

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against SAMUEL A. McCLOUD,
a Minnesota Attorney,
Registration No. 69693.

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 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 April 15, 1977. Respondent previously practiced law in Lindstrom, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

1. On August 7, 1986, respondent received an admonition for failing to advise a client of an implied consent hearing and for falsely representing to the client that he had personally appeared at that hearing, in violation of Rules 1.4(a) and 8.4(c), Minnesota Rules of Professional Conduct (MRPC).

2. On September 30, 1993, respondent received an admonition for contacting a juror which resulted in a mistrial, in violation of Rules 3.5(b)(1) and 8.4(b), MRPC.

3. On August 7, 1996, respondent received an admonition for depositing client funds to pay a client expense into his business account, in violation of Rule 1.15(a), MRPC.

4. On September 29, 1998, respondent received an admonition for failing to disclose a material fact to a tribunal in an order for protection matter in violation of Rules 3.3(d), 3.4(c) and 8.4(d), MRPC.

5. On December 20, 2000, respondent entered into a stipulation for private probation for his conduct in depositing client funds into his business account prior to earning the fee and without a written retainer agreement in violation of Rule 1.15(a), MRPC.

FIRST COUNT

Felony Tax Evasion

1. During the years 2004 through 2006, respondent was a member and practicing attorney at two law firms, McCloud & Boedigheimer, P.A. ("M&B") and McCloud & Heefner, P.A. ("M&H"), each of which was organized as an S-Corporation. While practicing with both M&B and M&H, for the purpose of evading reporting income to state and federal tax authorities, respondent instructed clients to write checks to him directly rather than making payments to the law firms for deposit in the firms' bank accounts.

2. Respondent then deposited, or instructed others acting at his direction, to deposit those checks into bank accounts held in the name of a nominee (his daughter and office assistant) as well as several sham corporations (Zon Services, Ida Services and Cal Services). From 2004 through 2006, respondent deposited, or instructed others acting at his direction to deposit, at least \$595,000 in these accounts, which respondent used for personal expenses.

3. Respondent intentionally concealed this income from the Internal Revenue Service and the Minnesota Department of Revenue. Respondent filed state and federal personal income tax returns for tax years 2004, 2005 and 2006 which were materially false in that he intentionally failed to report at least \$595,000 in income. Respondent knowingly failed to pay any state or federal income taxes on this income. The total unpaid taxes due and owing to the United States Department of Treasury for tax years 2004 through 2006 was at least \$186,000.

4. Respondent ultimately agreed to waive indictment by a grand jury on those charges and consented to the filing of a criminal information. Respondent eventually pled guilty to one count of the information, tax evasion for tax year 2005 in violation of 26 U.S.C. § 7201 and 18 U.S.C. § 2. Respondent was committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 18 months with the service of sentence commencing on July 5, 2011.

5. Rule 19(a), RLPR, makes a criminal conviction conclusive evidence that the lawyer committed the conduct for which the lawyer was convicted.

6. Respondent's conduct in intentionally concealing his income from taxing authorities and filing a materially false tax return was a violation of Rule 8.4(b) and (c), MRPC.

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: August 3, 2011.



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