

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

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary  
Action against MICHAEL C. McCANN,  
an Attorney at Law of the  
State of Minnesota.  
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**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 petition upon the parties' agreement contained in the attached April 18, 2001 stipulation for probation (Exhibit 1) pursuant to Rules 10(a) 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 October 16, 1987. Respondent currently practices law in Rosemount, Minnesota.

INTRODUCTION

On April 18, 2001, respondent and the Director entered into a stipulation for private probation. Respondent's probation was based upon an admission that respondent failed, over the course of nearly ten years, to complete a Qualified Domestic Relations Order (QDRO) on behalf of his client, and failed to respond to inquiries from his client regarding his work on the QDRO.

Among the conditions of respondent's probation was that respondent would abide by the Minnesota Rules of Professional Conduct and commit no further unprofessional conduct, and that if, after giving respondent an opportunity to be heard, the Director concluded that respondent had not complied with the conditions of the

probation, then the Director could file this petition without the necessity of Panel proceedings.

Also among the conditions of respondent's probation was the requirement that respondent would promptly complete the QDRO and provide the Director's Office with proof that all necessary steps to perfect his client's interests had been completed. Respondent was to bear any cost incurred in completing this process and was not to charge additional fees without specific approval of his supervisor and/or the Director's Office.

Respondent was to cooperate fully with the Director's Office in its efforts to monitor compliance with his probation and promptly respond to the Director's correspondence by the due date. Respondent was to cooperate with the Director's investigation of any allegations of unprofessional conduct which came to the Director's attention.

The Director, after giving respondent an opportunity to be heard, has concluded that respondent has not complied with the conditions of the probation.

Respondent has committed the following unprofessional conduct warranting public discipline:

#### FIRST COUNT

##### Failure to Cooperate With Probation

1. Under the terms of his April 18, 2001, stipulation for probation respondent was required to cooperate fully with the Director's Office in its efforts to monitor his compliance with the probation and promptly respond to the Director's inquiries.

2. On April 24, 2001, the Director wrote to respondent providing him with a copy of the stipulation for probation and reminding him of his obligations under the stipulation. The Director specifically requested that respondent complete the work on the QDRO, provide copies of all correspondence concerning the QDRO, submit four attorneys willing to serve as his supervisor, submit an inventory of active client files

within two weeks, and to provide his written office procedures (Exhibit 2). Respondent failed to reply.

3. On June 4, 2001, the Director wrote to respondent reiterating his request that respondent comply with the terms of his stipulation for probation (Exhibit 3). Respondent failed to reply.

4. On June 22, 2001, the Director again wrote to respondent requesting the required information. Respondent was directed to reply immediately (Exhibit 4). Respondent did not reply.

5. On July 16, 2001, the Director again wrote to respondent concerning his failure to comply with the terms of his probation. In that letter, respondent was instructed to appear at the Director's Office for a meeting on Wednesday, July 25, 2001. Respondent was further directed to bring to the meeting all of the documents and information requested previously (Exhibit 5). Respondent did not reply to the letter and did not appear for the July 25, 2001, meeting.

6. On July 27, 2001, the Director again wrote to respondent. In this letter, the Director requested that respondent appear at the Director's Office on August 14, 2001. The Director's letter explained that this was an opportunity for respondent to appear and discuss why the Director should not revoke respondent's probation (Exhibit 6). Respondent failed to appear for that meeting and failed to contact the Director's Office.

7. On August 28, 2001, the Director sent respondent a notice of investigation regarding his failure to cooperate with the terms of his probation. The notice of investigation required respondent to reply within 14 days. Respondent failed to reply.

8. On September 20, 2001, the Director again wrote to respondent concerning the notice of investigation. In that letter, the Director noted that respondent's continued failure to respond to inquiries from the Director's Office would leave the Director with no choice but to petition the Supreme Court for an order terminating his probation

(Exhibit 7). That letter was sent both by regular mail and by certified mail with a return receipt requested.

9. On September 24, 2001, the Director received the signed receipt that appears to be signed by respondent (Exhibit 8). Respondent never replied to that letter and as of the date of this petition has not contacted the Director's Office. Respondent has never complied with the conditions of his probation.

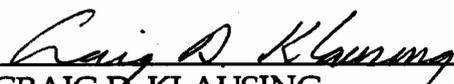
10. Respondent's conduct violated the terms of his April 18, 2001, probation, Rules 8.1(a)(3) and 8.4(c), Minnesota Rules of Professional Conduct (MRPC), and Rule 25, Rules on Lawyers Professional Responsibility.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent's license to practice law or imposing otherwise 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: January 15, 2002.

  
EDWARD J. CLEARY  
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