

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

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against BRIAN ANDREW LETT,  
an Attorney at Law of the  
State of Minnesota.  
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**AMENDED AND  
SUPPLEMENTARY 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 supplementary petition for disciplinary action pursuant to Rules 10(e) and 12(a), Rules on Lawyers Professional Responsibility (RLPR).

Respondent is currently the subject of an April 11, 2001, petition for disciplinary action. The Director has investigated further allegations of unprofessional conduct against respondent.

The Director alleges that respondent has committed the following additional unprofessional conduct warranting public discipline:

COUNT ONE

Abandonment of Practice

1. As set forth more fully below, since October 2000 the Director has received eight complaints against respondent. Each complaint alleges an inability to communicate with respondent. The Director forwarded the complaints to respondent for response. Respondent has not responded to seven of the complaints, did not attend the pre-hearing meeting, has not answered the petition for disciplinary action and has not communicated with the disciplinary authorities since July 12, 2001.

2. Several of respondent's clients have appeared at respondent's office. Respondent has not been in his office for some time and is not retrieving mail delivered to his office. Respondent's office telephone has been disconnected.

3. It appears to the Director that respondent has abandoned his law practice.

#### Vincent Matter

4. Respondent represented Benjamin Vincent in *Ruiz, et al. v. Vincent, et al.* Albert Turner Goins, Sr., represents the plaintiffs.

5. Goins served discovery requests on respondent. Respondent failed to respond. Goins also noticed Vincent's deposition. Neither respondent nor Vincent appeared.

6. Goins served a motion to compel Vincent to attend the deposition. During the period immediately prior to the scheduled hearing date of March 19, 2001, respondent failed to respond to Goins' efforts to reach him by telephone and facsimile. Vincent was also unable to reach respondent. Respondent thereafter failed to communicate with Goins or Vincent.

#### Jones Matter

7. On February 7, 2000, John and Pamela Jones retained respondent to represent them in a civil matter. The Joneses paid respondent a \$1,500 retainer.

8. On or about December 1, 2000, respondent told John Jones that respondent had commenced an action on the Joneses' behalf. Respondent's statement was false. Respondent did not commence any action.

9. At least once each week during December 2000 and January and February 2001, John Jones left telephone messages for respondent. Respondent has failed to return any of the calls.

#### Vaughn Matter

10. Respondent represented William Vaughn in a civil matter.

11. Respondent last communicated with Vaughn on December 20, 2000. Since then, Vaughn left multiple telephone messages for respondent. Respondent failed to return any of the calls.

#### Deokinandan Matter

12. Respondent represented Nandram Deokinandan in a matter titled *Panelcraft of Minnesota, Inc. v. Nandram Deokinandan*.

13. In the summer of 2000, a settlement agreement was reached. By letter dated August 28, 2000, Michael Coaty (counsel for Panelcraft) informed respondent of concerns Panelcraft had with Deokinandan's performance pursuant to the settlement agreement and requested respondent to respond. Respondent failed to respond.

14. By letter to the court dated April 16, 2001, Coaty informed the court that respondent had failed to respond to the August 28 letter and requested the court release to Panelcraft funds that Panelcraft had deposited previously with the court.

15. By letter dated May 1, 2001, the court sent to respondent correspondence the court had received from Deokinandan and Coaty and opposing counsel and stated, "Please advise me and Mr. Coaty as to what your intentions are with respect to the completion of this case. We have been unable to reach you by phone. I would like to hear from you within 10 days from the date of this letter." The court sent copies of the letter to opposing counsel and Deokinandan. Respondent failed to respond.

16. By letter dated May 5, 2001, Deokinandan stated to the court, "We tried several times to contact Mr. Lett. He is not responding to our phone calls. He changed his telephone number including his cell. Judge, at this point we do not know what we should do, we will be very grateful if you can help us settle this matter."

17. By letter dated May 14, 2001, the court informed respondent that the court had not received a response from respondent to the court's May 1 letter and stated that the court would refer the matter to the Director's Office if respondent did not respond immediately. Respondent failed to respond.

#### Foster Matter

18. Respondent represented Alecia Foster in a civil litigation matter. In early 2001, Foster determined to terminate respondent's representation and left messages with respondent for respondent to return her call. Respondent failed to respond to any of Foster's calls and failed to return Foster's file.

### Battle and Chapman Matters

19. Respondent represented James Battle and Darron Chapman, Sr., in employment discrimination matters against their employer.

20. Respondent last worked on the matters and last communicated with Battle and Chapman in or about January 2001. Respondent failed thereafter to respond to multiple requests from Battle and Chapman to communicate. As a result, Chapman's claim was time-barred. In addition, despite multiple requests from Battle and Chapman respondent failed to return any of their respective files to them.

### Non-Cooperation

21. On November 1, 2000, the Director sent to respondent notice of investigation of a complaint from Marilyn Lingwall, a former employee of one of respondent's clients. The complaint was assigned for investigation to the Fourth District Ethics Committee (DEC) (Exhibit 1).

22. By letter dated November 2, 2000, respondent submitted his response.

Respondent stated:

She should be aware of the fact that if she continues to defame my reputation as an ethical attorney, I will pursue a defamation claim against her. I will also advise my client to do the same.

23. Multiple times during the course of the DEC's investigation of the Lingwall complaint, respondent failed to respond timely to the investigator's attempts to contact respondent.

24. On January 29, 2001, the DEC investigator had a telephone conversation with respondent. Respondent stated that he received notice that the DEC would meet on February 21, 2001, to consider the Lingwall complaint and stated that he planned to attend. Respondent did not appear.

25. On February 26, 2001, the Director sent to respondent notice of investigation of a complaint filed by John and Pamela Jones (*see* ¶¶ 7-9, above). The notice requested respondent to provide his complete written response within 14 days (Exhibit 2). Respondent failed to respond.

26. By letter dated February 27, 2001, the Director sent to respondent the DEC's investigative report in the Lingwall matter and requested respondent to provide any additional information or comments he wished to provide in response. Respondent did not respond.

27. On March 1, 2001, the Director sent to respondent notice of investigation of a complaint filed by Vaughn (*see* ¶¶ 10-11, above). The notice requested respondent to provide his complete written response within 14 days (Exhibit 3). Respondent failed to respond.

28. On March 5, 2001, the Director sent to respondent notice of investigation of a complaint regarding respondent's conduct in the Vincent matter (*see* ¶¶ 4-6, above). The notice requested respondent to provide his complete written response within 14 days (Exhibit 4). Respondent failed to respond.

29. By letter dated March 13, 2001, the Director again requested respondent to provide his response to the Jones complaint. Respondent failed to respond.

30. By letter dated March 14, 2001, the Director again requested respondent to provide any additional information and comments he had to the DEC report in the Lingwall matter. Respondent did not respond.

31. On March 16, 2001, the Director sent to respondent notice of investigation of his conduct as outlined in a criminal indictment against him. The notice requested respondent to provide certain information within seven days (Exhibit 5). Respondent failed to respond.

32. By letter dated March 16, 2001, the Director again requested respondent to provide his complete written response to the Vaughn complaint. Respondent failed to respond.

33. By letters dated March 21, 2001, the Director again requested respondent to provide his responses to the Jones and Vincent complaints. Respondent failed to respond.

34. By letters dated March 26, 2001, the Director again requested respondent to provide his responses to the Vaughn complaint and to the notice of investigation in the criminal matter. Respondent failed to respond.

35. On March 28, 2001, the Director served by mail on respondent charges of unprofessional conduct. Included with the charges was notice of an April 4, 2001, pre-hearing meeting. Respondent failed to appear for the pre-hearing meeting.

36. On April 26, 2001, respondent was served with the notice and petition for disciplinary action. The notice informed respondent that he had to serve and file an answer within 20 days and that if he failed to do so the allegations would be deemed admitted. Respondent failed to answer the petition.

37. On June 5, 2001, the Director sent to respondent notice of investigation of Foster's complaint against him. The notice requested respondent to provide his complete written response within 14 days (Exhibit 6). Respondent failed to respond.

38. On June 21, 2001, the Director sent to respondent notice of investigation of a complaint filed by the Honorable Thomas Wexler regarding respondent's conduct in the Deokinandan matter (*see* ¶¶ 12-17, above). The notice requested respondent to provide his complete written response within 14 days (Exhibit 7). Respondent failed to respond.

39. By letters dated July 6, 2001, the Director again requested respondent to provide his responses to the Judge Wexler and Foster complaints. Respondent failed to respond.

40. By letter dated July 12, 2001, respondent set forth reasons that he had not responded previously, stated that he has "been in and out of severe depression over the past few months and it has been impossible to function as normally as I would," and stated, "I will respond to all of the complaints shortly . . . ." Respondent failed to do so.

41. On July 13, 2001, an Assistant Director telephoned respondent and left a message for respondent to return the call. Respondent failed to do so.

42. By letter dated July 16, 2001, the Director informed respondent that in some circumstances severe depression could constitute a factor mitigating the sanction for certain types of misconduct and requested respondent to provide no later than July 30, 2001, certain information and documents if respondent wanted the Director to consider his claimed depression as a mitigating factor. Respondent did not respond.

43. By letters dated August 2 and 10, 2001, the Director again requested respondent to provide his responses to the Judge Wexler and Foster complaints and to provide the information and documents requested in the Director's July 16 letter. Respondent failed to respond.

44. On August 28, 2001, the Director mailed to respondent notice of investigation of a complaint filed by Battle (*see* ¶¶ 19 & 20, above). The notice requested respondent to provide his complete written response within 14 days (Exhibit 8). Respondent failed to respond.

45. On September 5, 2001, the Director mailed to respondent notice of investigation of a complaint filed by Chapman (*see* ¶¶ 19 & 20, above). The notice requested respondent to provide his complete written response within 14 days (Exhibit 9). Respondent failed to respond.

46. Also on September 5, an Assistant Director placed a call to respondent's residence and left a message on the answering machine for respondent to return the call. Respondent failed to do so.

47. By letter dated September 6, 2001, the Director requested respondent to meet with an Assistant Director on September 13, 2001. Respondent failed to appear or to contact the Director's Office to state he would not be able to appear.

48. To date, respondent has failed to respond to the Jones, Vaughn, Vincent, Judge Wexler, Foster, Battle and Chapman complaints or to the notice of investigation in the criminal matter. Respondent has also failed to answer the petition for disciplinary action.

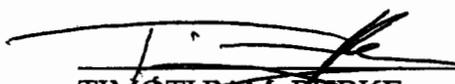
49. Respondent's neglect of legal matters, failure to communicate with clients, misrepresentation to a client about the status of a matter, threat to sue a complainant over statements made in a complaint to the Director, failure to return a client file and failure to cooperate with the investigation of complaints against him or participate in the disciplinary proceeding violated Rules 1.3, 1.4, 1.16(d), 3.2, 4.1, 4.4, 8.1(a)(3), and 8.4(c) and (d), Minnesota Rules of Professional Conduct, and Rules 21(a) and 25, RLPR.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent from the practice of law 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: September 20, 2001.

  
EDWARD J. CLEARY  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
Attorney No. 17267  
25 Constitution Avenue, Suite 105  
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(651) 296-3952

and

  
TIMOTHY M. BURKE  
SENIOR ASSISTANT DIRECTOR  
Attorney No. 19248x

This amended and supplementary petition is approved for filing pursuant to Rule 10(e), RLPR, by the undersigned.

Dated: September 21, 2001.

  
THOMAS J. LAVELLE  
PANEL CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD