court-ordered probation and investigating an overdraft on his trust account in violation of Rules 3.4(c), 8.1(a)(3) and 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC), and Rule 25, Rules on Lawyers Professional Responsibility (RLPR), and commingling personal and client funds, failing to maintain required books and records, falsely certifying to the Court that he maintained such records, making trust account withdrawals by automated teller machines and by automated withdrawals to cover business/personal account overdrafts, failing to provide clients with accountings of earned fees before withdrawing those fees and failing to promptly deposit trust funds for safekeeping, in

violation of the terms of his probation and Rules 1.15 and 8.4(c), MRPC, as further interpreted by Lawyers Professional Responsibility Board Opinion 9.

DISCIPLINARY HISTORY

a. On April 21, 1998, by Supreme Court order, respondent was suspended from the practice of law for 90 days for failing to timely file state and federal employer quarterly withholding returns; client neglect and non-communication in four different client matters; and non-cooperation with the Director's investigation of those matters. On August 26, 1998, respondent was reinstated to the practice of law and placed on two years supervised probation. It was this probation that was extended by the Court's June 5, 2001 order.

b. On January 28, 1981, respondent was issued a warning for his conduct in representing a defendant in a criminal matter in Pipestone County while serving as a prosecutor for Murray County. That representation continued after a Pipestone County judge had issued an order prohibiting respondent from representing the defendant.

Respondent has committed the following unprofessional conduct warranting revocation of probation and further public discipline:

FIRST COUNT

1. On June 5, 2001, the Supreme Court issued its order extending respondent's probation for an additional two years. Pursuant to the Court's order, respondent was to cooperate fully with the Director's Office in its efforts to monitor compliance with his probation and to promptly respond to the Director's correspondence by the due date. Respondent was also required to cooperate fully with his supervisor in the supervisor's efforts to monitor compliance with the probation.

2. On June 13, 2001, the Director wrote to respondent, forwarding a copy of the Supreme Court's order placing him on probation. The letter also requested that respondent provide certain documentation (e.g., an agreement for supervision, copies of his written office procedures, etc.). Respondent failed to reply.

3. On June 19, 2001, J. Brian O'Leary, respondent's supervising attorney, wrote to him. When respondent failed to reply to that letter, O'Leary wrote to respondent again on July 12, 2001. Respondent failed to reply to that letter as well.

4. On July 13, 2001, the Director wrote to respondent reminding him of his obligations under his probation and informing him that he still had not provided the requested information. The Director gave respondent seven days within which to respond.

5. In a letter dated July 18, 2001, although not postmarked until July 23, 2001, respondent wrote to Candice Hojan (who had handled respondent's most recent disciplinary matter) requesting a seven-day extension "to handle all the matters."

6. On July 27, 2001, the Director's Office wrote to respondent informing him that the Office could not agree to any extension until there was "some minimal level of cooperation" with the terms of his probation. Respondent did not reply to that letter.

7. On August 10, 2001, the Director received a letter from respondent's probation supervisor indicating that he had written to respondent on June 9, July 12 and July 26, but had not received a response to any of his letters.

8. On August 14, 2001, the Director wrote to respondent instructing him to appear at the Director's Office on August 27, 2001. The Director told respondent the purpose of the meeting was to discuss his failure to comply with the terms of his probation. Respondent failed to respond to the letter and failed to appear for the meeting.

9. On August 28, 2001, the Director again wrote to respondent, this time by both certified and regular mail, instructing him to appear for a meeting on September 5, 2001. The return mail receipt was signed and returned to the Director's Office. However, respondent did not contact the Director's Office nor did he appear for the September 5, 2001, meeting.

10. On or about September 17, 2001, respondent telephoned the Director's Office and spoke to Senior Assistant Director Craig Klausing. Klausing and respondent agreed that respondent would provide the requested documentation by September 27,

2001, and would then meet on October 3, 2001. Respondent failed to provide the requested information.

11. On October 3, 2001, respondent telephoned to say that he was having car problems and could not make it to the Director's Office that day. When Klausing reminded him that he was supposed to provide the Director's Office with the documentation on his probation before the meeting, respondent said that he had been working on it for the past few days and would have it to the Director's Office by October 4, 2001. Respondent and Klausing agreed that after providing the information, respondent would contact the Director's Office about rescheduling the meeting.

12. As of the date of this petition, respondent has not provided the requested information and has not contacted the Director's Office.

Respondent's conduct in failing to cooperate with the Director's Office violated the terms of his court-ordered probation, Rule 3.4(c), MRPC, and Rule 25, RLPR.

WHEREFORE, the Director respectfully prays for an order of this Court revoking respondent's probation, suspending respondent's license to practice law 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: November 1, 2001.

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