

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against TRACY E. MITCHELL,
a Minnesota Attorney,
Registration No. 12560X.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Acting 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 October 24, 1980. Respondent currently practices law in Elbow Lake, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

Respondent's history of prior discipline is as follows: On May 9, 1996, respondent was issued an admonition for non-communication and withdrawing from representation without informing the client of the applicable statute of limitations, in violation of Rules 1.4 and 1.16(d), Minnesota Rules of Professional Conduct (MRPC).

FIRST COUNT

Warren Hanson Estate

1. In August 2001 Warren Hanson passed away. Henry Schroeder was appointed as the personal representative of the estate. Schroeder retained respondent to probate the estate. Michael Hayden is the nominated personal representative for Marge Hanson, the wife of the deceased, upon her death.

2. Respondent admittedly neglected the probate matter. Respondent failed to timely record a transfer of title of deed from the deceased to Marge Hanson. Respondent did not record the transfer until over three years after he received the transfer of deed from Schroeder, and only after Hayden filed an ethics complaint.

3. Respondent also admits that he neglected to transfer title to two stocks from the decedent's estate to Marge Hanson. Despite having met with the Director in August 2005 to outline steps necessary to complete the transfer of title to these stocks, respondent has not completed the transfer and the stocks remain in the name of the deceased.

4. Respondent failed to respond to communications from Schroeder and Hayden or to provide regular updates on the status of the estate.

5. In October 2004 respondent further made misstatements to Hayden in order to conceal his neglect. Respondent falsely told Hayden that the transfer of title of deed had been recorded with the county auditor's office. Respondent also told Hayden that he was not aware that the title in the above-mentioned stock had not been completed.

6. Respondent also submitted a final invoice to the estate for attorney fees in December 2002. The estate paid respondent \$2,463.34 in attorney fees, which included preparation of closing letters and a final account. The estate had in fact not been closed and closing letters and a final account had not been filed with the probate court.

7. Currently, the probate in this matter remains open. Complainant and Schroeder are seeking new legal counsel to complete the probate of the Warren estate.

8. Respondent's conduct violated Rules 1.3, 1.4, 1.5(a), 4.1 and 8.4(d), MRPC.

SECOND COUNT

Non-Cooperation

9. Respondent also failed to cooperate in the Director's investigation of this matter. On June 17, 2005, the Director sent respondent a letter requesting a status update on the final probating of the estate. Respondent failed to respond. On July 11, 2005, the Director sent respondent a second letter requesting a status update. Again, respondent failed to respond.

10. The Director scheduled a meeting with respondent for August 30, 2005. Respondent attended the meeting and agreed to take certain steps to promptly close the estate, including sending Schroeder a written update on the estate, to carbon copy the Director on such correspondence, to provide all necessary financial information to a financial advisor to complete the transfer of title to the stock, and to file all necessary closing letters and provide a final account to the probate court. Respondent did not notify Schroeder or otherwise complete the transfer of title of stock.

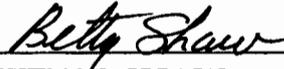
11. On September 8, 2005, the Director sent respondent a letter again outlining the agreed upon steps to close the estate. Respondent was to immediately contact Schroeder and carbon copy the Director on such communications along with providing evidence that the necessary financial information was given to the financial advisor. Respondent failed to respond.

12. Respondent's conduct violated Rule 8.1(a)(3), MRPC, which was amended to Rule 8.1(b), MRPC, effective October 1, 2005.

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: January 10, 2006.



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