

FILE NO. A13-1963

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against MARK ALAN GREENMAN,
a Minnesota Attorney,
Registration No. 228990.

**SUPPLEMENTARY 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 supplementary petition for disciplinary action pursuant to Rules 10(e) and 12(a), Rules on Lawyers Professional Responsibility (RLPR).

Respondent is currently the subject of an October 15, 2013, petition for disciplinary action. The Director has investigated further allegations of unprofessional conduct against respondent.

The Director alleges that respondent has committed the following additional unprofessional conduct warranting public discipline:

SIXTH COUNT

P.K. Matter

108. Respondent represents P.K. in a matter venued in federal court.

109. An April 23, 2013, notice of settlement conference required the parties to submit by July 10, 2013, confidential letters to the court setting forth each party's settlement position prior to the settlement conference. Respondent failed to submit a letter to the court.

110. Respondent and his client failed to appear at the July 17, 2013, settlement conference. The court and the opposing party/defendant waited 30 minutes before adjourning.

111. On July 18, 2013, the court issued an order requiring respondent to "show cause in writing, on or before August 1, 2013 why the Court should not require him to reimburse Defense counsel for all costs and fees incurred in attending the aborted settlement conference." Respondent did not respond to the court's order.

112. On August 6, 2013, the court issued an order finding that respondent's client had not complied with the court's July 18, 2013, order and ordering respondent's client to pay \$800 to the defendant.

113. Respondent's conduct violated Rules 1.1, 1.3, 3.2, 3.4(c) and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

SEVENTH COUNT

T.V. Matter

114. Respondent represents T.V. in a matter venued in Hennepin County district court.

115. On June 6, 2013, the court issued a scheduling order, which required the parties to complete mediation by April 4, 2014. The June 6, 2013, scheduling order stated, "All mediation sessions must be attended, in person, by the attorneys who will try the case [and] the parties involved in the litigation"

116. On September 30, 2013, respondent and his client failed to appear for a previously scheduled mediation session with retired Judge Allen Oleisky, who was selected as mediator. Judge Oleisky, opposing counsel and representatives of the opposing party appeared as scheduled.

117. After waiting approximately 15 minutes, Judge Oleisky attempted to reach respondent by telephone. Respondent did not answer and his voicemail service

reported that his voicemail box was full. Judge Oleisky also emailed respondent, but did not receive a reply. After waiting at least one hour for respondent to appear, the mediation session was terminated.

118. Judge Oleisky emailed respondent again on September 30 and stated, "We need to set up another time and date to mediate this matter. Please contact me and Tom [opposing counsel] to arrange this." Respondent failed to respond to the email and did not contact Judge Oleisky or opposing counsel.

119. On October 2, 2013, Judge Oleisky emailed respondent and stated, "Please contact Tom Sheran or myself ASAP as to why you and your client did not show up at my office on Monday, Sept. 30th at 9:30 a.m. for the mediation that had been set for that time, place and date." Respondent failed to respond to the email and did not contact Judge Oleisky or opposing counsel.

120. On October 2, 2013, opposing counsel also emailed respondent and requested that respondent contact him. Respondent did not respond to the email and did not contact opposing counsel.

121. On October 7, 2013, opposing counsel filed a motion for sanctions and for a revised mediation order. The motion was scheduled to be heard on October 22, 2013. Respondent did not file a response to the motion.

122. On October 21, 2013, opposing counsel filed a motion for summary judgment scheduled to be heard on November 21, 2013.

123. On October 22, 2013, respondent and his client failed to appear for the hearing on opposing counsel's motion for sanctions and for a revised mediation order.

124. On October 22, 2013, the court issued an order granting the motion for sanctions. Respondent was ordered to pay \$500 to Judge Oleisky and \$522 in costs to the opposing party for T.V.'s failure to attend the September 30, 2013, mediation.

Additionally, the court lifted the requirement that the parties mediate the case before filing a motion for summary judgment.

125. On information and belief, respondent has not paid the sanctions imposed by the court's October 22, 2013, order.

126. On November 13, 2013, respondent stated to opposing counsel during a telephone conference that he was in rehabilitation, had not seen the summary judgment motion papers and was not able to discuss settlement of the issues raised in the summary judgment motion papers. Respondent did not request a continuance from, or otherwise communicate with, the court.

127. On November 21, 2013, respondent appeared for the hearing on the opposing party's summary judgment motion. Respondent informed the court that he had been at a residential treatment program out of state, had only returned to Minnesota a few days earlier and had been unable to file a written response. Respondent requested a continuance of the hearing. The court continued the hearing to December 20, 2013, and granted respondent until December 12, 2013, to file a response to the summary judgment motion. Respondent filed his response on December 17, 2013.

128. Respondent's conduct violated Rules 1.3, 3.2, 3.4(c) and 8.4(d), MRPC.

EIGHTH COUNT

D.T. Matter

129. Respondent represents D.T. in a matter venued in Hennepin County district court.

130. The opposing party moved to dismiss, or alternatively for summary judgment. In response, respondent mailed to the judge, but did not file, a memorandum opposing summary judgment. Respondent also submitted to the judge an affidavit of his client bearing only an electronic signature.

131. A motion hearing was scheduled for September 12, 2013. Respondent contacted the judge's chambers the afternoon before the hearing (on September 11, 2013) to notify the court that he would be unable to attend the hearing in person due to a family emergency, but that he could appear by telephone. Respondent provided the court with a telephone number.

132. On September 12, 2013, at 8:30 a.m., the court called respondent at the number he provided the previous day. Respondent failed to answer the call and did not, at any time thereafter, contact the court to explain his failure to participate in the hearing.

133. Respondent's conduct violated Rules 1.3, 3.2, 3.4(c) and 8.4(d), MRPC.

NINTH COUNT

Non-Cooperation

134. On May 23, 2013, the Director sent to respondent notice of investigation of the complaint of Ruby Clinkscale. Respondent was requested to provide to the assigned district ethics committee (DEC) investigator a complete written response to Clinkscale's complaint within 14 days.

135. On June 3, 2013, the Director issued a notice of reassignment of investigation of Clinkscale's complaint. Respondent was requested to provide to the new DEC investigator a complete written response to Clinkscale's complaint within 14 days of the reassignment. Respondent failed to respond.

136. On July 15, 2013, the DEC investigator wrote to respondent, stated that respondent's response was overdue and asked that respondent provide his response as quickly as possible. The DEC investigator informed respondent of his duty to cooperate with the investigation. Respondent failed to respond.

137. On September 3, 2013, the DEC investigator wrote to respondent again, reminded him of his duty to cooperate with the investigation, asked respondent to

contact him immediately and stated that if respondent failed to do so, he would recommend that respondent be disciplined for failure to cooperate.

138. On September 23, 2013, the Director sent to respondent notice of investigation of the complaint of Brian Hile. Respondent was requested to provide a complete written response to Hile's complaint within 14 days. Respondent failed to respond.

139. On September 24, 2013, respondent called the Director's Office and left a message with the receptionist indicating only that he would like a one week extension to respond. Respondent did not indicate in which matter he required an extension. The assigned Assistant Director returned respondent's call later that same day, but received a message that respondent's voicemail box was full. The assigned Assistant Director left a callback number on respondent's pager.

140. On September 25, 2013, the assigned Assistant Director attempted to return respondent's call again, but again received a message that respondent's voicemail box was full and could not accept new messages.

141. On or about September 25, 2013, respondent left a message for the DEC investigator in the Clinkscale matter. The DEC investigator returned respondent's call and left a message for him asking respondent to call him back and submit a response right away. Respondent failed to respond.

142. On October 16, 2013, the Director received the DEC's findings and recommendation in the Clinkscale matter.

143. On October 17, 2013, respondent called the Director's Office and stated he was presently in chemical dependency treatment and would not be back in Minnesota until November 20.

144. On October 23, 2013, the Director wrote to respondent, enclosed a copy of the DEC's findings and recommendation and noted respondent's failure to provide a

written response to Clinkscale's complaint. The Director also noted respondent's indication that he was seeking chemical dependency treatment out of state and would not return to Minnesota until approximately November 20. The Director requested that respondent submit a written response no later than December 6, 2013. Respondent failed to respond.

145. On October 24, 2013, the Director wrote to respondent and indicated that his response to Hile's complaint was overdue. The Director noted respondent's indication that he was seeking chemical dependency treatment out of state and would not return to Minnesota until approximately November 20. The Director requested that respondent submit a complete written response to Hile's complaint no later than December 9, 2013. Respondent failed to respond.

146. On November 7, 2013, the Director sent to respondent notice of investigation of the T.V. and D.T. matters. Respondent was requested to provide a complete written response to the notice of investigation within three weeks. Respondent failed to respond.

147. On November 19, 2013, the Director sent to respondent notice of investigation of the P.K. matter. Respondent was requested to provide a complete written response to the notice of investigation within three weeks. Respondent failed to respond.

148. On December 6, 2013, the Director wrote to respondent, noted that he failed to respond to the notice of investigation into the T.V. and D.T. matters and requested that he submit his complete written response to the notice of investigation within one week. Respondent failed to respond.

149. On December 17, 2013, following a telephone conversation with respondent on December 16, 2013, the Director wrote to respondent and requested that

he submit his written responses to the Clinkscale, Hile, P.K., T.V. and D.T. matters on or before December 31, 2013. Respondent failed to respond.

150. As of January 9, 2014, respondent had not provided written responses to the Clinkscale, Hile, P.K., T.V. and D. T. matters.

151. Respondent's conduct violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

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: January 10, 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

This supplementary petition is approved for filing pursuant to Rule 10(e), RLPR,
by the undersigned.

Dated: 1-13, 2014.



NANCY ZALUSKY BERG
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD