

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against JOEL ANTHONY FRANKLIN,
a Minnesota Attorney,
Registration No. 271627.

**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 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 November 1, 1996. Respondent currently practices law in Rosemount, Minnesota.

INTRODUCTION

On May 26, 2005, respondent and the Director entered into a stipulation for private probation. Respondent's probation was based upon an admission that respondent neglected multiple client matters, failed to adequately communicate with clients about their pending matters, and failed to cooperate with the Director's investigation into the complaints. Respondent also had engaged in the unauthorized practice of law for a period of approximately four months while his license was suspended for non-payment of his licensing fee.

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 was the following: "Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention" (see Exhibit 1, ¶ 5(a)).

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

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

A. Kristine Aritt Matter

1. Respondent was retained by Kristine Aritt in 2004 to represent Aritt on her employment law litigation matter against her former employer. Respondent failed to make court appearances as scheduled, failed to respond to discovery requests served by the opposing party, and failed otherwise to move Aritt's case toward resolution, in violation of Rule 1.3, Minnesota Rules of Professional Conduct (MRPC).

2. Additionally, throughout the representation, respondent has failed to communicate adequately with Aritt about her matter, including failing to return phone calls, failing to pass along dates for depositions and court hearings or deadlines, and

failing to keep Aritt informed as to the status and progress, or lack thereof, of her matter (see Exhibit 2). This conduct violates Rule 1.4, MRPC.

SECOND COUNT

B. Livinus Daniel Matter

3. Respondent was retained in 2005 by Livinus Daniel to represent him on his employment law litigation matter. Daniel gave respondent an initial retainer of \$100 and left original documents with respondent pertinent to the matter. Respondent failed to respond to a demand for information from the Minnesota Department of Human Rights on Daniel's matter, and has otherwise failed to move the matter toward resolution, in violation of Rule 1.3, MRPC.

4. Respondent has failed to communicate with Daniel about the matter, failing to return Daniel's repeated phone calls and requests for information, since June 2005. Such conduct is in violation of Rule 1.4, MRPC.

5. Respondent has also failed to return Daniel's documents and other file materials to which he is entitled despite repeated demands by the client (see Exhibit 3). Such conduct violates Rule 1.16, MRPC.

THIRD COUNT

C. Daniel Hutchinson Matter

6. In November 2005 respondent was retained by Daniel Hutchinson to represent him on Hutchinson's employment law litigation matter. Respondent instructed Hutchinson not to return to work; respondent assisted Hutchinson in settling with his employer in December 2005, and respondent informed Hutchinson they would then pursue a claim against the union to which Hutchinson had belonged.

7. Respondent did not pursue Hutchinson's potential claim against the union, however, nor did respondent return Hutchinson's file materials, withdraw from

the case, or communicate with Hutchinson about his matter, despite numerous attempts by Hutchinson to contact respondent. Respondent has not communicated with Hutchinson at any time during 2006 (*see* Exhibit 4).

8. Respondent's conduct violated Rules 1.3 and 1.4, MRPC.

FOURTH COUNT

D. Failure to Cooperate

9. With respect to each of the above-referenced matters, the Director sent to respondent notices of investigation, directing respondent to send a written response to the allegations contained in each of the three complaints (*see* Exhibits 5, 6, 7).

Respondent did not do so.

10. The Director sent additional correspondence to respondent, reiterating the directive to respond to the complaints and referencing respondent's duty to do so under the Minnesota Rules of Professional Conduct. Respondent was advised that his continued failure to respond as required under the Rules would result in additional charges of non-cooperation (*see* Exhibit 8).

11. Respondent was also advised that the terms of his probation required his cooperation and that the terms also specified that respondent's failure to abide by the terms of the probation, including cooperating in the Director's investigation of any new complaints of misconduct, would result in a filing of a petition for public discipline, without the necessity of a Panel hearing prior to so doing. Additionally, the Director left phone messages for respondent containing this same information.

12. Nonetheless, respondent still failed to send any written response to any of the complaints or otherwise contact the Director about the complaints at any time for any other purpose. Such conduct constitutes a violation of Rule 8.1(b), MRPC.

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: July 12, 2006.



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