

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against DANIEL FRANCIS JAMBOR,  
a Minnesota Attorney,  
Registration No. 229520.  
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**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 23, 1992. Respondent is currently suspended from the practice of law.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

1. On June 29, 2001, respondent was suspended from the practice of law for two years for failing to cooperate with disciplinary proceedings while on probation, engaging in a pattern of frivolous and retaliatory litigation, neglecting client matters, failing to adequately communicate with his clients, failing to return a client file, failing to comply with stipulated agreements and a court order, and making false and misleading statements to clients and others. *In re Jambor II*, 627 N.W.2d 333 (Minn. 2001). Respondent has not petitioned to be reinstated to the practice of law.

2. On August 23, 1999, respondent was publicly reprimanded and placed on two years of supervised probation for neglecting two client matters, making misrepresentations to clients and others involved in those matters, and failing to cooperate with the Director's investigation. *In re Jambor I*, 598 N.W.2d 690 (Minn. 1999).

3. On February 20, 1997, respondent received an admonition for failing to pay a law-related debt or to pay the judgment entered on that debt.

4. On September 18, 1995, respondent was placed on private probation for two years for failing to deposit into a trust account funds intended to be held for use as litigation expenses, failing to provide the client with requested accountings of funds, failing to maintain appropriate books and records relating to his trust account, failing to respond to requests for information made during the course of a disciplinary investigation and failing to attend a pre-hearing meeting.

#### FIRST COUNT

1. Respondent represented William Lohr in an effort to collect money that Lohr alleged was owed to him by Thomas von Behren. On February 9, 2000, respondent filed a summons and complaint in Ramsey County district court. Although the court had no record of an affidavit of service being filed, von Behren admitted that he had been served. However, respondent did not prosecute the case and for that reason, on March 28, 2001, the court dismissed the matter without prejudice. As of March 28, 2001, there was no action pending against von Behren.

2. On June 8, 2001, von Behren petitioned Hennepin County for a harassment restraining order against respondent and William Lohr. The restraining order related to respondent's conduct in attempting to collect the debt Lohr alleged was owed by von Behren. In the petition, von Behren listed his address as 7134 16<sup>th</sup> Ave. S., Richfield, Minnesota, and stated that respondent had come to his "home" in an effort to collect the debt. Von Behren stated in the petition "the home was his wife's property."

3. On June 29, 2001, the first day of respondent's two-year suspension, respondent again filed a summons and complaint against von Behren. The documents filed by respondent were the same as those he had filed on February 9, 2000.

4. Along with the June 2001 summons and complaint, respondent filed an affidavit of service dated February 9, 2000 (i.e., an affidavit from 15 months earlier). Although the affidavit actually concerned service of the 2000 summons and complaint,

respondent submitted it to show that von Behren had been served with the June 29, 2001, summons and complaint. However, neither respondent nor anyone acting on his behalf had ever served von Behren with the June 29, 2001, summons and complaint.

5. Also on June 29, respondent filed an affidavit of no answer with the court regarding the 2001 summons and complaint. In that affidavit respondent stated that the summons and complaint had been duly served on von Behren; that respondent had duly filed the proofs of service with the court; and that the time allowed by law for von Behren to answer had elapsed. Respondent's assertion that von Behren had been duly served and his assertion that the time for von Behren to answer had elapsed were false. Again, respondent had never served von Behren with the 2001 summons and complaint.

6. In his affidavit of no answer respondent further stated that von Behren's place of residence was unknown. This statement was also false because respondent knew von Behren's address, having been to von Behren's residence with Lohr. Also, respondent knew that von Behren's address was 7134 16<sup>th</sup> Ave. S., Richfield, because that fact was set out in von Behren's restraining order petition and respondent had appeared at the hearing on the petition.

7. The court heard Lohr's motion for default judgment on August 9, 2001. Based upon the representations made in respondent's affidavits the court signed an order for default judgment on August 10, 2001, awarding Lohr \$87,721.38 in principal, interest and costs and \$25,000 for attorney fees.

8. On or about November 21, 2002, Lohr commenced post-judgment proceedings in aid of execution on the default judgment. However, on or about December 13, 2002, von Behren filed an action in Ramsey County to stay enforcement or to vacate the default judgment.

9. On December 16, 2003, the Honorable M. Michael Monahan heard von Behren's motion and on January 8, 2004, filed his Findings of Fact, Conclusions of Law & Order, stating that:

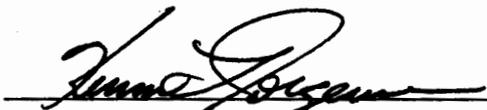
The default judgment in the 2001 Action was obtained through the use of knowingly false statements contained in [Lohr's] moving papers and supporting documents by [respondent] concerning both the service of the summons and complaint and concerning the knowledge of [von Behren's] residence and mailing address. These false statements constitute a fraud in law upon [von Behren] and the courts.

Judge Monahan vacated the judgment entered against von Behren.

10. By knowingly providing the court with false testimony in his affidavits, respondent violated Rules 3.3(a)(1) and 3.3(a)(4), 8.4(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: August 10, 2004.

  
KENNETH L. JORGENSEN  
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