

FILE NO. A11-896

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against STEVEN PAUL LUNDEEN,
a Minnesota Attorney,
Registration No. 273776.

**SECOND 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 second 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 22, 2011, petition for disciplinary action, and a May 19, 2011, supplementary 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:

SEVENTH COUNT

Pattern of Client Abandonment, False Statements and Conversion of Client Funds

Kathryn Palestino-Beck Matter

76. On April 10, 2010, Kathryn Palestino-Beck retained respondent to represent her regarding a DWI charge and in a related implied consent matter. Palestino-Beck paid respondent a \$1,500 advance fee for his services and \$322 for the filing fee in the implied consent matter.

77. Respondent failed to file anything on Palestino-Beck's behalf in the implied consent matter and took no other action for Palestino-Beck in either the implied consent or DWI matters. Respondent abandoned Palestino-Beck's legal matters and thus converted the Palestino-Beck advance fee and filing fee to his personal use.

78. Respondent failed to respond to numerous telephone messages Palestino-Beck left for him during April and May 2010.

79. In mid-May 2010, Palestino-Beck retained another attorney, who thereafter completed actions relevant to both the DWI and implied consent matters.

80. On May 18, 2010, Palestino-Beck wrote to respondent and informed him that, because respondent had not done any work on her cases, she had retained new counsel. Palestino-Beck asked respondent to inform her when she could visit his office and receive a refund of her \$1,822 advance fee and cost. Respondent did not respond.

81. On May 24, 2010, Palestino-Beck visited respondent's office and fortuitously found him there. Palestino-Beck requested that respondent refund to her the advance fee and filing fee she had paid to him. In response, respondent stated that he had spent the money.

82. During their May 24, 2010, meeting, respondent further stated to Palestino-Beck that she was not entitled to a refund because she had signed a fixed fee retainer agreement.

83. During their May 24, 2010, meeting, respondent further stated to Palestino-Beck that if she returned in 60 days he would refund \$1,500 to her. Respondent gave Palestino-Beck a handwritten note to that effect.

84. On July 22, 2010, Palestino-Beck returned to respondent's office. At that time, respondent was both physically and verbally aggressive toward Palestino-Beck. Respondent shoved Palestino-Beck and closed his office door on the right side of her

body. Respondent stated to Palestino-Beck that he had no intention of refunding any of her funds.

85. Palestino-Beck reported respondent's actions to her physician and the police department.

86. On August 3, 2010, Palestino-Beck initiated a conciliation court action against respondent to recover the advance fee and filing fee she had paid to respondent. The conciliation court hearing occurred on October 5, 2010. Respondent appeared for the hearing. The court ordered entry of a \$1,892 judgment against respondent, which consisted of the entire advance fee (\$1,500) and filing fee (\$322) Palestino-Beck had paid to respondent, and her \$70 conciliation court filing fee.

87. In November 2010 Palestino-Beck docketed the conciliation court judgment in district court and commenced collection action.

88. On February 3, 2011, the court issued an order for disclosure directing respondent to complete and provide to Palestino-Beck a financial disclosure form within ten days. Respondent failed to comply with the court's order.

89. On March 29, 2011, the court issued an order to show cause directing respondent to appear before it on April 19, 2011, and show cause why he had failed to provide to Palestino-Beck a completed financial disclosure form. Respondent failed to appear for the hearing.

90. On May 3, 2011, a bench warrant was issued for respondent's arrest. On May 6, 2011, respondent completed a financial disclosure form indicating that he had one or more bank accounts at Alliance Bank.

91. On September 28, 2011, after service of a writ of execution, Alliance Bank stated in a financial institution execution disclosure form that respondent had no funds in that bank.

92. To date, respondent has not made any payments on Palestino-Beck's judgment against him.

Nicolas Giangospro Matter

93. In 2008, Nicolas Giangospro retained respondent to expunge his criminal record. Giangospro gave respondent a \$3,000 advance fee.

94. Respondent failed to take any action to expunge Giangospro's criminal record. Respondent abandoned Giangospro's legal matter and thus converted Giangospro's advance fee to his personal use.

95. Giangospro contacted respondent on multiple occasions after retaining him. On each occasion, respondent gave an excuse for his failure to take any action in the expungement matter and made unfulfilled promises to do so in the future.

96. Since August 2011, Giangospro has not been able to reach respondent to discuss his case.

97. Respondent has not refunded to Giangospro any portion of his advance fee.

James Boone Matter

98. On February 11, 2011, James Boone retained respondent to expunge a misdemeanor conviction from his record. During the period February to April 2011 Boone paid respondent advance fees totaling \$740.

99. During the period February through July 2011, respondent took no action to expunge Boone's criminal record. Respondent abandoned Boone's legal matter and thus converted Boone's advance fees to his personal use.

100. During the period February through July 2011, it was extremely difficult for Boone to reach respondent to discuss his case. When Boone did reach him, respondent stated that he was waiting for the court to advise him of a hearing date.

101. On June 28, 2011, after discovering that respondent had not filed anything with the court on his behalf, Boone met with respondent. During that meeting, respondent admitted that he had failed to take any action on Boone's case. Respondent promised Boone that he would file the necessary paperwork and obtain a hearing date by June 30, 2011. Respondent failed to do so.

102. On July 5, 2011, Boone called respondent and demanded that respondent either schedule a hearing or refund Boone's advance fee. Respondent stated that he had scheduled a hearing for September 23, 2011. Respondent's statement was false. Respondent had not scheduled a hearing on Boone's behalf.

103. Boone and respondent were scheduled to meet on July 25, 2011. On that date, Boone went to respondent's office, but respondent failed to appear for the meeting. Boone has had no further communication from respondent since July 2011.

104. In August 2011, Boone prepared and filed documents with the court requesting expungement of his record and scheduled a hearing.

105. Respondent has not refunded any portion of Boone's advance fee.

Patrick Auman Matter

106. On May 26, 2011, Patrick Auman retained respondent to represent him in expunging his criminal record. Auman paid respondent \$1,082, which consisted of an advance for the court's filing fee and an advance on respondent's fees. Respondent took no action to expunge Auman's criminal record. Respondent abandoned Auman's legal matter and thus converted Auman's filing fee advance and advance fee to his personal use.

107. Thereafter, Auman made numerous unsuccessful efforts to reach respondent by telephone. Finally, in June 2011, Auman reached respondent and spoke to him about his case. During that conversation, respondent told Auman that he had filed a petition with the court and had scheduled a hearing for September 23, 2011.

Respondent promised to send Auman a copy of the petition he had filed on Auman's behalf. Respondent's statements were false. Respondent had not filed a petition on Auman's behalf and had not scheduled a hearing.

108. During the period June to August 2011, Auman made multiple efforts to reach respondent to discuss his case. On most of these occasions, Auman left a voicemail message for respondent, which respondent failed to return. On the few occasions during this period on which Auman spoke with respondent, respondent promised to send Auman a copy of the petition.

109. On August 23, 2011, Auman contacted the court and learned that no petition had been filed on his behalf and no hearing had been scheduled. On August 24, 2011, Auman texted, emailed and wrote a letter to respondent requesting a full refund of his filing fee advance and advance fee by August 30, 2011. Respondent failed to respond.

110. On August 31, 2011, Auman again texted and emailed respondent requesting a full refund of his cost advance and fee by September 6, 2011. Respondent failed to respond.

111. Respondent has not refunded to Auman any portion of his filing fee advance or advance fee.

112. Respondent's pattern of conduct in abandoning his clients, converting client funds and making false statements in the Palestino-Beck, Boone, Giangospro and Auman matters violated Rules 1.1, 1.3, 1.4, 4.1, and 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC).

113. Respondent's conduct in failing to comply with the order for disclosure and order to show cause issued in the Palestino-Beck matter until after a warrant was issued for his arrest, and failing to make any effort to pay Palestino-Beck's judgment against him violated Rules 3.4(c) and 8.4(d), MRPC.

EIGHTH COUNT

Criminal Conviction

114. As noted in the Director's supplementary petition for disciplinary action, respondent was arrested on March 30, 2011, for cocaine possession.

115. On September 20, 2011, respondent pled guilty to 5th degree drug possession. Respondent was sentenced to three years of probation, subject to, among other things, a chemical dependency evaluation and treatment.

116. To date, respondent has not undergone the required chemical dependency evaluation.

117. Respondent's conviction for 5th degree drug possession violated Rule 8.4(b), MRPC.

NINTH COUNT

Unauthorized Practice of Law

118. Respondent's annual lawyer registration fee was due by July 1, 2011.

119. On June 26, 2011, respondent issued a check in payment of his annual lawyer registration fee. Respondent's check was, however, returned for insufficient funds. As a result, respondent was suspended for failing to pay his lawyer registration fee.

120. On August 2, 2011, the lawyer registration office specifically informed respondent that his check had been returned for insufficient funds and requested substitute payment. Respondent failed to respond and failed to make substitute payment.

121. During the period in which he was suspended for failing to pay his lawyer registration fee, respondent made, or attempted to make, numerous court appearances on behalf of clients.

122. For example, on August 30, 2011, respondent arrived late for a hearing on behalf of his client Aden Farah. Respondent intended to appear on behalf of Farah, but the presiding judge had already been informed of respondent's fee-suspended status and appointed a public defender for Farah.

123. On August 31, 2011, respondent appeared at a hearing on behalf of K.V., a criminal defendant. The presiding judge noted that respondent was suspended for failing to pay his annual lawyer registration fee. The judge refused to allow respondent to continue representing the criminal defendant at the hearing.

124. On August 30, 2011, the Director wrote to respondent regarding his fee-suspended status. On August 31, 2011, following his appearance in the K.V. matter, respondent paid his lawyer registration fee in full.

125. Respondent's conduct in making court appearances on behalf of clients while he was suspended for failing to pay his annual lawyer registration fee violated Rule 5.5(a) and 8.4(d), MRPC.

TENTH COUNT

Continued Failure to Cooperate With the Director's Investigation

126. At all times relevant, respondent has informed the courts before which he has appeared and the lawyer registration office that his current and proper mailing address is 3960 Minnehaha Avenue South, Minneapolis, MN 55406 ("Minnehaha address").

127. On July 27, 2011, the Director mailed to respondent at his Minnehaha address notice of investigation of Kathryn Palestino-Beck's complaint, together with a copy of the complaint itself. The notice requested respondent's written response to the complaint within 14 days. The Director's July 27, 2011, mailing was not returned as undeliverable by the postal service. Respondent failed to respond.

128. Also on July 27, 2011, the Director mailed to respondent at his Minnehaha address notice of investigation of James Boone's complaint, together with a copy of the complaint itself. The notice requested respondent's written response to the complaint within 14 days. The Director's July 27, 2011, mailing was not returned as undeliverable by the postal service. Respondent failed to respond.

129. The Director received from Boone additional documents relevant to his complaint. On August 3, 2011, the Director forwarded those additional documents to respondent at his Minnehaha address and asked respondent to include those documents as part of Boone's complaint. The Director's August 3, 2011, mailing was not returned as undeliverable by the postal service.

130. On August 12, 2011, the Director mailed to respondent at his Minnehaha address notice of investigation of Nicolas Giangospro's complaint, together with a copy of the complaint itself. The notice requested respondent's written response to the complaint within 14 days. On August 29, 2011, the postal service returned the Director's August 12, 2011, mailing with the notation, "Return to Sender. Attempted not Known. Unable to Forward."

131. On August 18, 2011, the Director mailed to respondent at his Minnehaha address follow-up requests for respondent's written responses to the Palestino-Beck and Boone complaints. On August 29, 2011, the postal service returned the Director's August 18, 2011, letter regarding the Boone complaint with the notation, "Return to Sender. Attempted not Known. Unable to Forward." The Director's August 18, 2011, letter regarding the Palestino-Beck complaint was not returned as undeliverable by the postal service.

132. On August 24, 2011, the Director mailed to respondent at his Minnehaha address notice of investigation of Aden Farah's complaint, together with a copy of the complaint itself. The notice requested respondent's written response to the complaint

within 14 days. On September 6, 2011, the postal service returned the Director's August 24, 2011, mailing with the notation, "Return to Sender. Attempted not Known. Unable to Forward."

133. On August 30, 2011, using the email address shown on respondent's law office Web site, the Director emailed to respondent the Palestino-Beck, Boone, Giangospro and Farah notices of investigation and complaints. The Director's email also included an August 30, 2011, letter requesting information concerning respondent's fee-suspended status. Respondent failed to respond.

134. On September 1, 2011, the Director mailed to respondent at his Minnehaha address notice of investigation of Patrick Auman's complaint, together with a copy of the complaint itself. The notice requested respondent's written response to the complaint within 14 days. On September 9, 2011, the postal service returned the Director's September 1, 2011, mailing with the notation, "Return to Sender. Attempted not Known. Unable to Forward."

135. On or about September 9, 2011, the Director was contacted by an attorney who stated he was representing respondent in his criminal matter and might also be representing him in this lawyer discipline proceeding. On September 9, 2011, the Director faxed to that attorney copies of the petition and supplementary petition for disciplinary action against respondent and the Director's brief to the Supreme Court. On September 13, 2011, the Director mailed to that attorney copies of the Palestino-Beck, Boone Giangospro, Farah and Auman complaints and notices of investigation.

136. Later in September 2011, the Director was contacted by an attorney who stated he was representing respondent regarding this lawyer discipline proceeding.

137. By October 7, 2011, the Director had been informed that neither of these two attorneys had been able to contact respondent and, for that reason, were withdrawing from respondent's representation.

138. To date, respondent has not responded to the Palestino-Beck, Boone, Giangospro, Farah or Auman complaints or otherwise communicated with the Director regarding those complaints. Further, respondent has not responded to the Director's August 30, 2011, letter regarding his fee-suspended status.

139. Respondent's conduct in failing to cooperate in the Director's investigation violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

WHEREFORE, the Director respectfully prays for an order of this Court disbarring respondent, 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: Oct. 21, 2011.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

and



CASSIE HANSON
SENIOR ASSISTANT DIRECTOR
Attorney No. 303422

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

Dated: Oct 28, 2011. 

WILLIAM P. DONOHUE
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD