

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against NURO BEDHASO DEDEFO,
a Minnesota Attorney,
Registration No. 309989.

**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 1, 2001. Respondent currently practices law in Columbia Heights, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Misappropriation, Improper Maintenance and Use of Trust Account and
Failure to Maintain Required Trust Account Books and Records

1. Respondent is a solo practitioner. At all times relevant, respondent has maintained TCF Bank trust account no. 5852045812 (trust account). Respondent is solely responsible for the maintenance of his trust account books and records.
2. On February 21, 2003, pursuant to Rule 1.15(j) through (o), Minnesota Rules of Professional Conduct (MRPC), the Director received notice of a February 5, 2003, overdraft on respondent's trust account. In response to the Director's inquiry regarding the overdraft, respondent explained that, among other things, the overdraft

was caused by respondent's use of his trust account to pay personal expenses. The Director opened a disciplinary file and requested respondent provide additional information and records.

3. The Director reviewed respondent's trust account books and records for the period of January 1, 2002, through November 30, 2002.

4. The Director determined that for the months of March 2002 through at least October 18, 2004, respondent failed to maintain his trust account books and records in compliance with Rule 1.15, MRPC, as interpreted by Appendix 1 thereto (formerly Lawyers Professional Responsibility Board (LPRB) Opinion No. 9).

5. Specifically, respondent failed to maintain a proper trust account check register, proper subsidiary ledgers for all clients, a subsidiary ledger accounting for personal funds held in the trust account, monthly subsidiary ledger trial balances and monthly reconciliations of the checkbook balance, subsidiary ledger trial balance and adjusted bank statement balance and duplicate deposit slips.

6. Respondent's check register did not account for all trust account transactions. On certain client subsidiary ledgers, respondent combined trust account transactions with fee billings. Respondent failed to properly annotate his trust account check register, client subsidiary ledgers and trust account checks with all required information.

7. On November 21, 2002, respondent improperly withdrew \$800 in earned fees from his trust account by way of a telephone transfer.

8. On December 23, 2002, respondent erroneously disbursed four trust account checks totaling \$2,448.37 in payment of personal expenses. Respondent admitted that a portion of the monies disbursed on December 23, 2002, were earned fees commingled in the client trust account.

9. On January 13, 2003, respondent deposited \$300 in personal funds into his trust account by way of a telephone transfer to cover a portion of the December 23, 2002, checks.

10. As a result of the forgoing findings, the Director audited respondent's trust account for the period of December 16, 2003, through April 18, 2006, and determined that respondent failed to maintain his trust account books and records in compliance with Rule 1.15, MRPC, as interpreted by Appendix 1.

11. Specifically, respondent failed to maintain proper subsidiary ledgers for all clients, a subsidiary ledger accounting for his personal funds held in the trust account, monthly subsidiary ledger trial balances and monthly reconciliations of the checkbook balance, subsidiary ledger trial balance and adjusted bank statement balance.

12. Respondent failed to consistently and accurately annotate his trust account register and client subsidiary ledger entries by date, check number, amount, client name, payee and purpose for each transaction.

13. Respondent disbursed earned legal fees to himself on multiple occasions from multiple clients by way of a single check, but he failed to accurately break down each fee check by client and amount. When later asked by the Director to identify from which clients he withdrew fees with these checks, respondent was unable to break down his fee checks by client and amount.

14. Respondent failed to fully disburse earned fees in their entirety once fully earned. As of December 16, 2003, respondent commingled \$747.07 of earned fees in his trust account. Respondent continued from December 16, 2003, through June 17, 2005, to improperly retain and commingle in his trust account earned fees in amounts that at times exceeded \$24,000.

15. Respondent disbursed payments to certain chiropractors on multiple occasions without identifying in his check register or on the checks the clients for whom such payments were made.

16. After June 18, 2005, respondent improved his trust account recordkeeping by disbursing earned legal fees and cost reimbursements with clearly annotated checks

for each client and properly annotating his records with client names when making payments to chiropractors and other payees.

17. Despite the Director's trust account reconstruction, multiple letters and meetings and continuing investigation, respondent has failed to bring his trust accounting procedures into full compliance with Rule 1.15, MRPC, as interpreted by Appendix 1.

18. Specifically, respondent did not accurately calculate disbursements of all client funds resulting in small remaining balances or small negative balances in numerous client subsidiary ledgers.

19. Respondent failed to accurately record transactions to his trust account check register and client subsidiary ledgers resulting in discrepancies between his records and the actual check amounts.

20. Respondent failed to reconcile his trust account books with his bank statements on a monthly basis and to reconcile his adjusted bank statement balance with his check register and subsidiary ledger trial balance total and to maintain evidence of such reconciliations on a monthly basis.

21. The Director's audit of respondent's trust account revealed that respondent disbursed client funds in amounts exceeding the funds held for certain clients 19 times during the audit period.

22. In eight client subsidiary ledgers, respondent created negative balances in amounts less than \$1. Respondent did not identify or correct these errors.

23. In nine client subsidiary ledgers, respondent created negative balances eleven times in amounts between \$10 and \$1,988.67.

24. Specifically, respondent disbursed \$1,667 to TM on March 16, 2004, in advance of receiving any monies for TM, creating a \$1,667 shortage in TM's subsidiary ledger. Respondent did not cure the shortage until March 26, 2004, when respondent deposited \$2,500.

25. On March 24, 2005, respondent disbursed \$334 to ZN when he did not hold any funds for ZN. Respondent did not cure the deficit until April 5, 2004, when he deposited \$686.65 for ZN.

26. On May 28, 2004, respondent disbursed \$270 to AF prior to receipt and deposit of AF's settlement. Respondent cured the negative balance in AF's subsidiary ledger on June 4, 2004, with a \$400 deposit.

27. On July 16, 2004, respondent disbursed \$2,000 to a chiropractor on behalf of EA when respondent held only \$1,980 for EA creating a \$20 negative balance in EA's subsidiary ledger. Respondent cured the deficit on August 13, 2004, but again overdrew EA's subsidiary ledger by \$20 on August 24, 2004, when respondent paid EA \$5,334 when he held only \$5,314 for EA. Respondent did not cure the \$20 shortage during the remainder of the audit period.

28. On September 15, 2004, respondent disbursed \$630 in payment of a mediation fee on behalf of GB when he did not hold sufficient funds on behalf of GB to fully fund the check. Respondent created a \$269.99 negative balance in GB's subsidiary ledger which he did not cure until November 2, 2004.

29. On October 20, 2004, respondent disbursed \$1,000 to GaB prior to receipt of GaB's settlement. Respondent cured the \$1,000 negative balance on October 25, 2004, when he deposited GaB's \$1,500 settlement.

30. On March 1, 2005, respondent disbursed \$1,988.67 to MA when respondent did not hold any funds in his trust account for MA. Respondent cured the negative balance on March 3, 2005.

31. On June 1, 2005, respondent disbursed \$771.80 to a chiropractor on behalf of BK when he held only \$671.33 for BK creating a \$100.47 negative balance in BK's account. Respondent did not cure the deficit until September 6, 2005. On October 18, 2005, respondent again overdrew BK's subsidiary ledger by \$100.47 when he paid the chiropractor \$364.92 when he held only \$264.45 for BK.

32. On February 27, 2006, respondent disbursed \$602.91 to ES when he held only \$592.91 for ES creating a \$10 negative balance in ES's subsidiary ledger. Respondent did not cure the deficit during the remainder of the audit period.

33. Respondent withdrew earned fees and costs from multiple clients by way of single checks without identifying the clients from whom he was withdrawing funds. See ¶ 13 above. During the audit period, the Director identified 13 checks payable to respondent disbursing \$95,600. The Director was unable while auditing respondent's trust account to match up respondent's withdrawals with the clients from whom respondent was withdrawing fees due to respondent's poor recordkeeping. When asked by the Director, respondent was unable to specifically state which clients' fees were withdrawn with which checks.

34. After respondent supplied additional information regarding his entitlement to funds retained in his trust account, the Director calculated chronologically respondent's fee withdrawals against respondent's earned fees and costs reimbursements.

35. The Director determined that respondent did not hold in his trust account sufficient earned fees to fully fund his June 17, 2005, withdrawal of \$1,600. On that date, respondent held earned fees totaling only \$1,456.90 in his trust account creating a \$143.10 shortage. Respondent did not fully cure this shortage until November 8, 2005.

36. As of April 18, 2005, respondent's trust account remained short \$68.35. Respondent has not, to date, reimbursed his trust account.

37. Respondent's conduct in negligently misappropriating client funds, commingling funds and failing to keep the required trust account books and records violated Rules 1.15(a), (b), (h) and (i), MRPC, as interpreted by Appendix 1 thereto (formerly Lawyers Professional Responsibility Board Opinion No. 9), and 8.4(c), MRPC.

SECOND COUNT

Litigation Misconduct

38. In 2000 and 2001 respondent and his wife BG experienced marital difficulties. In early 2000, BG went to the home of complainant AW seeking shelter.

39. AW, as was customary in their culture, mediated between respondent and BG and she returned home. In June or July 2000, BG again went to AW's home seeking shelter. AW called respondent who asked AW to have MH bring his wife home. MH and AW mediated between respondent and BG.

40. During the first week in November 2000, BG called MH at his apartment at about 9:00 p.m. looking for a ride home from her work at Fairview Hospital. MH called respondent who told MH that he would not pick his wife up and that MH should not give her a ride home. When BG called MH back, he told her what respondent had said and suggested that she take a bus home. She said she had no money.

41. Later that evening, BG came uninvited to MH's apartment. MH and his wife allowed her to stay overnight. The next day, MH called respondent's friends BA and TA and asked them to take BG home and mediate with respondent. MH did not see BG after that.

42. In February 2001 BG went to a women's shelter in Minneapolis. The police were called and took pictures of bruises on her face and neck. With the help of people from the shelter, BG filed a petition for protection and affidavit. At the February 21, 2001, hearing on the petition for protection, the court determined that BG's testimony was more credible than respondent's testimony and issued an order for protection against respondent.

43. The Board of Law Examiners, in part because of the February 21, 2001, order for protection, required respondent to undergo a fitness hearing prior to recommending his admission to the bar.

44. Respondent blamed MH, AI and AW for his wife's seeking the order for protection and hence the delay in his admission to the bar.

45. Respondent was admitted to practice on October 1, 2001. On October 9, 2001, respondent filed suit against MH, AI and AW (the defendants) alleging defamation, misrepresentation, intentional infliction of emotional distress and interference with marital relationship. He sought one million dollars in damages.

46. The defendants in the lawsuit, like respondent, are refugees from Ethiopia. Prior to the incidents that led to the lawsuit, defendants and respondent were friends.

47. Defendants retained David E. Zins to defend them in the defamation suit. On October 24, 2001, Zins served an answer.

48. On January 4, 2002, Zins took respondent's deposition to obtain the specific facts on which respondent based the allegations in his October 9, 2001, complaint. In response to counsel's questions, respondent refused to produce any documents or provide any specific facts of any kind upon which respondent based his allegations.

49. On February 6, 2002, Zins brought a motion for summary judgment including sanctions under Rule 11, Minnesota Rules of Civil Procedure.

50. On March 25, 2002, respondent had his then wife, BG, sign a paper which she had not read. The paper was an affidavit respondent had prepared for use in the summary judgment hearing.

51. After BG signed the affidavit, respondent read the affidavit to her. BG told him that many statements in the affidavit were not true. Respondent told BG that because she had signed the affidavit she could not say that the statements were false. Respondent then submitted the affidavit to the court knowing that it contained false statements.

52. The court did not seriously consider the affidavit because respondent was collaterally estopped from relitigating the issue of whether he assaulted BG.

53. Based on submissions by both parties, the court granted defendants' request for summary judgment on June 22, 2002.

54. Respondent's conduct in presenting an affidavit to the court he knew to be false and in obstructing the defendants' access to evidence in a deposition violated Rules 3.3(a)(4), 3.4(a) or 1.1 and 8.4(d), MRPC.

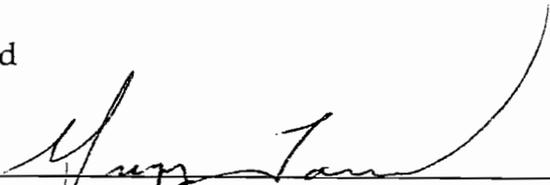
WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: February 22, 2007.



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