

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against MICHAEL E. KELLER,
an Attorney at Law of the
State of Minnesota.

**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 pursuant to Rule 12(d), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on February 14, 1986. Respondent has been on restricted CLE status by choice since December 1995. Respondent was suspended from practice in Minnesota on April 1, 2001, for nonpayment of attorney registration fees.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

North Dakota Discipline

Respondent has also been admitted to practice law in North Dakota since October 10, 1984. On June 16, 1993, respondent was publicly reprimanded and placed on two years probation by the North Dakota Supreme Court for making obscene and harassing telephone calls, in violation of Rule 8.4(d), North Dakota Rules of Professional Conduct. No disciplinary action was commenced on this misconduct in the State of Minnesota.

Respondent failed to comply with the requirements for reporting continuing legal education courses and was suspended from practice in North Dakota effective

December 31, 2000. Respondent was fee suspended on January 1, 2001, for failure to pay his 2001 registration fee in North Dakota.

On March 28, 2001, the North Dakota Supreme Court suspended respondent's North Dakota license for misconduct which includes misappropriation of client funds, pending the outcome of disciplinary proceedings filed against him. A trustee has been appointed to secure respondent's files and trust account in North Dakota.

Minnesota Discipline

On April 5, 2001, respondent was issued an admonition by the Director of the Minnesota Office of Lawyers Professional Responsibility for representing a Minnesota resident in Minnesota courts in January 1999 to January 2000, while his license was CLE restricted, in violation of Rule 5.5(a), Minnesota Rules of Professional Conduct (MRPC).

FIRST COUNT

1. Respondent has committed misconduct in North Dakota which warrants suspension of his license to practice in Minnesota and warrants his temporary suspension until the North Dakota action is final and reciprocal discipline is sought in Minnesota.
2. Respondent is the subject of two petitions for discipline in North Dakota, attached as Exhibits 1 and 2, the allegations of which are hereby incorporated by reference.
3. Respondent was interim suspended in North Dakota (Exhibit 3), pending conclusion of proceedings on the petitions, based on additional misconduct as set forth in the application for interim suspension, affidavit and supplemental affidavit of North Dakota disciplinary counsel, the allegations and statements of which are hereby incorporated by reference (Exhibit 4).
4. Reciprocal discipline of respondent in Minnesota is appropriate after conclusion of the North Dakota proceedings.

SECOND COUNT

5. On May 5, 2000, respondent was mailed a Notice of Investigation and complaint to the Minnesota disciplinary office by Daniel Foster, and told to respond to the district ethics committee (DEC) within 14 days.

6. Respondent mailed a response to the DEC investigator on May 22, 2000.

7. On May 5, 2000, respondent was also mailed a letter from the Director's Office requesting information about his CLE restricted status, and asked to respond within 14 days. Respondent did not respond.

8. On May 31, 2000, respondent was again asked to respond to the Director's Office concerning his CLE status. Respondent did not respond within the requested ten days.

9. On November 21, 2000, respondent was sent notice that investigation of the Foster complaint was withdrawn from the DEC and assigned to Candice M. Hojan, an attorney in the Director's Office. On November 29, 2000, the complainant advised Ms. Hojan that respondent had changed law office addresses at least twice, but was still practicing law in North Dakota.

10. On November 30, 2000, Ms Hojan sent respondent another copy of the May 5, 2000, Notice of Investigation and complaint, as well as the May 5 and 31, 2000, letters from the Director's Office, to a new address, and asked for a response within two weeks. The letter was sent by certified mail, which respondent signed for on December 6, 2000. Respondent did not respond.

11. On January 3, 2001, Ms. Hojan sent another letter to respondent, and asked for a response by January 12. On January 16, 2001, the Director's Office received a response to the May 5, 2000, letter.

12. On April 5, 2001, respondent was issued an admonition on the Foster complaint.

13. On April 5, 2001, Ms. Hojan sent respondent a Notice of Investigation, together with the petition for interim suspension and supporting affidavits in the North

Dakota disciplinary case, and asked him to provide a written explanation within two weeks. Respondent did not respond.

14. Respondent's conduct alleged in the Rosenquist matter in the application for interim suspension violated Rules 1.15 and 8.4(c), MRPC.

15. Respondent's conduct alleged in the October 26, 1999, North Dakota petition violated Rules 1.3, 1.4(a), and 1.5(a), MRPC.

16. Respondent's conduct alleged in the November 2, 2000, North Dakota petition violated Rules 1.3, 1.15(a) and (b), 1.16(e), and 8.4(d), MRPC.

17. Respondent's conduct in failing to timely respond to the Director's Office in the Foster matter and investigation of the North Dakota misconduct matter violated Rule 8.1(a), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

WHEREFORE, the Director respectfully prays that this Court grant the Director's petition for temporary suspension filed herewith and that final determination of this petition be held in abeyance until conclusion of the North Dakota discipline proceedings involving respondent.

Dated: May 29, 2001.


EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
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and


CANDICE M. HOJAN
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