

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against HARLAN P. KLEIN,
an Attorney at Law of the
State of Minnesota.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

At the direction of a Lawyers Professional Responsibility Board Panel, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on April 19, 1973. Respondent currently practices law in West St. Paul, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

Respondent's history of prior discipline, including admonitions, is as follows:

1. Indefinite Suspension. On July 21, 1989, the Minnesota Supreme Court indefinitely suspended respondent for at least six months for misrepresenting facts to a court and opposing counsel and fraudulently altering and notarizing court documents. *In re Klein*, 442 N.W.2d 317 (Minn. 1989). Respondent was reinstated to the practice of law on March 4, 1991.
2. Admonition. On October 10, 1989, respondent was issued an admonition for failing to communicate with his client, failing to file an appeal and failing to cooperate with the Director's Office in violation of Rules 1.3, 1.4 and 8.1(a)(3),

Minnesota Rules of Professional Conduct (MRPC), and Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

FIRST COUNT

A. Misrepresentations to Continuing Legal Education

1. Respondent was admitted to practice law in the State of Minnesota during the years 1993 through 1996.

2. Rule 3 of the Rules of the Supreme Court for Continuing Legal Education ("CLE") of Members of the Bar requires:

Each registered attorney duly admitted to practice in this state desiring active status must make a written report to the Board in such manner and form as the Board shall prescribe. The report shall be filed with the Board within 60 days after the close of the 3-year period within which the attorney is required to complete the continuing legal education requirements. The report shall be accompanied by proof satisfactory to the Board that the attorney has completed a minimum of 45 hours of course work either as a student or a lecturer in continuing legal education

3. Respondent was to report his 45 hours of continuing legal education within 60 days after June 30, 1996.

4. On or about September 3, 1996, respondent signed an affidavit regarding his continuing legal education hours and submitted it to the State Board of Continuing Legal Education (Board).

5. In August 1997 the Director received a complaint from respondent's wife, Ruth Koebnick-Klein. In that complaint, Ms. Koebnick-Klein alleged that respondent had made misrepresentations concerning his compliance with the CLE requirements. The Director investigated this allegation and determined that in his affidavit to the Board, respondent falsely represented that he attended the following continuing legal education classes:

- a. Lawoffice.com - Bringing Your Law Firm onto the Internet;
- b. What Every Attorney Should Know;

- c. Real Estate Developments;
- d. Business Law 101;
- e. Effective Marital Dissolution Practice; and
- f. Seventeenth Annual Family Law Institute.

6. Each of these seminars was sponsored by Minnesota CLE (MCLE). MCLE records do not reflect that respondent registered for or attended any of these seminars.

7. During a December 17 sworn statement at the Director's Office, respondent was asked about his 1996 CLE affidavit. Respondent falsely testified that Minnesota CLE had waived its registration fees for those seminars. Respondent falsely testified that he called Minnesota CLE or appeared at their classes and was allowed to attend without registering or paying for the classes.

8. Respondent's conduct in filing a false affidavit of his attendance at six CLE seminars and in testifying falsely during a sworn statement to the Director violated Rules 8.1(a)(1), 8.4(c) and (d), MRPC.

SECOND COUNT

B. Failure to Deposit Client Funds in Trust Account

9. As part of the complaint filed by Ms. Koebnick-Klein (*see* ¶5), it was alleged that respondent failed to deposit client funds in a trust account. The Director investigated this allegation and determined that respondent represented Jeff Trapp in a matter against North Star Transport, Inc.

10. On or about September 18, 1996, respondent received a check from North Star for \$2,000. Respondent deposited the \$2,000 into his business account. Respondent distributed \$1,450 of the \$2,000 to his client. Respondent kept \$550 as payment for his legal services.

11. Respondent represented John Richardson in a matter against Wallace Westsider, Inc. On or about October 17, 1996, respondent received three checks from Capital Indemnity, Westsider's insurance company, for \$452, \$613 and \$404 to pay

Richardson's medical providers. Respondent delivered the \$452 check to the City of St. Paul. The Ramsey Clinic endorsed the remaining two checks and made them payable to respondent. Respondent deposited the Ramsey Clinic checks into his business checking account and delivered a check for \$850 to Ramsey Clinic. Respondent kept \$167 as payment for his legal services.

12. Respondent's conduct of not depositing client funds into his trust account violated Rule 1.15(a), MRPC.

THIRD COUNT

C. Neglect and Non-Communication

13. David Jack (Jack) retained respondent in 1992 to represent him in a motion to stay implementation of a child support cost of living adjustment and a motion to reduce child support. On April 30, 1992, respondent wrote Delores J. Daggett of Dakota County Economic Assistance stating he would be commencing discovery in connection with the cost of living adjustment issue and would also be filing a motion to reduce Jack's child support obligation.

14. On July 9, 1992, the court denied Jack's cost of living adjustment. The court specifically crossed out a proposed finding that Jack's income had suffered a sizable reduction since the child support payment had been set. Respondent did not move to reduce Jack's support obligation.

15. In 1994 respondent defended another cost of living adjustment motion against Jack. Although respondent scheduled a July 12 hearing on the motion, he failed to attend the hearing. Also, respondent failed to inform Jack about the hearing. The court approved the cost of living adjustment thereby increasing Jack's child support payment. Respondent still did not move to reduce Jack's support obligation.

16. In March 1996 respondent finally moved to reduce Jack's support obligation.

17. Respondent's conduct in failing to attend a July 12, 1994, hearing and to inform Jack about the July 12, 1994, hearing and failing to move for a reduction in Jack's child support obligation until March 1996 violated Rules 1.3, 1.4(a) and 3.2, MRPC.

FOURTH COUNT

D. Neglect

18. On September 1, 1993, David Ritt (Ritt) retained respondent to reduce his child support obligations in Ramsey and Dakota Counties. Ritt paid respondent \$300. Respondent performed some work on the matter, but never brought the requested motion.

19. On March 27, 1995, Ritt, acting pro se, prepared, served and filed a notice of motion and motion in Dakota County district court to reduce his support obligation. The court scheduled Ritt's motion for June 2, 1995. Although Ritt prepared the March 27 motion, respondent agreed to represent Ritt at the June 2 motion hearing.

20. Following the hearing, the Dakota County district court decreased Ritt's child support obligation to \$175.54 per month and scheduled a December 8, 1995, review hearing. The court specifically found that:

[Complainant] has four separate child support obligations for six children. This order will temporarily reduce one obligation so that motions to reduce can be brought in the other actions. The temporary reduction set forth herein will be reviewed in six months to determine if any of the other obligations were reduced, thereby increasing [complainant's] available income."

Prior to December 8, 1995, respondent failed to move to reduce any of Ritt's other support obligations.

21. In January 1996, the Dakota County district court reviewed Ritt's temporary child support reduction. On February 28, 1996, the court increased Ritt's support obligation to \$212. The court found:

Pursuant to an order dated August 30, 1995, upon [Ritt's] motion to modify the child support award, [Ritt] was ordered to pay child support

in the amount of \$175.54, effective April 1, 1995. The matter was continued for a review hearing to allow [Ritt] time to seek modification of his other child support obligations. At such time as his other obligations were modified, the child support for Krystal Ritt could be adjusted. Since the time of the prior order, [Ritt] has not sought a modification in his other child support obligations.

22. In April 1996 respondent finally requested Ramsey County's Support and Collections Department to modify Ritt's child support obligations.

23. Respondent's conduct in failing to request Ramsey County Support and Collections Department to reduce Ritt's child support obligations between September 1993 and March 1995, and between June 1995 and December 1995 violated Rule 1.3, MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent or 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: November 17, 1998.



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