FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against ROBERT J. HEALY,
a Minnesota Attorney,
Registration No. 42973.

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. The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 27, 1958. Respondent currently practices law in St. Paul, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

COUNT ONE

Forgery, False Notarization and False Statement

1. On or about October 22, 2000, Andrew Kelly retained respondent to represent him in a personal injury matter.

2. On or about December 18, 2000, without Kelly's knowledge or consent, respondent signed Kelly's name to a medical authorization directed to Blake Chiropractic Clinic ("Blake"), one of Kelly's medical providers. Respondent sent the forged authorization to Blake and, based thereon, obtained Kelly's medical records.

3. In or about March 2001, respondent settled Kelly's no-fault and uninsured motorist claims with Mendota Insurance Company ("Mendota"), Kelly's insurer.

4. Later in March 2001, respondent received from Mendota a release for Kelly's no-fault claim and a separate release for Kelly's uninsured motorist claim, together with checks in settlement of each of those claims.

5. Respondent and Kelly negotiated the checks. Respondent disbursed the funds with Kelly's full knowledge and consent.

6. On or about March 22, 2001, without Kelly's knowledge or consent, respondent signed Kelly's name to both releases. Respondent then notarized the signatures he had forged. Respondent thereafter provided copies of the releases to Kelly.

7. Respondent sent the forged releases to Mendota. In his March 22, 2001, transmittal letter to Mendota, respondent stated, "[Kelly] recently hurt his arm and it was in a soft cast. His signature is a little jerky." Respondent's statement that Kelly signed the releases was false. Although Kelly had broken his arm, he had not signed the releases.

8. Respondent's forgery of Kelly's signature on the Blake authorization, forgery of Kelly's signature on the Mendota releases, false notarization of the forged Mendota releases and false statement that Kelly had signed the releases violated Rules 4.1 and 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC).

COUNT TWO

False Statements to the Disciplinary Authorities

9. In December 2004 Kelly filed a complaint with the Director. The matter was assigned for investigation to the Second District Ethics Committee (DEC).

10. On March 22, 2005, respondent met with the assigned DEC investigator. Respondent stated that he did not sign Kelly's name to the Mendota releases. This statement was false.

11. On June 8, 2005, respondent wrote to the Director. Respondent stated, "I did not forge [Kelly's] signature on anything." Respondent's statement was false.

12. On June 28, 2005, respondent met with representatives of the Director. Respondent stated that he did not sign Kelly's name to the Mendota releases or the Blake authorization. Respondent also stated that Kelly visited respondent's office and signed the Mendota releases in respondent's presence. Respondent's statements were false.

13. In letters to the Director dated August 22 and September 2, 2005, respondent for the first time acknowledged signing Kelly's name to the Blake authorization. Respondent continued to deny, however, signing Kelly's name to the Mendota releases.

14. As part of the investigation of Kelly's complaint, a forensic document examiner studied the original Mendota releases and exemplars of both respondent's and Kelly's handwriting. In her September 13, 2005, report this examiner stated, "It was determined that the questioned Andrew Kelly signatures on [the Mendota releases] were produced by . . . Robert Healy."

15. Upon receipt of the forensic document examiner's report, respondent acknowledged, for the first time, that he signed Kelly's name to the Mendota releases and notarized the forged signatures.

16. Respondent's false statements during the disciplinary investigation violated Rules 8.1(a)(1) and 8.4(c) and (d), MRPC.

COUNT THREE

Loan to Client

17. On March 21, 2001, immediately before respondent negotiated the Mendota settlement checks, respondent loaned Kelly $1,100 from his personal funds as advance on Kelly's share of the total settlement proceeds.

18. With respect to his $1,100 loan to Kelly, respondent failed to (a) notify Kelly in writing to consider consulting with independent legal counsel, (b) communicate to Kelly the terms of the transaction in writing, or (c) obtain Kelly's written consent to the transaction.

19. Respondent's conduct in loaning funds to Kelly as an advance on his share of the settlement proceeds violated Rules 1.8(a) and (e), MRPC.

COUNT FOUR

Destruction of Client File

20. On August 25, 2004, Kelly asked respondent to provide his original file in the personal injury matter. Respondent stated that the file was in storage in his garage, but did not produce the file.

21. Kelly filed a complaint with the Director in December 2004. During the investigation of the complaint, respondent told the DEC investigator that he had destroyed Kelly's original client file. Respondent had not informed Kelly of his intent to destroy the file.

22. Respondent's conduct in destroying Kelly's file less than four years after his representation of Kelly ended violated Rules 1.15(c)(4) and 1.16(d), MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent from the practice of law or imposing otherwise 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: October 27, 2005.

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