FILE NO. C9-99-1192

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action against DANIEL FRANCIS JAMBOR, an Attorney at Law of the State of Minnesota.	**PETITION FOR REVOCATION OF PROBATION AND FOR FURTHER 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 pursuant to Rule 12(a), Rules on Lawyers Professional Responsibility (RLPR), and pursuant to this Court's August 23, 1999, order in the matter.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 23, 1992. Respondent currently practices law in Blaine, Minnesota.

INTRODUCTION

By August 23, 1999, order, this Court publicly reprimanded respondent and ordered him placed on probation for two years. A copy of the Court's order is attached as Exhibit 1.

Respondent's discipline was based upon neglecting two client matters, making misrepresentations to clients and others involved in those matters, and failing to cooperate with the Director's investigation of complaints regarding those matters.

Among the conditions of respondent's probation was 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

7. On August 16, 2000, the Director mailed a Notice of Investigation to respondent requesting that he respond in writing to the complaint of Cynthia Harvey within ten days. The Notice specifically noted that the request was made pursuant to Rule 25, RLPR, and Rule 8.1(a)(3), MRPC.

8. Respondent has not provided the Director with a written response to the complaint of Cynthia Harvey.

9. On August 16, 2000, the Director mailed a Notice of Investigation to respondent requesting that he respond in writing to the complaint of Michael Kolodjski within 14 days. The Notice specifically noted that the request was made pursuant to Rule 25, RLPR, and Rule 8.1(a)(3), MRPC.

10. Respondent has not provided the Director with a written response to the complaint of Michael Kolodjski.

11. On August 17, 2000, the Director mailed a Notice of Investigation to respondent requesting that he respond in writing to alleged neglect in the matter of *American Alpine Mortgage, LLC. v. Tracy Mixon* within two weeks. The Notice specifically noted that the request was made pursuant to Rule 25, RLPR.

12. Respondent has not provided the Director with a response in the *American Alpine Mortgage, LLC. v. Tracy Mixon* matter.

SECOND COUNT

Pattern of Frivolous and Retaliatory Litigation

13. On November 19, 1999, Christopher W. Neston submitted a complaint against respondent to the Office of Lawyers Professional Responsibility (OLPR). That complaint alleged misconduct by respondent in connection with his handling of a real estate closing.

14. On January 14, 2000, respondent brought suit against Christopher W. Neston in Anoka County District Court alleging that Neston, on or about November 19, 1999, defamed respondent. The alleged defamation consisted of the statements that were contained in Neston's complaint to the Director.

15. On December 21, 1999, Beth Jones filed a complaint with the Department of Labor & Industry alleging that respondent had made false statements in an application for insurance. Her complaint referenced a November 14, 1999, letter she had written to the Minnesota Workers Compensation Insurers Association, Inc.

16. On December 27, 1999, the Department of Labor & Industry referred the complaint to the OLPR.

17. On January 10, 2000, the Director mailed a Notice of Investigation to respondent regarding Beth Jones' complaint.

18. On January 12, 2000, respondent instituted suit against Beth Jones in Anoka County District Court alleging defamation based upon statements that Jones had made that respondent had threatened her.

19. Jones and Neston both retained the same counsel to defend the litigation commenced by respondent.

20. During the course of the litigation, respondent served requests for admissions on both Neston and Jones. Both requests for admissions made references to statements made by Neston and Jones in their complaints to the OLPR.

21. During the course of the litigation, discovery requests were served upon respondent. Respondent failed to comply with these discovery requests.

22. On June 6, 2000, the court ordered that respondent appear for his deposition and provide full and complete answers to interrogatories and requests for production of documents that were served upon him and assessing attorney's fees against him. The order required respondent to comply with the discovery requests and pay the fees assessed by June 14, 2000, and provided that respondent's lawsuits be dismissed with prejudice should respondent fail to comply with its order in all respects.

23. Respondent failed to comply with the court's order regarding discovery and payment of attorney's fees and, accordingly, on June 22, 2000, respondent's suits against Jones and Neston were dismissed with prejudice.

24. On July 28, 2000, John and Nancy Morrell filed a complaint against respondent with the OLPR. Their complaint alleged that respondent, in the course of handling a real estate closing on their behalf, failed to disburse closing proceeds of approximately $21,000 intended to pay off prior mortgages on the property. Respondent served as the closer in the transaction under the auspices of Integrity Abstract & Title, Inc., a corporation owned and operated by respondent.

25. On August 1, 2000, the Director mailed a Notice of Investigation to respondent regarding the complaint of John and Nancy Morrell.

26. On August 3, 2000, respondent mailed a summons and complaint to John and Nancy Morrell alleging that they breached their contract with Integrity Title & Abstract , Inc. by not providing additional funds to cover late payment fees and interest. Respondent asked that the Morrells admit service by mail.

27. On March 6, 2000, Jean Lee filed a complaint against respondent with the OLPR. Her complaint alleged that respondent had not acted diligently in representing her in a real estate matter.

28. On March 14, 2000, the Director mailed a Notice of Investigation to respondent regarding the complaint of Jean Lee.

29. On August 3, 2000, respondent commenced suit against Lee in Ramsey County District Court seeking to collect fees claimed owed for legal services in the amount of $1,194.60.

30. Respondent told Lee's new attorney that his action against Lee was brought in Ramsey County District Court, rather than Anoka County Conciliation Court, in order to make the proceedings more expensive for Lee to defend.

31. Respondent's suits against Neston, Jones, Morrell and Lee were all brought in retaliation for their having filed complaints with the OLPR.

THIRD COUNT

Continued Neglect and Non-Communication

Lee Matter.

32. On November 17, 1999, Jean P. Lee retained respondent to clear title to certain real estate sold by Lee.

33. On November 18, 1999, respondent sent a letter of undertaking to Stewart Title Guaranty Company stating that he anticipated concluding the actions necessary to clear title within 30 to 45 days.

34. Amongst the matters which respondent undertook was the probate of the estate of Irven Leonard Lee. Respondent failed to file any documents necessary to commence a probate proceeding until February 23, 2000.

35. On March 2, 2000, Lee discharged respondent and obtained new counsel.

Priority Mortgage Matter.

36. Priority Mortgage, Inc. (Priority) retained respondent to represent it in the matter of *Georgetta Vaughn v. Priority Mortgage, Inc., et. al.*

37. On May 2, 2000, Vaughn's attorney served an amended complaint upon respondent as attorney for Priority.

38. On May 30, 2000, Vaughn's attorney wrote to respondent asking if he intended to respond to the amended complaint.

39. On June 1, 2000, at respondent's request, Vaughn's attorney faxed a second copy of the amended complaint to respondent.

40. On June 5, 2000, Vaughn's attorney wrote to respondent informing him that, unless a response to the amended complaint was served by June 9, he would schedule a motion for a default judgment.

41. Respondent failed to serve a response to the amended complaint.

42. On June 29, 2000, a default judgment was entered against Priority as a result of respondent's failure to serve or file an answer to the amended complaint.

Mixon Matter.

43. In March 1999 Tracey Mixon retained respondent to represent her in civil proceedings pending in Hennepin County District Court.

44. At the time Mixon retained respondent there was pending a motion to enforce a purported settlement agreement in the litigation. Responsive documents to that motion were due to be filed and served by May 3, 1999.

45. Respondent did not serve or file a response to the motion until May 7, 1999.

46. At a motion hearing on May 10, 1999, the court refused to accept respondent's responsive motion as untimely.

47. As a result of the motion being unopposed, the court granted judgment against Mixon and awarded $10,000 in sanctions against Mixon.

48. Respondent failed to pursue any motion to reopen or appeal the trial court decision or explain to the court that Mixon did not have the funds to pay the $10,000 sanction.

49. When the $10,000 sanction was not paid as set forth in the court's order, an order to show cause hearing was scheduled for June 14, 1999.

50. Respondent failed to appear at the June 14, 1999, motion hearing on behalf of Mixon and Mixon was found in contempt of court for failing to pay the sanction. The court issued a bench warrant for Mixon's arrest.

51. On July 16, 1999, Mixon obtained new counsel.

52. In November 1999 Mixon sued respondent for malpractice arising out of his failure to adequately represent her in the litigation.

53. During the course of the legal malpractice action, respondent failed to fully comply with discovery requests served upon him by Mixon.

54. On February 28, 2000, the court ordered that respondent fully comply with discovery within five days. Respondent failed to do so.

55. On May 9, 2000, the court issued an order finding respondent in contempt for failure to comply with the court's February 28, 2000, order and entered default judgment against respondent.

Harvey Matter.

56. In September 1999 Cynthia Harvey retained respondent for representation in a marriage dissolution matter. Harvey told respondent that time was of the essence in the dissolution because she was scheduled to donate half her pancreas to her sister in March 2000. She wanted the dissolution completed by that time so that, if she were to die during surgery, her estate would go to her daughters, not her husband.

57. On October 15, 1999, a petition for marriage dissolution was signed.

58. On January 14, 2000, Harvey and her husband signed a Marital Termination Agreement that had been drafted by respondent.

59. Throughout the latter half of January, February, March and April 2000, Harvey repeatedly called respondent to inquire as to the status of the dissolution. Despite leaving approximately 50 messages for respondent on his voicemail, respondent returned only two of Harvey's calls.

FOURTH COUNT

Pattern of False and Misleading Statements

Harvey Matter.

60. During the course of representing Cynthia Harvey, as more fully set forth above, respondent twice falsely told Harvey that the marriage dissolution proceedings had been completed and she was divorced.

61. In fact, respondent had not completed the Harvey dissolution proceedings. While he had filed the Marital Termination Agreement executed by the parties, the Court required the correction of 26 errors in the documents submitted by respondent before the dissolution could be completed. Respondent never provided the corrections.

LLC Matter.

62. On November 6, 1998, respondent filed articles of organization for the limited liability company of Kuntz & Jambor, LLC. Thereafter, respondent commenced practicing law under the firm name of Kuntz & Jambor, LLC.

63. In May 1999 David Kuntz terminated his association with respondent and began practicing elsewhere.

64. Thereafter, respondent began practicing in association with Bruce Rubbelke. Respondent told Rubbelke that he would amend the articles of organization of Kuntz & Jambor, LLC, to reflect a name change to Jambor & Rubbelke, LLC.

65. Respondent failed to either amend the Kuntz & Jambor, LLC, articles of organization or create a new limited liability company utilizing the name Jambor & Rubbelke, LLC. Despite this, respondent began practicing under the name Jambor & Rubbelke, LLC.

66. On June 2, 1999, respondent applied for workers' compensation insurance with First Choice Insurance Services. Respondent falsely advised First Choice that he had changed the name of the firm from Kuntz & Jambor, LLC, to Jambor & Rubbelke, LLC. In his application, respondent falsely used the federal tax identification number of Kuntz & Jambor, LLC. Respondent signed the application as managing governor for Jambor & Rubbelke, LLC.

67. In the workers' compensation insurance application respondent falsely stated that Kuntz & Jambor, LLC, had changed its name on June 1, 1999, to Jambor & Rubbelke, LLC.

68. On or about November 2, 1999, Rubbelke ended his association with respondent. On November 2, 1999, Rubbelke hand-delivered a letter to respondent specifically requesting that he not use Rubbelke's name on any letterhead, envelopes, business cards, etc.

69. Despite this request, respondent continued to do business under the name of Jambor & Rubbelke, LLC.

70. Respondent's conduct in failing to promptly respond to the Director's requests for information violated Rule 8.1(a)(3), MRPC, Rule 25, RLPR, and the probation order.

71. Respondent's conduct in retaliating against persons who have complained about his misconduct, failing to comply with court orders regarding discovery, and intentionally venuing suit in District Court in order to inconvenience the parties violated Rules 3.1, 3.4(c) and (d), and 8.4(d), MRPC.

72. Respondent's conduct in neglecting client matters and failing to respond to client inquiries violated Rules 1.3 and 1.4, MRPC.

73. Respondent's conduct in making false statements to Cynthia Harvey and in falsely identifying the name of his firm violated Rules 4.1, 7.1, 7.5, and 8.4(c), MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court revoking respondent's probation, suspending respondent's license to practice 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: September 15, 2000.

EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
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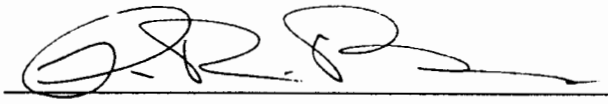
and



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