

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against WILLIAM L. FRENCH,
a Minnesota Attorney,
Registration No. 131945.

**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 30, 1981. Respondent currently practices law in Rochester, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

Respondent's history of prior discipline, including admonitions, is as follows:

- A. On September 14, 1995, respondent was issued an admonition for failing to pursue a client's case despite repeated requests to do so and failing to reply to his client's request for information, in violation of Rules 1.3, 1.4(a), and 3.2, Minnesota Rules of Professional Conduct (MRPC).
- B. On April 11, 2000, respondent was issued an admonition for failing to diligently pursue a client's case, failing to adequately communicate with

the client and failing to prepare a written contingent fee agreement, in violation of Rules 1.3, 1.4, and 1.5(c), MRPC.

FIRST COUNT

Pattern of Failing to Place Client Funds in Trust, Failing to Communicate with Clients Regarding Funds Received on Their Behalf and Misappropriation of Client Funds

Twaiten Matter

1. In late August 2007 Joel Twaiten met with respondent to discuss representation regarding (1) a lawsuit Twaiten had commenced against attorney Timothy Murphy,¹ and (2) a malpractice claim against attorney John Bonner.
2. On September 12, 2007, Twaiten and respondent entered into a contingent fee retainer agreement regarding Twaiten's malpractice claim against Bonner. Also on September 12, 2007, respondent wrote to Twaiten and stated that he would represent Twaiten in the Murphy matter, "or any other matter requiring legal representation, at the hourly rate of \$200 plus expenses." Respondent further stated, "If you have paid the amount of \$5,000, any further time and expenses incurred in these matters will be charged to your share of any recovery in the case of Twaiten v. Bonner, et al."
3. Twaiten paid the \$5,000 advance fee contemplated by his agreement with respondent on the following dates and in the following amounts: \$1,000 on September 4, 2007; \$1,000 on March 12, 2008; and \$3,000 on July 31, 2008.
4. Thereafter, based on newly discovered case law, respondent concluded that continued pursuit of Twaiten's malpractice claim against Bonner would be frivolous and a violation of Rule 11, Minnesota Rules of Civil Procedure. Respondent informed Twaiten of this fact and discontinued his representation of Twaiten on the

¹ The Murphy matter was later consolidated with another matter involving a substantial judgment against Twaiten.

Bonner matter. Respondent continued to represent Twaiten in the Murphy and related matters.

5. In early 2010 summary judgment was granted in favor of Murphy and another party to the consolidated proceedings with respect to Twaiten's claims against them. Respondent agreed to appeal the trial court's summary judgment on Twaiten's behalf, but required that Twaiten pay a \$1,200 advance on the costs to be incurred in the appeal. Twaiten paid the \$1,200 advance to respondent on February 3, 2010.

6. Respondent failed to deposit Twaiten's appellate cost advance into a trust account, instead depositing it into his business account.

7. Respondent thereafter paid from his business account appellate costs on Twaiten's behalf totaling \$1,404.75, as follows:

DATE	PURPOSE	AMOUNT	BALANCE
02/04/2010	Copies	\$ 14.00	\$ 1,186.00
02/09/2010	Cost bond	\$ 500.00	\$ 686.00
02/23/2010	Filing fee	\$ 550.00	\$ 136.00
04/19/2010	Printing	\$ 89.45	\$ 46.55
04/19/2010	Postage	\$ 27.05	\$ 19.50
05/07/2010	Transcript	\$ 224.25	-0-

8. At no time did respondent retain any undisbursed balance of Twaiten's cost advance in a trust account.

9. Twaiten's appeal was unsuccessful. In August 2010 respondent withdrew from Twaiten's representation in the Murphy and related matters.

10. In January 2011 respondent received a \$500 check payable to his trust account in refund of Twaiten's cost bond. Respondent did not inform Twaiten of his receipt of this check.

11. Respondent did not deposit the cost bond refund check into his trust account. Instead, respondent deposited the check into his business account and

retained the proceeds. Respondent's conduct in this regard constituted misappropriation.

J.B. and M.B. Matter

12. Beginning in April 2007 respondent represented J.B. and M.B. in litigation regarding an easement. The trial court's decision was not favorable to J.B. and M.B. and they determined to appeal the decision to the Minnesota Court of Appeals.

13. In a December 2, 2008, letter to J.B. and M.B., respondent stated, "I am willing to handle an appeal at no additional cost for attorney fees provided that the outstanding bill plus \$1,100 (for expenses) is paid on or before an appeal is undertaken."

14. By February 16, 2009, J.B. and M.B. had paid to respondent their outstanding bill and the \$1,100 appellate cost advance. By that time, respondent had advanced appellate costs on behalf of J.B. and M.B. totaling \$1,126.67, which included a \$500 cost bond.

15. In November 2009 respondent received a \$145.21 check in refund of J.B. and M.B.'s cost bond. Respondent did not inform J.B. or M.B. of his receipt of this check.

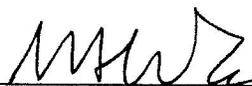
16. Respondent did not deposit the cost refund check into his trust account. Instead, respondent deposited the check into his business account and retained the proceeds. Respondent's conduct in this regard constituted misappropriation.

17. Respondent's conduct in failing to deposit the Twaiten appellate cost advance into his trust account, failing to retain the undisbursed balance of that appellate cost advance in his trust account, failing to inform Twaiten and J.B. and M.B. of the cost bond refunds he received on their behalf, and failing to deposit those cost

bond refunds into his trust account, violated Rules 1.4(a)(3), 1.15(a) and (c)(1), and 8.4(c) and (d), MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent or imposing other 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: January 16, 2014.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

and



SIAMA Y. CHAUDHARY
SENIOR ASSISTANT DIRECTOR
Attorney No. 350291