

FILE NO. A06-398

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against CHARLES L. HAWKINS,
a Minnesota Attorney,
Registration No. 124369.

**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 a February 14, 2006, petition for disciplinary action. On February 24, 2006, the Director filed the petition and a stipulation. On March 23, 2006, the Court remanded this matter to the Director for further investigation regarding respondent's practice before the Minnesota Court of Appeals (COA) and whether respondent's misconduct had adversely impacted his clients. The Director has investigated these further allegations of unprofessional conduct against respondent.

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

SECOND COUNT

Practice Before the Minnesota Court of Appeals

6. The Director reviewed respondent's filings at the COA and determined that respondent has engaged in the following conduct:

State of Minnesota v. Jay Gordan Fairbanks

7. On January 13, 2003, respondent filed an appeal with the COA on behalf of Jay Gordan Fairbanks. Pursuant to Rule 28.02, subd. 10, Minnesota Rules of Criminal Procedure (MRCP), appellant's brief was due June 20, 2003.

8. On June 24, 2003, respondent filed a motion to enlarge the time until June 30, 2003, to file appellant's brief. Respondent stated that he was a sole practitioner and without the benefit of associates or law clerks and had been unable to complete the brief because of time constraints created by preparation and travel for other matters pending before state and federal courts, in the District of Minnesota and elsewhere.

9. On June 26, 2003, the COA issued its order granting respondent's motion for an extension to June 30, 2003, to file his appellant's brief. Respondent did not file a brief.

10. After consultation with respondent, Fairbanks decided not to proceed with his appeal. Respondent did not file a motion to dismiss or otherwise notify the court that he would no longer pursue Fairbanks' appeal.

11. By order dated July 9, 2003, the COA directed respondent to file his appellant's brief by July 21, 2003, and denied oral argument in Fairbanks' matter. Respondent failed to respond.

12. On August 6, 2003, the COA dismissed Fairbanks' appeal, subject to a motion to reinstate.

State of Minnesota v. Wayne Cole Johnson

13. On January 16, 2003, respondent filed an appeal with the COA on behalf of Wayne Cole Johnson. Pursuant to Rule 28.02, subd. 10, MRCP, appellant's brief was due June 2, 2003.

14. On June 3, 2003, respondent filed a motion to enlarge time until June 9, 2003, to file appellant's brief. Respondent stated that he was unable to meet the Court's briefing schedule because of time constraints created by preparation and travel for other

matters in state and federal courts, in the District of Minnesota and elsewhere and because he was a sole practitioner and without the benefit of associates or law clerks.

15. On June 5, 2003, the COA issued an order granting respondent's motion to enlarge time until June 9, 2003, to file Johnson's appellant's brief. Respondent filed a supplemental motion requesting a second extension to June 18, 2003. The COA granted respondent's motion, but respondent failed to file appellant's brief.

16. On July 9, 2003, the COA issued an order directing respondent to file his brief by July 21, 2003, or face dismissal of Johnson's appeal and denying oral argument. Respondent did not file a brief on behalf of Johnson.

17. On August 6, 2003, the COA dismissed Johnson's appeal, directed respondent to file any motion to reinstate by August 18, 2003, and to accompany any such motion with appellant's brief and affidavits of service for the brief and motion to reinstate.

18. Respondent filed his motion to reinstate along with his appellant's brief on August 26, 2003. Respondent asserted that in addition to his busy criminal practice, he had spent many hours assisting Douglas W. Thomson in closing his law practice. The COA granted respondent's motion to reinstate Johnson's appeal. In granting respondent's motion, the Court stated that failure to timely file a brief is a technical, nonjurisdictional matter and that the opposing party had not shown that it would be prejudiced by reinstatement of the appeal.

19. On February 3, 2004, the COA affirmed Johnson's conviction.

State of Minnesota v. Richard Petersen

20. On July 11, 2003, respondent filed an appeal with the COA on behalf of Richard Petersen.

21. On July 28, 2003, the court reporter filed the transcript. Pursuant to Rule 28.02, subd. 10, MRCP, appellant's brief was due 63 days after delivery of the

transcript by the reporter. Respondent failed to timely file an appellant's brief or a motion for an extension.

22. On October 3, 2003, the Court directed respondent to file his brief and denied oral argument in Petersen's matter.

23. On October 24, 2003, appellant served and filed a brief. On October 30, 2003, respondent filed a motion to enlarge time. Respondent stated that he had diligently tried to meet the Court's briefing schedule, but had been unable to do so because of time constraints created by preparation and travel for other matters in both state and federal courts, in the District of Minnesota and elsewhere and because he was a sole practitioner without the benefit of associates and law clerks.

24. On November 5, 2003, the COA accepted respondent's appellant's brief stating that "failure to timely file a brief is a technical, nonjurisdictional matter. *Progressive Cas. Ins. Co. v. Kraayenbrink*, 365 N.W.2d 229, 231 (Minn. 1985). Because appellant has now filed the brief and the delay has not been substantial, we will allow the appeal to proceed."

25. On June 8, 2004, the COA affirmed Petersen's conviction.

Susan M. Beach v. Eric Beach

26. Respondent represented Susan M. Beach in a domestic-abuse proceeding. The court granted Susan Beach an order for protection (OFP). Eric Beach appealed and timely filed his brief on June 23, 2004.

27. On July 26, 2004, respondent filed a motion for an extension of time to file his brief. The COA denied respondent's motion.

28. After consultation with respondent and other lawyers, Mrs. Beach instructed respondent not to file a brief. Respondent did not inform the COA that he was no longer participating in the appeal.

29. The COA proceeded under Rule 142.03, Minnesota Rules of Civil Appellate Procedure, and affirmed issuance of the OFP on January 11, 2005.

30. Respondent's conduct in the Fairbanks, Johnson, Petersen and Beach appellate matters represents a pattern of misconduct which violates Rules 1.3, 3.4(c) and 8.4(d), Minnesota Rules of Professional Conduct.

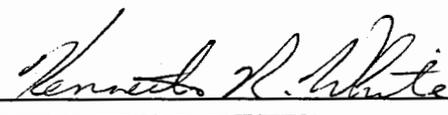
WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: July 24, 2006.



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

Dated: 7/26, 2006. 

KENNETH R. WHITE
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD