

FILE NO. C4-94-1162

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against DAVID GRONBECK,
an Attorney at Law of the
State of Minnesota.

**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 pursuant to Rules 10(a) and 12(a), Rules on Lawyers Professional Responsibility (RLPR). The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on September 16, 1974. Respondent currently practices law in Minneapolis, 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 December 2, 1983, respondent received an admonition for filing a lien for attorney fees in excess of the fees related to the property subject to the lien in violation of Disciplinary Rule DR 7-102(A)(1), Minnesota Code of Professional Responsibility (MCPR).

b. On September 13, 1986, respondent received an admonition for failing to return a client's file promptly upon request and requesting the client to sign a release of liability, in violation of DR 6-102(A) and DR 9-102(B)(4), MCPR.

c. On October 13, 1988, respondent was placed on private supervised probation for a period of two years. Respondent's discipline was based on his failure to keep a client informed of the status of the client's case, failure to comply with his client's requests for information and failure to refund unearned fees, in violation of Rules 1.4 and 1.16(d), Minnesota Rules of Professional Conduct (MRPC).

d. On February 27, 1995, the Supreme Court ordered that respondent be suspended from practice for 30 days, followed by a two-year supervised probation upon reinstatement for failing to timely file his income tax returns and failure to pay quarterly withholding.

e. On August 20, 1996, respondent received an admonition for depositing client funds into his business account instead of a trust account, failing to diligently pursue a client's matter, and failing to adequately communicate with that client in violation of Rules 1.15(a), 1.3, and 1.4, MRPC.

FIRST COUNT

Lauderdale Class Action Matter

1. Respondent represented eight clients in a class action suit against the City of Lauderdale. Each of the eight clients gave respondent \$200 as an advance against costs to be incurred.

2. On January 12, 1999, summary judgment was granted in favor of the City of Lauderdale. Respondent undertook to appeal the judgment on behalf of his clients.

3. Respondent failed to timely file a notice of appeal and the time to appeal from the summary judgment expired.

4. Respondent failed to promptly notify his clients of the fact that the appeal was not timely filed.

5. Respondent failed to provide an accounting regarding the funds given to him by the clients until December 21, 2000, at which time he provided an accounting and returned the unused portion of the funds.

6. Respondent's conduct in failing to timely file an appeal in the Lauderdale class action matter, failing to keep his clients advised of the status of that matter, and in failing to timely provide an accounting of the funds received from his clients and a refund of the unused portion of those funds violated Rules 1.3, 1.4, 1.15(c), and 1.16(d), MRPC.

SECOND COUNT

Failure to Cooperate with Disciplinary Investigation

7. On October 1, 1999, the Director mailed to respondent a notice of investigation in the matter of the complaint of Hilda Kuester, one of the clients in the Lauderdale class action matter. That notice requested a complete response within 14 days pursuant to Rule 25, RLPR, and Rule 8.1(a)(3), MRPC.

8. Respondent did not provide a written response to the complaint of Hilda Kuester until November 4, 1999.

9. On April 25, 2000, respondent met with a representative of the Director's Office to discuss the complaints of Hilda Kuester and Janet Boeke. At that meeting, respondent agreed he would promptly provide any and all trust account records and accountings pertaining to the retainers paid to him by the clients in the class action matter.

10. On May 2, 2000, respondent called the Director's Office to state that he would have the trust account records and accounting submitted by May 5.

11. On December 6, 2000, the Director wrote to respondent noting that no trust account documents or accounting had yet been received. That letter requested that respondent provide the requested information within one week.

12. On December 21, 2000, respondent provided the Director with copies of letters accounting for the retainers in the class action matter. Those letters had been mailed on December 21, 2000, as well. Respondent's December 21 letter to the Director stated, in part, "I will be forwarding you full detail with copies of retainer agreements, checks, deposit tickets and the like in approximately 10 days."

13. On March 8, 2001, the Director wrote to respondent noting that no retainer agreements, checks, deposit tickets and other trust account books and records had yet been received. That letter requested that respondent provide those documents within 10 days.

14. Respondent did not provide the Director with the relevant trust account books and records until April 17, 2001.

15. Respondent's conduct in failing to cooperate with the disciplinary investigation violated Rule 8.1(a)(3), 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: May 17, 2001.



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