

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against ALFRED L. HOEDEMAN,
an Attorney at Law of the
State of Minnesota.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of a Lawyers Professional Responsibility Board Panel Chair, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(d) 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, 1959. Respondent currently practices law in Minneapolis, Minnesota. Respondent was suspended on April 1, 2000, for non-payment of attorney registration fees.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

On March 3, 1998, respondent was placed on private probation for a period of two years. Respondent's discipline was for failing to deposit client funds into his trust account, negligent misappropriation of client trust funds and failing to maintain proper trust account books and records in violation of Rule 1.15, Minnesota Rules of

Professional Conduct (MRPC), and Lawyers Professional Responsibility Board (LPRB) Opinion 9 (Exhibit 1).

Respondent received an April 17, 1998, admonition for neglect of a real estate matter in violation of Rule 1.3, MRPC.

Respondent received a 1984 amended admonition for failure to return all client documents and property in violation of DR 9-102(B)(4), Minnesota Code of Professional Responsibility.

FIRST COUNT

Failure to Cooperate with Probation

1. Among the conditions of respondent's private probation were the following:

a. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation and promptly respond to the Director's correspondence by the due date. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

b. Respondent shall abide by the Minnesota Rules of Professional Conduct.

c. Respondent shall be supervised by the Director's Office, who will monitor respondent's compliance with the terms of this probation.

d. Respondent shall maintain law office and trust account books and records in compliance with Rule 1.15, MRPC, and LPRB Amended Opinion No. 9. These books and records include the following: cash receipts journal, cash disbursements journal, client subsidiary ledger, checkbook register,

monthly trial balances, monthly trust account reconciliation, bank statements, canceled checks, duplicate deposit slips and bank reports of interest, service charges and interest payments to the Lawyer Trust Account Board. Respondent shall employ a qualified accountant to assist in the maintenance of his books and records.

e. Respondent shall make the books and records regarding his Interest on Lawyers Trust Account account available to the Director within 30 days of the approval of this stipulation and thereafter at such intervals as the Director deems necessary to determine compliance.

f. Respondent's accountant shall certify to the Director that all required books and records are maintained for all non-IOLTA trust accounts. Such books and records shall be made available to the Director upon request should there be an overdraft in any trust account or should there be by [sic] any other reasonable basis for belief that misconduct may have occurred in relation to any of respondent's trust accounts.

2. On March 9, 1998, the Director wrote to Marcy L. Wallace, respondent's counsel, setting out respondent's obligations under his probation and requesting, among other things, that he submit for the Director's review his trust account books and records through February 28, 1998 (Exhibit 2).

3. On April 3, 1998, respondent provided his trust account books and records for December 2, 1993, through February 28, 1998. The Director determined that respondent's trust account books and records did not comply with Rule 1.15, MRPC, and LPRB Opinion 9. On June 2, 1998, the Director wrote to respondent asking that he provide within ten days his subsidiary ledgers accounting for \$4,970.04 held in the trust account since at least May 31, 1997, and his check register back to May 31, 1997 (Exhibit 3).

4. On August 21, 1998, the Director wrote to respondent reminding him that, among other things, he had not yet responded to the Director's June 2, 1998, letter (Exhibit 4). Respondent did not respond. After additional reminder letters on August 21, 1998, September 21, 1998, and October 7, 1998 (Exhibits 5-6), respondent provided computer records for his non-IOLTA trust accounts on October 15, 1998, but did not provide the requested trust account records.

5. The Director wrote to respondent on October 27, 1998, requesting, among other things, that he provide copies of his trust account check register, all subsidiary ledgers accounting for the \$4,970.04, and an explanation of an overdraft which occurred in the Russell H. Baumgardner non-IOLTA trust account within ten days (Exhibit 7).

6. On November 8, 1998, respondent provided a partial check register, but failed to provide a check register for the complete time period requested and subsidiary ledgers for the \$4,970.04.

7. On November 30, 1998, the Director wrote to respondent stating that his submissions were not responsive to the Director's prior requests and requesting that within ten days he provide, among other things, a complete copy of his trust account ledger, subsidiary ledgers accounting for the \$4,970.04, and an explanation of the overdraft in the Russell H. Baumgardner non-IOLTA trust account (Exhibit 8).

8. On December 9, 1998, respondent provided, with the exception of July 1998, all trust account bank statements for March 1998 through November 1998. Respondent's trust account was inactive during the entire period with an adjusted balance of \$4,970.04.

9. On March 10, 1999, the Director again requested respondent provide, among other things, a complete copy of his trust account ledger, the subsidiary ledgers accounting for the \$4,970.04, and an explanation of the overdraft in the Russell H. Baumgardner non-IOLTA trust account (Exhibit 9).

10. On March 31, 1999, respondent provided an explanation of the Russell H. Baumgardner overdraft. On April 7, 1999, respondent provided for the Director's review partial trust account books and records for the months of March 1998 through March 1999.

11. On May 4, 1999, the Director wrote to respondent stating that his March 1998 through March 1999 trust account books and record did not comply with Rule 1.15, MRPC, and LPRB Opinion No. 9, and requested that he appear at a May 11, 1999, meeting at the Director's Office to submit certain trust account books and records and discuss the requirements of his probation (Exhibit 10). Respondent failed to appear for the May 11, 1999 meeting.

12. On May 18, 1999, respondent telephoned the Director's Office stating that he had not received the Director's May 4, 1999, letter and rescheduled the meeting (Exhibit 11). Respondent met with the Director on June 14, 1999, but did not provide the books and records requested in the Director's May 4, 1999, letter.

13. On September 21, 1999, the Director wrote to respondent requesting that he provide the documents identified in the May 4, 1999, letter along with the additional documents discussed during the June 14 meeting (Exhibit 12). Respondent did not respond.

14. On October 26, 1999, the Director wrote to respondent requesting that he appear at the Director's Office on November 5, 1999, to discuss his failure to cooperate with his probation and whether his probation should be continued (Exhibit 13). Respondent failed to appear for the November 5, 1999, meeting.

15. On November 8, 1999, the Director wrote to respondent scheduling a second meeting for November 16, 1999, and requesting an immediate call if he was unable to appear as scheduled (Exhibit 14). Respondent did not call or appear for the meeting.

16. On February 3, 2000, notice of investigation of respondent's failure to cooperate with the requirements of his probation was sent to respondent. The notice requested respondent to provide within 14 days of the notice a written explanation of his failure to cooperate with his probation (Exhibit 15). Respondent failed to respond.

17. On March 3, 2000, the Director wrote to respondent scheduling a third meeting for March 16, 2000, and requesting respondent to call if he was unable to appear (Exhibit 16). Respondent did not call or appear for the meeting.

18. Under the terms of his probation, respondent is required to provide an accountant's quarterly certifications that several non-IOLTA trust accounts he manages are in compliance with the Rules. Despite numerous reminder letters and a meeting between the Director and his accountant, the Director has only received certifications for the months of March 1998 through July 1999.

19. On March 29, 2000, the Director's Office served charges of unprofessional conduct and a notice of a pre-hearing meeting scheduled for April 11, 2000, at 9:00 a.m. in the Office of Lawyers Professional Responsibility.

20. Respondent did not appear for the pre-hearing meeting nor did he call the Office to indicate that he would not appear.

21. Respondent's conduct in failing to cooperate with the requirements of his probation, his failure to respond to the February 3, 2000, notice of investigation, his failure to attend the April 11, 2000, pre-hearing meeting and his failure to cooperate in other respects violated the March 3, 1998, stipulation placing him on private probation, Rule 8.1(a)(3), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent or imposing otherwise appropriate discipline, awarding costs

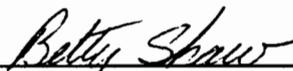
and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: April 20, 2000.



EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
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and



BETTY M. SHAW
SENIOR ASSISTANT DIRECTOR
Attorney No. 130904

This petition is approved for filing pursuant to Rules 10(d) and 12(a), RLPR, by the undersigned Panel Chair.

Dated: May 7, 2000.



STEVEN J. OLSON
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD