

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against DOUGLAS E. MACKENZIE,
a Minnesota Attorney,
Registration No. 155573.

**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 (RLPR). The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on May 11, 1984. Respondent's current address is in Mountain View, California. On July 1, 2003, respondent was suspended from the practice of law in Minnesota for failing to pay the lawyer registration fee. Respondent has remained suspended thereafter. Respondent is currently suspended from the practice of law in California but is currently licensed to practice before the United States Patent and Trademark Office (USPTO).

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

USPTO Matter

1. On October 12, 2011, respondent was publicly reprimanded and placed on probation by the USPTO. (Exhibit 1.) Respondent stipulated to this discipline and to the facts upon which this discipline was based.

2. The facts set forth in paragraphs 1 through 22 on pages 1 through 3 of Exhibit 1 to which respondent stipulated are included by this reference.

3. Respondent's conduct in the USPTO matter violated the following Disciplinary Rules of the USPTO Code of Professional Responsibility:

a. 37 C.F.R. § 10.23(b)(6) (engaging in conduct that adversely reflects on respondent's fitness to practice law) violating 37 C.F.R. § 10.23(c)(14) by knowingly failing to notify the Director in writing of the change in respondent's professional licensure status that would preclude continued registration as a patent attorney under 37 C.F.R. § 11.6;

b. 37 C.F.R. § 10.31(d) by continuing to hold himself out as authorized to represent clients in trademark matters before the Office while not licensed to practice law by the State Bar of California;

c. 37 C.F.R. § 10.40(b)(4) by not timely withdrawing from representing a client after the client brought suit against respondent;

d. 37 C.F.R. § 10.62(a), in connection with the referral from an invention development company, by accepting employment without the consent of the client after full disclosure, where the exercise of the practitioner's professional judgment on behalf of the client will be or reasonably may be affected by the practitioner's own financial, business, property, or personal interests;

e. 37 C.F.R. § 10.66(a), in connection with the referral from an invention development company, by not declining proffered employment where

the exercise of the practitioner's independent professional judgment on behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment, or if it would be likely to involve the practitioner in representing differing interests;

f. 37 C.F.R. § 10.66(b), in connection with the referral from an invention development company, by representing multiple clients where it is obvious that the practitioner cannot adequately represent the interest of each; and/or by representing multiple clients, where it is obvious that the practitioner cannot adequately represent the interest of each, without first obtaining the consent of each client to the representation after full disclosure of the possible effect of such representation on the exercise of the practitioner's independent professional judgment on behalf of each; and

g. 37 C.F.R. § 10.68(a)(1), in connection with the referral from an invention development company, by accepting compensation from one other than the practitioner's client for the practitioner's legal services to or for the client without the consent of the client after full disclosure.

(Exhibit 1, p. 4.)

SECOND COUNT

Failure to Cooperate

4. Rule 12(d), RLPR, provides in pertinent part, "A lawyer subject to [public disciplinary] charges or discipline shall notify the Director."

5. Respondent failed to notify the Director of the USPTO disciplinary proceeding and failed to notify the Director of the discipline that the USPTO imposed.

6. On October 26, 2011, the Director mailed to respondent notice of investigation of this matter. The notice requested respondent to provide his complete written response to the matter within 14 days of the date of the notice. The transmittal letter and notice were mailed to respondent's address of record in the Minnesota

Lawyer Registration System: 541 Del Medio Avenue, #120, Palo Alto, California 94306.
The Director received no response.

7. By letter dated November 10, 2011, the Director informed respondent that the Director had not received the response requested in the notice of investigation and requested respondent to provide his response at that time. This letter was also mailed to respondent's address of record in the Minnesota Lawyer Registration System. The Director received no response.

8. On November 18 and 21, 2011, respectively, the above-referenced documents were returned to the Director by the post office. Each envelope contained the notation, "Return to Sender, No Such Street, Unable to Forward."

9. The Director then conducted a search for a current address for respondent. The Director's search discovered the address: P.O. Box 1295, Mountain View, California 94042.

10. By letter dated December 16, 2011, the Director sent to respondent the October 26 notice of investigation, the complaint and the Director's November 10 letter. The Director's December 16 letter requested respondent to provide the response requested in the notice of investigation within 14 days of the date of that letter. The Director's December 16 letter was not returned. Respondent failed to respond.

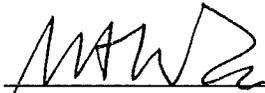
11. By letter dated January 4, 2012, the Director advised respondent that the Director had received no response to that December 16 letter and requested respondent to provide at that time the written response requested in the notice of investigation. The Director's January 4 letter was not returned. Respondent failed to respond.

12. Respondent's failure to comply with Rule 12(d), RLPR, violated Rules 3.4(c) and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

13. Respondent's failure to cooperate violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

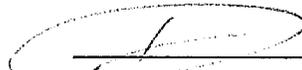
WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: March 20, 2012.



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and



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

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

Dated: April 28, 2012.



RICHARD H. KYLE, JR.
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD