

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

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against STEVEN PAUL LUNDEEN,  
a Minnesota Attorney,  
Registration No. 273776.  
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**PETITION FOR  
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of a Lawyers Professional Responsibility Board Panel Chair, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(d) 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 May 9, 1997. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

- A. On July 27, 2001, respondent was issued an admonition for failing to diligently pursue a client matter, failing to adequately communicate with the client and failing to provide the client with adequate notice of his intent to withdraw from the client's representation, in violation of Rules 1.3, 1.4 and 1.16, Minnesota Rules of Professional Conduct (MRPC).

- B. On February 16, 2010, respondent was issued an admonition for failing to satisfy a law-related debt and the making of false statements regarding payment of that debt, in violation of Rules 8.4(c) and (d), MRPC.

FIRST COUNT

Failure to Place Client Funds in Trust and Misappropriation

1. Julie Smith purchased a vehicle from her neighbor for \$6,000, but the neighbor failed to transfer the vehicle's title to her. After the sale, the neighbor pledged the vehicle, which was still in his name, as collateral on a loan. The neighbor defaulted on the loan and the vehicle was repossessed. In approximately September 2008, respondent agreed to assist Smith in recovering the \$6,000 she paid to her neighbor for the vehicle. Respondent and Smith did not sign a written fee agreement and respondent did not discuss a fee arrangement with Smith.

2. In December 2008, respondent received \$1,500 from the neighbor on Smith's behalf. Respondent did not deposit these funds into a trust account. On information and belief, respondent thereafter issued Smith a \$1,500 check drawn on his Franklin Bank business account no. xxx8767 ("business account").

3. On approximately February 1, 2009, respondent received an additional \$500 from the neighbor on Smith's behalf. Respondent did not deposit these funds into a trust account. Upon information and belief, respondent misappropriated the \$500.

4. On approximately that same day, respondent issued Smith check no. 6462 in the amount of \$500 from his business account. Respondent's check was later returned for insufficient funds. Smith commenced a Ramsey County conciliation court action against respondent to recover the proceeds of respondent's \$500 insufficient funds check. The hearing on Smith's claim was scheduled for June 19, 2009.

5. Respondent failed to appear for the June 19, 2009, hearing. As a result, a default judgment in the amount of \$560 (\$500 plus Smith's \$60 filing fee) was entered

against respondent. Smith's judgment was docketed in district court on September 16, 2009.

6. On October 8, 2009, the court issued an order for disclosure requiring respondent to complete a financial disclosure form and provide it to Smith. On information and belief, respondent failed to submit such a form to Smith.

7. To date respondent has not satisfied Smith's judgment or repaid the misappropriated \$500.

8. Respondent's conduct in failing to place client funds in trust and misappropriation in the Smith matter violated Rules 1.15(a) and 8.4(c), Minnesota Rules of Professional Conduct (MRPC).

### SECOND COUNT

#### Failure to Pay Law-Related Debt and Comply with Court Orders

9. On November 21, 2006, Pro-Systems Court Reporting ("Pro-Systems") provided court reporting services to respondent. That same day Pro-Systems billed respondent \$924.05 for those services. Respondent failed to pay Pro-Systems' bill.

10. Pro-Systems sent additional copies of its bill to respondent and spoke multiple times with respondent about the outstanding bill. Despite repeated requests for payment, respondent did not pay Pro-Systems' bill.

11. On July 25, 2007, Pro-Systems commenced a conciliation court action against respondent. The hearing was scheduled for November 6, 2007. Respondent failed to appear for the hearing and a \$1,075.81 judgment was entered against him. That judgment was docketed in district court on March 7, 2008.

12. On March 13, 2008, Pro-Systems filed a request for an order for disclosure. On April 7, 2008, the court issued an order requiring respondent to complete a financial disclosure form and provide it to Pro-Systems. Respondent failed to complete and submit such a form.

13. On May 6, 2008, Pro-Systems filed an affidavit in support of an order to show cause. Also on May 6, 2008, the court issued an order to show cause requiring respondent to appear before it on May 20, 2008. Respondent was served with the order to show cause on May 12, 2008, but failed to appear for the hearing.

14. On July 1, 2008, Pro-Systems filed an affidavit in support of issuance of a bench warrant. On July 25, 2008, the court issued a bench warrant for respondent's arrest.

15. Respondent appeared before the court on July 25, 2008. At that time, respondent assured the court that he would complete the financial disclosure form and provide it to Pro-Systems. The court released respondent on that basis.

16. Respondent never provided Pro-Systems with a completed financial disclosure form. Moreover, respondent has still not paid the judgment against him.

17. Respondent's conduct in failing to pay a law-related judgment owed to Pro-Systems and failure to comply with court orders issued in connection therewith violated Rules 3.4(c) and 8.4(c) and (d), MRPC.

### THIRD COUNT

#### Neglect and Non-Communication, Failure to Return a File, Failure to Return Unearned Fees and Costs, and Making False Statements

#### **Frank Patchen Matter**

18. Beginning in November 2009 respondent represented Frank Patchen in two unrelated civil matters, one involving a case of alleged police misconduct and another involving a hit-and-run accident case. In addition, Patchen suffers from a head injury that impairs his day-to-day activities and is a vulnerable client.

19. During the period of November 2009 to March 2010, Patchen attempted on numerous occasions to reach respondent to discuss his cases, both by telephone and by personally visiting respondent's office. Respondent did not respond to Patchen's

attempts to communicate with him, nor did he affirmatively contact Patchen during this period.

20. In March 2010 respondent contacted Patchen. Respondent and Patchen arranged to meet to discuss Patchen's cases on a date in July 2010. Respondent failed to appear for the meeting.

21. Also in July 2010, respondent stated to Patchen that he was withdrawing from Patchen's representation in the hit-and-run accident matter. Respondent gave Patchen his client file in that matter. These file materials reflected that respondent had not performed any work in the matter.

22. Thereafter, Patchen tried repeatedly to reach respondent to discuss the alleged police misconduct case. Initially, respondent returned Patchen's calls and stated that he was working on the case, but failed to provide him with any substantive documentation thereof. More recently, respondent has not been responding to Patchen's calls. On information and belief, respondent has not performed any work in the matter.

23. After he filed his complaint with the Director in October 2010, Patchen began requesting that respondent return to him his file materials in the alleged police misconduct case so that he could retain new counsel. Respondent has failed to return numerous communications by Patchen and has not provided Patchen with his client file.

24. In January 2011 respondent contacted Patchen and asked him to visit his office to sign some papers. Patchen appeared at respondent's office at the pre-arranged time, but respondent did not appear.

25. In a February 11, 2011, letter, the Director requested that respondent provide Patchen's original file materials, which the Director would, in turn, provide to Patchen. Respondent failed to do so. Without being able to access documents

contained in his client file, Patchen has been unable to reconstruct the details of his legal matter in order to seek out new counsel.

### **Wendy Nye Matter**

25. On September 16, 2010, Wendy Nye retained respondent to represent her in filing a cancellation of contract for deed. Nye paid respondent \$712, comprised of a \$500 fee retainer and a \$212 filing fee advance.

26. On September 30, 2010, Nye spoke with respondent. Respondent stated that he had not yet performed any services on Nye's behalf. Nye stated that she no longer wished respondent to represent her and demanded an accounting and a refund of the unearned portion of her fee retainer and filing fee advance. Respondent failed to provide the requested accounting or any refund to Nye.

26. At some point thereafter, respondent informed Nye that he had, in fact, recorded the cancellation for contract for deed. Respondent stated that he would nonetheless refund Nye's \$500 fee retainer, but could not refund the \$212 recording fee because he had expended it in recording the cancellation.

27. Respondent's statement to Nye that he had recorded the cancellation for contract for deed was false. In fact, respondent has never recorded, or even prepared, a cancellation of contract for deed on Nye's behalf.

28. On October 13, 2010, Nye asked respondent for a copy of the recorded cancellation of contract for deed. Respondent agreed to provide Nye with a copy of the cancellation, but did not do so.

29. Nye wrote to respondent on October 14, November 23 and December 9, 2010, demanding an accounting and refund.

30. Nye also spoke with respondent by telephone on several occasions during the period October through December 2010. On each of these occasions, respondent agreed that Nye was entitled to a refund and stated that he intended to provide it to her.

31. On three occasions, respondent arranged to meet with Nye at his office to provide the refund. When Nye visited respondent's office on the designated dates and times, however, respondent was not present and no refund was provided.

32. On December 10, 2010, Nye filed an ethics complaint against respondent. Shortly thereafter, respondent informed Nye that he would no longer be refunding any legal fees since she had filed an ethics complaint against him.

33. To date, respondent has not refunded Nye any portion of her fee or cost retainer.

34. Respondent's conduct in failing to diligently represent and adequately communicate with Patchen and Nye, failing to provide Patchen with his original file materials, failing to provide Nye with an accounting, failing to refund unearned fees and costs to Nye, making a false statement to Nye regarding the filing of a cancellation of contact for deed violated Rules 1.1, 1.3, 1.4, 1.5(a), 1.15(b) and (c)(4), 1.16(d), and 4.1 and 8.4(c), MRPC.

#### FOURTH COUNT

##### Failure to Cooperate in the Director's Investigation

35. On March 11, 2010, the Director received a complaint against respondent from Julie Smith. On April 20, 2010, the Director mailed respondent notice of investigation of Smith's complaint, together with a copy of the complaint. The notice requested respondent's written response to Smith's complaint within 14 days. Respondent failed to respond.

36. On May 12, 2010, the Director received a complaint against respondent from Pro-Systems. On May 19, 2010, the Director mailed respondent notice of investigation of Pro-Systems' complaint, together with a copy of the complaint. The notice requested respondent's written response to Pro-Systems' complaint within 14 days. Respondent failed to respond.

37. On May 14, 2010, the Director wrote to respondent and again requested his written response to Smith's complaint. Respondent failed to respond.

38. On June 2, 2010, the Director wrote to respondent and requested that respondent appear for a meeting in the Director's Office on June 11, 2010, to discuss the Smith and Pro-Systems complaints. The Director's letter also requested that respondent produce his written responses to the Smith and Pro-Systems complaints by June 10, 2010. Respondent failed to produce written responses to the Smith and/or Pro-Systems complaints by June 10, 2010.

39. On the morning of June 11, 2010, respondent telephoned the Director's Office and stated that he was ill and unable to attend the meeting scheduled for later that morning. The Director agreed to reschedule the meeting for June 17, 2010. Respondent stated that he would send his written responses to the Smith and Pro-Systems complaints that day. The Director received respondent's written responses to those complaints on June 14, 2010.

40. On June 14, 2010, the Director wrote to respondent and requested that he bring certain additional materials regarding the Smith matter with him to the June 17, 2010, meeting.

41. Respondent appeared for the meeting on June 17, 2010, and brought some of the requested additional materials. During the meeting, the Director requested that respondent provide certain additional information and documents regarding the Smith and Pro-Systems matters. The Director confirmed those requests in a June 17, 2010, letter to respondent. Respondent failed to respond.

42. On July 7, 2010, the Director wrote to respondent to again request the Smith and Pro-Systems documents and information. Respondent failed to respond.

43. On July 22, 2010, the Director wrote to respondent and again requested the Smith and Pro-Systems documents and information. The Director also requested a

full accounting of the funds respondent had received in the Smith matter. Respondent failed to respond.

44. On October 7, 2010, the Director wrote to respondent and again requested the Smith and Pro-Systems documents and information. Respondent failed to respond.

45. On October 26, 2010, the Director wrote to respondent and again requested the Smith and Pro-Systems documents and information. On November 1, 2010, the Director received respondent's response to his requests in the Smith and Pro-Systems matters.

46. On October 28, 2010, the Director received a complaint against respondent from Patchen. On November 4, 2010, the Director mailed respondent notice of investigation of Patchen's complaint, together with a copy of the complaint. The notice requested respondent's written response to Patchen's complaint within 14 days. Respondent failed to respond.

47. On December 1, 2010, the Director wrote to respondent and again requested his written response to the Patchen complaint. Respondent failed to respond.

48. On December 13, 2010, the Director received a complaint against respondent from M.P.A. On January 25, 2011, the Director mailed to respondent notice of the M.P.A. complaint, together with a copy of the complaint. The notice requested respondent's written response to the M.P.A. complaint within 14 days. Respondent failed to respond.

49. On December 15, 2010, the Director received a complaint against respondent from Nye. On December 22, 2010, the Director mailed to respondent notice of investigation of Nye's complaint, together with a copy of the complaint. The notice requested respondent's written response to the Nye complaint within 14 days. Respondent failed to respond.

50. On January 12, 2011, the Director wrote to respondent and again requested his written responses to the Patchen and Nye complaints. Respondent failed to respond.

51. On January 21, 2011, the Director wrote to respondent and requested that respondent appear for a meeting in the Director's Office on February 1, 2011, to discuss the Patchen and Nye complaints.

52. Immediately prior to the February 1, 2011, meeting, respondent telephoned the Director's Office and stated that he was ill and unable to attend the meeting scheduled for later that day. The Director agreed to reschedule the meeting for February 7, 2011.

53. Immediately prior to the February 7, 2011, meeting, respondent telephoned the Director's Office and stated that he had been in a car accident and was unable to attend the meeting scheduled for later that day. The Director requested, and respondent agreed, to call the Director later that day to reschedule the meeting. Respondent failed to do so.

54. On February 11, 2011, the Director wrote to respondent and again requested his written response to the Patchen, Nye and M.P.A. complaints. The Director also requested that respondent provide the original Patchen file, which the Director would, in turn, provide to Patchen. Respondent failed to respond.

55. On February 28, 2011, the Director wrote to respondent and again requested his written response to the Patchen, Nye and M.P.A. complaints. Respondent failed to respond.

56. Respondent's conduct in failing to cooperate with the Director's investigation of the various complaints against him violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline on 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: April 1, 2011.

  
MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
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and

  
CASSIE HANSON  
SENIOR ASSISTANT DIRECTOR  
Attorney No. 303422

This petition is approved for filing pursuant to Rules 10(d) and 12(a), RLPR, by the undersigned Panel Chair.

Dated: April 22, 2011.

  
WILLIAM P. DONOHUE  
PANEL CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD