

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against CHARLES T. NIXON,
an Attorney at Law of the
State of Minnesota.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

At the direction of a Lawyers Professional Responsibility Board Panel, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 20, 1972. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

A. On October 24, 1983, respondent received an admonition for failing to adequately communicate with a client and lack of diligence in an adoption matter, in violation of DR 1-102(A)(4), DR 1-102(A)(6) and DR 6-101(A)(3), Minnesota Code of Professional Responsibility (MCPR).

B. On May 15, 1986, respondent was placed on two years private probation for misrepresentation and neglect of a legal matter in violation of Rules 1.3 and 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC) and DR 1-102(A)(4) and (5) and DR 6-101(A)(3), MCPR. Respondent's misconduct was mitigated by evidence that

he suffered from clinical depression, but was receiving treatment. Respondent continued in treatment until his treating psychologist recommended that it was no longer required. Respondent successfully completed the probation.

C. On November 11, 1995, respondent was again placed on two years private probation for failure to communicate with a client and neglect of a legal matter, and failure to comply with discovery requests, even after he began psychological treatment, in violation of Rules 1.3, 1.4 and 8.4(d), MRPC. Respondent's misconduct was again mitigated by evidence that he suffered from clinical depression, but was receiving treatment. Respondent again continued in treatment until his treating psychologist recommended that it was no longer required. Respondent successfully completed the second probation.

FIRST COUNT

A. Reelworks Animation Matter

1. Respondent represented Reelworks Animation, a Minnesota corporation, for many years on various legal matters.

2. Beginning in July 1999, Bruce McFarlan, the President of Reelworks, began requesting that respondent contact the company's accountant to determine the best way to distribute company stock to a longtime employee. Respondent, in countless phone calls, promised to take care of it immediately.

3. Respondent never contacted the accountant as requested.

4. Beginning in March 2000, Mr. McFarlan began leaving phone messages for respondent requesting that the files of the company be collected, including company minutes and stock certificates, and that respondent advise when those files were ready to be picked up. Respondent did not respond to Mr. McFarlan.

5. On April 19, 2000, Mr. McFarlan filed an ethics complaint.

6. On July 6, 2000, through the intervention of the district ethics committee (DEC) investigator, Mr. McFarlan was able to meet with respondent and obtain the company files.

7. Respondent's conduct in failing to communicate with Mr. McFarlan and in failing to promptly return the company's files as requested violated Rules 1.3 and 1.4, MRPC.

SECOND COUNT

B. Failure to Cooperate

8. On May 2, 2000, respondent was sent a notice of investigation, together with a copy of the complaint, and instructed to mail a written response to the investigator within fourteen days. On May 11, 2000, respondent was sent a notice of reassignment of investigation, which again instructed him to mail the assigned investigator a response within fourteen days.

9. Respondent did not timely respond to the complaint. On June 7, 2000, the investigator wrote to respondent and requested a response to the complaint. Respondent did not respond.

10. On June 21 and 22, 2000, the DEC investigator called respondent and requested a response to the complaint. On June 23, 2000, respondent faxed a response to the investigator, in which he promised to return the requested files to Mr. McFarlan on June 26.

11. On July 5, 2000, the investigator learned that Mr. McFarlan still had not received the files. The investigator twice called respondent and arranged for him to meet Mr. McFarlan the next day to deliver the files.

12. The disciplinary investigation was then returned to the Director's Office. On July 18, 2000, an attorney at the Director's Office wrote to respondent and requested that he meet with her on July 27, 2000, and bring with him a record of any recent

meetings with psychologists. Respondent did not appear for the meeting, and did not call to reschedule.

13. On August 2, 2000, the Director's Office again wrote to respondent, and rescheduled the meeting for August 9, 2000. Respondent appeared for the August 9, 2000, meeting. Respondent admitted the misconduct with regard to Reelworks Animation, and stated that new psychological problems had hospitalized him in January 1998. Respondent stated he had terminated counseling, but had begun seeing a psychologist again in March 2000. Since then, respondent stated that he had begun to close-up his law practice. Respondent agreed to forward monthly status letters to the Director's Office regarding the closing-up of his practice.

14. Respondent's first status letter was due the week of September 5, 2000. When the Director's Office did not hear from respondent, it wrote to him on September 26, reminding him of his obligation and requesting an immediate status letter. Respondent did not respond.

15. Respondent's second status letter was due the week of October 9, 2000. Respondent has not sent a status letter to the Director's Office.

16. Respondent attended the November 16, 2000, pre-hearing, but did not sign and return a pre-hearing statement despite letters from the Director on November 20, 2000, and February 22, 2001.

17. Respondent did not attend the March 6, 2001, Panel hearing, despite February 16, February 22 and February 27, 2001, notice of the same.

18. Respondent's conduct in failing to promptly respond to the DEC investigator and the Director, failure to return the pre-hearing statement, and failure to attend the Panel hearing violated Rule 8.1(a), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility.

19. Respondent's conduct in this matter, together with his prior disciplinary history, constitutes a pattern of related unprofessional conduct the cumulative effect of which calls for public discipline.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent from the practice of 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: March 15, 2001.



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