

FILE NO. A07-573
STATE OF MINNESOTA
IN SUPREME COURT

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

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDATION
FOR DISCIPLINE**

The above-captioned matter came on for hearing on November 30, 2007 before the undersigned, acting as referee by appointment of the Minnesota Supreme Court. Cassie Hanson, Assistant Director, appeared on behalf of the Director of the Office of Lawyers Professional Responsibility (hereinafter "Director"). William E. Sjoholm, Esq. appeared on behalf of Respondent, Nuro Bedhaso Dedefo, who was present personally.

The hearing was conducted on the Director's February 22, 2007 Petition for Disciplinary Action. The parties stipulated to the entry of exhibits 1-34, 35-41, and 48-55. Exhibit 56 was admitted by the undersigned. The parties further stipulated to the facts set forth in the Director's proposed Findings 1-34, with amendments as set forth herein. The Findings and Conclusions made below are based upon the above, the testimony of the witnesses at the hearing, and all of the files, records, and exhibits herein.

Based upon the foregoing and the briefs and arguments of counsel, the Referee makes the following:

FINDINGS OF FACT

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

1. Respondent was admitted to practice law in the State of Minnesota on October 1, 2001.

2. 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.

3. 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 litigation-related expenses. Respondent covered the overdraft as soon as he learned of it. The Director opened a disciplinary file and requested Respondent provide additional information and records.

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

5. 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.

6. 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.

7. 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.

8. On November 21, 2002, Respondent withdrew \$800 in earned fees from his trust account by way of a telephone transfer. Respondent did not know he could not transfer money from his trust account by telephone.

9. On December 23, 2002, Respondent erroneously disbursed four trust account checks totaling \$2,448.37. Respondent admitted that a portion of the monies disbursed on December 23, 2002 were earned fees.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. Respondent sometimes failed to disburse earned fees once fully earned. As of December 16, 2003, Respondent had \$747.07 of earned fees in his trust account. From December 16, 2003, through June 17, 2005, Respondent continued to retain earned fees in his trust account.

16. 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.

17. After June 18, 2005, Respondent improved his trust account record keeping 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.

18. 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 \$10.00 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 cured the shortage when Respondent deposited \$2,500 into his trust account.

25. On March 24, 2005, Respondent disbursed \$334 to ZN when he did not hold any funds for ZN. Respondent cured the deficit when he deposited \$686.65 for ZN into his trust account.

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 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 GB prior to receipt of GB's settlement. Respondent cured the \$1,000 negative balance on October 25, 2004, when he deposited GB'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 February 27, 2006, Respondent disbursed \$602.91 to ES when he held only \$592.91 for ES creating a \$10 negative balance in ES' subsidiary ledger. Respondent did not cure the deficit during the remainder of the audit period.

32. Respondent withdrew earned fees and costs from multiple clients by way of single checks without identifying the clients from whom he was withdrawing funds.

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

34. As of April 18, 2005, Respondent's trust account remained short \$68.35.

35. Respondent's repeated failure to timely withdraw earned fees over an extended period of time constituted commingling personal funds in his trust account regardless of Respondent's intent.

36. Respondent stipulated to making numerous trust account disbursements on behalf of clients who had insufficient funds in his trust account to cover the transactions. Respondent further stipulated to using funds in his trust accounts that belonged to other clients in order to cover the transactions. Respondent's misconduct constitutes negligent misappropriation.

37. Respondent now uses a certified public accountant to help Respondent properly maintain trust account records.

Filing a False Affidavit with the Court and Obstructing Opposing Parties' Access to Evidence

38. Respondent is a native of Ethiopia. He has lived in the United States since 1995. While in Ethiopia, Respondent received a university education and a law degree.

39. Before coming to the United States, Respondent was appointed to the presidency of the High Court in Asselle, Ethiopia, serving as a judge and the administrative head of the regional court.

40. In 1995, Respondent sought and received political asylum while on a tour of the United States. Subsequently, he became a United States citizen. Respondent entered into and graduated from Hamline University Law School in St. Paul, Minnesota in 2000, and was admitted to the Minnesota Bar in 2001.

41. While in Ethiopia, Respondent entered into an arranged marriage with Bontu Gada in 1988. In 1999, Gada came to live with the Respondent in the United States. Respondent's extended family also began living with him in 2000. Gada had no family in Minnesota.

42. Beginning in 2000, Respondent and Gada started experiencing marital difficulties. In early 2000, Gada went to the home of A. Wake and sought shelter. Wake is a family friend of Respondent and also from Ethiopia. As is customary in Ethiopian culture, the marital dispute was mediated by friends of the family. Wake mediated the dispute and Gada returned to Respondent's home.

43. In the summer of 2000, Gada again experienced marital difficulties with Respondent. In either June or July 2000, Gada sought shelter at Wake's home a second time. Wake contacted Respondent who asked that Wake have Merga Hunde, a childhood friend of Respondent, and also a number of the Ethiopian community, to bring Gada home. Wake and Hunde mediated the dispute and Gada returned home to the Respondent. This was the first time that Hunde learned of the marital difficulties between Respondent and Gada.

44. In the fall of 2000, Gada was working at Fairview Medical Hospital in Minneapolis. Gada did not have a driver's license and relied upon Respondent for transportation. On one occasion, Respondent refused to pick Gada up from work. Gada called Abbi Iticha, who is Hunde's wife, and asked if she could get a ride home. Iticha agreed to call Respondent in order to resolve the dilemma. Iticha called Respondent who stated that he would not pick Gada up, and that Hunde and Iticha should not give her a ride. It was suggested that Gada take the bus, but she indicated that she had no money. Gada walked uninvited to the residence of Hunde and his wife, who subsequently permitted Gada to spend the night in their son's room.

45. The next morning Hunde contacted mutual friends of Respondent and asked them to take Gada home and mediate with Respondent. Hunde and Iticha had no further contact with Gada from that date. Shortly thereafter, Respondent called Hunde and harassed him about having his wife in his apartment. Hunde hung up on the Respondent. Hunde and Respondent also crossed paths at a local community center and Respondent refused to acknowledge Hunde.

46. On February 5, 2001, Respondent and Gada had an argument about finances. Respondent ordered Gada to give him her paycheck, and when she refused, he hit her in the face, and pulled out clumps of her hair.

47. On February 6, 2001, Gada went to work at Fairview medical center with bruises on her face. Gada's supervisor directed her to the Harriet Tubman Shelter, which is a shelter for domestic abuse victims in Minneapolis, Minnesota. Advocates at the shelter called the police, who took pictures of the bruises on Gada's face and neck. Advocates at the shelter also assisted Gada in filling out a petition and affidavit seeking an order for protection (OFP), which was filed with the Hennepin County District Court on February 9, 2001. The District Court issued an ex parte OFP and scheduled a domestic abuse hearing on February 21, 2001.

48. After hearing testimony from the parties, witnesses, and reviewing the photos taken by police, the District Court issued an OFP dated February 21, 2001, which included judicial findings that Respondent physically assaulted Gada by hitting her in the face and neck. The District Court specifically held that Gada's testimony was more credible than the testimony of Respondent and the witnesses he called.

49. After obtaining the OFP, Gada remained in the Tubman Shelter in Minneapolis until May 29, 2001, when she moved to a long term transitional housing for domestic abuse victims. Gada remained in shelter housing until Respondent brought a child-support action against her on February 8, 2002. Gada was also under increased pressure from members of the Ethiopian community to reconcile with her husband. Gada agreed to mediate with members of the community and moved back in with Respondent in mid-February 2002.

50. In 2001, Respondent's admission to the State Bar was delayed by the Board of Law Examiners, in part, due to the February 21, 2001 OFP. Respondent was required to undergo a character and fitness assessment prior to his admission on October 1, 2001. Respondent blamed Hunde and Wake for his wife seeking an OFP, and for the delay in his admission to the bar.

51. On October 9, 2001, Respondent filed a civil suit in Hennepin County against Hunde, Iticha, and Wake, alleging defamation, misrepresentation, intentional infliction of emotional distress, and interference with marital relations. Respondent sought \$1 million in damages. Respondent alleged in the complaint that Gada spent a week in the home of Hunde and Iticha without his consent; that the defendants conspired to convince his wife to make false allegations of abuse against him; and that the defendants threatened his wife if she would not falsely accuse him of abuse. Respondent's pleadings stated no factual basis or testimony in support of his allegations beyond the statement that, "Plaintiff has evidence which will be produced accordingly when the time is ripe".

52. Defendants were required to retain attorney David Zins to defend what ultimately proved to be Respondent's meritless lawsuit. On October 24, 2001, Zins served an answer to the complaint, and noted Respondent's deposition for January 4, 2002.

53. The deposition of January 4, 2002, which is reproduced as Exhibit 39, demonstrates numerous instances of either discovery abuse or incompetence, or both. On page 4 of the deposition, Respondent objected to inquiries with regard to his wife and children as being "irrelevant", when he had alleged interference with marital relationship as a part of his complaint. On page 5 of the deposition, he refused to disclose whether he was living with Gada as "irrelevant". When asked to state what the factual basis for the alleged conspiracy against him was, Respondent began, on page 9, to refuse to answer on the basis of the "work product doctrine". On pages 10 and 11 of the deposition, he refused to disclose witnesses on the basis of the "work product doctrine". On pages 12 and 13, he again refused to disclose factual information on the basis of the "work product doctrine". When asked with regard to facts and witness statements on pages 18, 19, 20 of the deposition, he invoked the "work product doctrine". Page 27 of the deposition is an excellent exemplar of the Respondents discovery obstruction:

A. "OK I appealed to the Board of Law examiners, okay, after I was denied first. Then on appeal it was granted."

Q. "Well how did you appeal, in writing?"

A. "I don't have to tell you right now how I did that."

Q. "Where is your wife living right now?"

A. "I'm not here to talk about her."

Q. "She's the subject of this whole complaint, is it not?"

A. "It's up to you to figure out; not me to tell you."

Based upon information in the deposition transcript, the deposition went on for some 2 hours with Respondent refusing to provide any substantive information on his claim. At the end of the deposition, Respondent went further and demanded that he be paid \$200 as a witness for his own deposition as a party.

54. Respondent's disruptive discovery tactics unlawfully frustrated the opposing parties' abilities to establish a response or defense to Respondent's lawsuit. Respondent's lawsuit was without factual merit and failed to state a claim upon which relief could be granted. Respondent also failed to establish a legal and factual basis for his claim in the amount of \$1 million.

55. In February 2002, Defendants filed a motion for summary judgment. In response, Respondent offered an affidavit purportedly signed/authored by Gada, dated March 25, 2002, in which Gada recanted the allegations of abuse by Respondent and alleged that Defendants coerced and threatened her into alleging that Respondent physically abused her. The District Court refused to consider the affidavit, finding that Respondent was collaterally estopped from disputing previous Court findings that he committed domestic abuse against Gada. Summary judgment was granted in June 2002. Respondent appealed the judgment, and the Court of Appeals subsequently remanded to the District Court indicating that factual questions still existed. Subsequently, the matter was brought back before the District Court in Hennepin County and was ultimately dismissed by that Court. By reason of Respondent's actions in pursuing the groundless claim, Defendants incurred approximately \$7,500 in attorney's fees, which placed substantial financial burden on them.

56. As a part of the opposition to the summary judgment motion, Respondent knowingly drafted and submitted a false affidavit to the District Court in support of his claim. In mid-March 2002, Respondent prepared the affidavit of testimony for Gada's signature. Gada did not read the document before she signed it on March 25, 2002 (Ex.# 40). In her culture, and in the relationship with Respondent, it was customary for her to sign documents without reading them. Respondent later read back the affidavit to Gada. Statements contained in the affidavit

that Respondent drafted were false. The language, which Respondent has said was a direct Ethiopian to English translation of what Gada told him, is replete with near direct quotes from Respondent's self-drafted complaint in the matter. Gada had previously testified under oath regarding the physical abuse, photos were taken, and the District Court in the OFP hearing had made specific Findings that domestic abuse had occurred. Respondent, in drafting the affidavit, procuring Gada's signature, and submitting the document to the Court, knowingly attempted to deceive the Court in the summary judgment proceedings. Gada testified at the proceedings before this referee that the statements in the affidavit regarding her recantation and a conspiracy of Defendants were false and were created by Respondent. Her testimony at the hearing herein is found to be credible.

57. Respondent continues to deny any physical abuse of Gada. Respondent's testimony that he never physically abused Gada is not credible in light of Gada's testimony, the February 21, 2001, OFP and judicial findings of abuse, and Respondent's continued pattern of physical abuse of Gada.

58. In addition to the February 5, 2001 incident of abuse and resulting OFP, Gada obtained a second OFP against Respondent on August 29, 2003 (Exhibit 51). The basis for the 2003 order for protection was as follows: in February 2002, Gada reconciled with Respondent due to pressure from the Ethiopian community and Respondent's motion that Gada pay child support. On August 8, 2003, Gada returned from work with health insurance information from her employer that Respondent had previously requested. Respondent asked Gada to sign a health insurance form that would have placed various family members as dependents under her health insurance. Gada refused to sign the form, claiming that she did not earn enough money to pay the deductible. Respondent hit and kicked Gada. Gada left Respondent's house due to the abuse. On August 22, 2003, the District Court granted an ex-parte OFP and scheduled the matter for a domestic abuse hearing on August 29, 2003. At that hearing, Gada testified that Respondent had a history of abusing her and that he hit and kicked her on August 8, 2003. Respondent denied the abuse. The District Court made findings that the domestic abuse had occurred, and that Respondent had kicked, hit, and twisted Gada's arm. An order for protection was issued.

59. Respondent subsequently appealed the OFP and temporary custody determination of the parties' minor child. In an order dated August 9, 2004, the Minnesota Court of Appeals

upheld the order for protection and findings of abuse by the District Court, but remanded the temporary custody matter

60. Gada obtained a third order for protection against Respondent in October 2004 alleging further threats of domestic abuse by Respondent. On October 7, 2004, the District Court issued an ex parte order for protection and set the matter for domestic abuse hearing. Respondent denied the allegations, but subsequently agreed to an extension of the August 29, 2003 OFP.

61. Respondent also coerced Gada into giving false testimony to the Director during the course of this disciplinary proceeding and investigation. On January 16, 2003, Respondent drove Gada to a meeting with Betty Shaw, an attorney for the Director. During the meeting, which was recorded and transcribed, Gada denied that the Respondent had ever physically abused her, and alleged that Hunde, Iticha, and Wake coerced her into making false allegations of abuse. At the hearing before this referee, Gada testified that the statements made to Shaw were false and made under duress. Gada was six months pregnant at the time with Respondent's child, and feared that Respondent would abuse her if she did not comply with his demand. Respondent had driven her to the Director's office and waited in the lobby while she met with Shaw. This referee finds her testimony at the disciplinary hearing to be credible.

62. Respondent has refused to acknowledge the wrongful nature of his misconduct. He refused to acknowledge that his conduct in his deposition constituted discovery abuse, or that he had done anything wrong. His only acknowledgment was that, looking at the matter in hindsight, he might have handled it differently. Respondent has continued to deny that he ever abused Gada in any way, in spite of judicial findings of abuse on two separate occasions.

63. The testimony of Respondent's family members denying that domestic abuse was not credible. Both members of the family present at the hearing, his mother and daughter, testified that Gada continually threatened to take Respondent's law license away. They indicated that the OFP's were filed, in part, to put the Respondent's license in jeopardy. These statements are not credible for multiple reasons. First, neither witness, while testifying under oath during the first OFP hearing, stated that Gada threatened to take Respondent's law license away or put his career in jeopardy in any way. Second, the February OFP was filed before Respondent was licensed in Minnesota. It seems highly unlikely that someone new to this country (Gada) would

have the knowledge of how an accusation of abuse would affect another's admission to the bar or subsequent license. Finally, Gada did not initiate any contact the Director's office. Unlike Gada's consistent and credible statements regarding abuse, Respondent and his family's statements to the Referee were inconsistent with prior statements and not credible.

64. The Memorandum of the Referee is attached hereto and made a part of these Findings and Conclusions.

CONCLUSIONS OF LAW

1. Based upon Respondent's admission to failing to maintain proper trust account records, the Director has proved that Respondent's conduct violated Rule 1.15(h), MRPC.

2. The Director has proved by clear and convincing evidence that Respondent failed to provide competent representation for himself in violation of MRPC 1.1 in litigation where Respondent represented himself.

3. The Director has proved by clear and convincing evidence that Respondent knowingly offered evidence that Respondent knew to be false in violation of MRPC 3.3(a)(3).

4. The Director has proved by clear and convincing evidence that Respondent unlawfully obstructed another party's access to evidence in violation of MRPC 3.4(a).

5. The Director has proved by clear and convincing evidence that Respondent engaged in conduct that was prejudicial to the administration of justice in violation of MRPC 8.4(d).

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned makes the following:

RECOMMENDATION FOR DISCIPLINE

1. That Respondent, Nuro Bedhaso Dedefo, be suspended from the practice of law in the State of Minnesota, being ineligible to apply for reinstatement for a minimum of six months.

2. That Respondent, Nuro Bedhaso Dedefo, comply with the requirements of Rule 26, Rules of Lawyers Professional Responsibility (RLPR).
3. That Respondent, Nuro Bedhaso Dedefo, pay to the Director \$900 and costs, plus disbursements, pursuant to Rule 24, RLPR.
4. After six months of suspension have elapsed, Respondent may petition for reinstatement pursuant to Rule 18, RLPR, if he can demonstrate by clear and convincing evidence that:
 - a. He has paid \$900 and costs, plus disbursements, to the Director pursuant to Rule 24, RLPR;
 - b. He has complied with the notice requirements of Rule 26, RLPR;
 - c. He has successfully completed and obtained a passing grade on the multi-state professional responsibility examination within six months from the date of the Supreme Court Suspension Order pursuant to Rule 18(e), RLPR;
 - d. He has satisfied all continuing education requirements pursuant to Rule 18 (e), RLPR;
 - e. He is fit to practice law and that his past misconduct is unlikely to recur.

Dated: December 21, 2007

BY THE COURT



The Honorable Donald E. Rysavy
Judge of District Court
Supreme Court Appointed Referee

MEMORANDUM

The purpose of disciplinary action and any resulting sanction is not to punish a Respondent, but to protect the public and serve as a deterrent against future misconduct. In re Tieso, 396 N.W.2d 32, 34 (Minn. 1986)(citing In re Kramer, 361 N.W.2d 402, 405 (Minn. 1985)). Courts carefully consider “the nature of the misconduct; the cumulative weight of the disciplinary violations; the harm to the public; and the harm to the legal profession.” *Id.* (citing In re Smith, 381 N.W.2d 431, 434 (Minn. 1986)).

Respondent stated at the hearing that a suspension of his license would not only create an undue hardship on him and his immediate family, but also on the Ethiopian community in the Twin Cities. The Referee recognizes the hardship a suspension creates to the individual attorney, dependent family members and prospective clients. However, there are multiple issues in this matter that, while not being considered as aggravating factors by the Referee, trouble the Referee and neutralize the Referee’s concern for the Respondent, his family and prospective clients. These issues include Respondent’s excuse regarding his behavior at the January 2002 deposition, the larger issue of having no appreciation of his wrong doing, and his lack of cooperation during the proceedings. Similar issues have troubled the Minnesota Supreme Court in past discipline proceedings.

In In re Jensen, the Minnesota Supreme Court addressed a lack of following legal procedure. 542 N.W.2d 627 (Minn. 1996). In that matter, the Respondent failed to comply with various civil and appellate procedures. *Id.* at 628-632. The Respondent argued that the conduct was not unethical, but the Court declined to minimize the serious ethical violations. *Id.* at 632-633. The Court stated that “[i]f the procedural errors were simply inadvertent mistakes, they reflect adversely on Respondent’s competence to practice law. If they were intended to further harass [the opposing party] and her attorney by drawing out the litigation, they reflect adversely on Respondent’s fitness as a lawyer.” *Id.* at 633.

Like In re Jensen, Respondent’s statement at the January 2002 deposition that any information he had was protected by “attorney work product doctrine” was either intended to harass Defendants and their attorney or was evidence of startling incompetence. In effect, stating that discovery rules entirely preclude a party from learning any information from the opposing

attorney is more than a mere mistake of an inexperienced attorney, especially in light of Respondent's prior legal background in Ethiopia. If the assertion that all information in the matter fell under "work product doctrine" was not intended to harass, then it reflects adversely on Respondent's competence to practice law.

"In considering mitigating factors, this court looks for an appreciation by Respondent of the harm he has caused others and evidence that he considers himself obligated to conform to the canons of ethics." In re Franke, 345 N.W.2d 224, 229 (Minn.1984). The Supreme Court reviewed the disciplinary sanction in In re Agnew and upheld disbarment for various violations, noting that the Respondent "exhibited little, if any, appreciation of the needless harm and distress he has caused others." 311 N.W.2d 869, 872-873 (Minn. 1981).

Not only has Respondent declined to take any responsibility for his conduct at the deposition, but he refused to acknowledge that Defendants, Hunde, Iticha, ad Wake faced economic and emotional hardship due to his apparently groundless litigation. The only misconduct acknowledged by Respondent was his failure to maintain client trust account records. Even in regards to this misconduct, Respondent stated that it was an honest mistake of a new lawyer. His view of appropriate discipline for his multiple acts of misconduct in the seven years since his admission is a mere admonition. Respondent lacks any appreciation of his wrongdoing.

Failure to cooperate with the Director's investigation is, in and of itself, a violation of the Rules of Professional Conduct. An attorney is under an ethical obligation to cooperate in the Director's investigation of complaints of unprofessional conduct. In re Pierce, 706 N.W.2d 749, 756 (Minn. 2005)(citing Minnesota Rules of Professional Conduct 8.1). "Refusal to cooperate with disciplinary authorities is itself serious misconduct and warrants disciplinary action." In re Flanery, 431 N.W.2d 115, 119 (Minn.1988). In cases where attorneys have not been forthright, courts "should not hesitate to impose severe discipline when a lawyer demonstrates a lack of truthfulness and candor to the officers of the judicial system." In re LaChapelle, 491 N.W.2d 17, 21 (Minn. 1992).

While the Director has not specifically alleged lack of cooperation and Respondent has provided information when requested, Respondent's actions during the investigation and the hearing itself demonstrate less than complete cooperation and trouble the Referee. Not only did

Respondent continually dodge questions from the Assistant Director during the hearing, but coerced his pregnant wife to giving false testimony to the Director during the course of this disciplinary proceeding and investigation. Additionally, he allowed his mother and daughter to testify during the hearing to a fanciful explanation of the abuse allegation. Because Respondent provided requested information to Director and there is no violation of lack of cooperation alleged against Respondent, the Referee has not increased the sanction. However, the actual lack of cooperation and appreciation of wrongdoing discourages the Referee from lowering the sanction on the basis of the hardship of suspension.

DER/jag