

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against JOHN H. MCLOONE, IV,
an Attorney at Law of the
State of Minnesota.

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 June 5, 1970. Respondent currently practices law in Waseca, Minnesota.

DISCIPLINARY HISTORY

A. On October 27, 1994, respondent was issued an admonition for failing to provide a settlement statement to his clients.

B. On August 4, 1983, respondent was issued an admonition for neglecting a client matter and failing to communicate adequately with his clients in the matter.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Zimmerman Matter

1. Francis J. Zimmerman retained an attorney in respondent's firm, Thomas Kraus, to represent him in the sale of property by contract for deed to Cory J. Johnson. Kraus prepared the contract for deed. One of its terms was that Johnson could not

assign the contract for deed without Zimmerman's prior consent. The contract for deed was signed on June 2, 1997, and recorded on June 12, 1997. Respondent learned of the contract for deed between Zimmerman and Johnson from another attorney representing Johnson.

2. At this time, Johnson owed respondent almost \$7,100 for services rendered in a prior representation. To secure payment, respondent drafted an assignment of the contract for deed between Zimmerman and Johnson. The assignment provided that Johnson would transfer his interest in the contract for deed to respondent. The assignment was intended to secure the attorneys' fees obligation Johnson owed to respondent. Respondent did not disclose the assignment to Zimmerman. Zimmerman never consented, and was never asked to consent, to the assignment. The assignment was contrary to the terms of the original contract for deed respondent's firm drafted for Zimmerman, because Zimmerman's consent to the assignment was not obtained.

3. The assignment of the contract for deed was recorded two days after the contract for deed was recorded.

4. Because of the assignment, Johnson lost the property's homestead exemption for tax purposes.

5. After the transfer from Johnson to Zimmerman was recorded, the county mailed tax statements to respondent, whom the assignment and hence county records reflected was the owner of the property. Respondent failed to pay the taxes, although he did forward the statements to Johnson.

6. In January 1999 the county auditor informed Zimmerman that taxes on the property were unpaid and delinquent. This was the first Zimmerman learned of the assignment of the contract for deed from Johnson to respondent.

7. Zimmerman and Johnson requested respondent to correct the delinquent tax situation. Respondent made unsuccessful efforts to correct the delinquent tax

situation, but refused to pay the taxes unless Johnson paid respondent's bill in full. Neither Johnson nor respondent paid the taxes on the property.

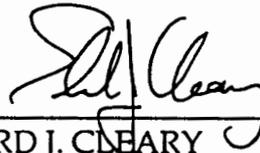
8. Johnson thereby defaulted on the contract for deed between him and Zimmerman. Zimmerman retained separate counsel and brought proceedings to cancel the contract for deed.

9. As a result of the assignment from Johnson to respondent, the failure to pay taxes, the loss of the homestead exemption and the need to bring cancellation proceedings, Zimmerman claims to have been damaged in an amount greater than \$1,000.

10. Respondent's conduct violated Rules 1.6(a)(2) and (3), 1.8(b), 1.9(a) and (b), and 1.10(a), Minnesota Rules of Professional Conduct (MRPC).

WHEREFORE, the Director respectfully prays for an order of this Court publicly reprimanding respondent 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: March 22, 2000.



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