

FILE NO. C8-01-536

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.

**SUPPLEMENTARY 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 supplementary petition for disciplinary action pursuant to Rules 10(a) and (e) and 12(a), Rules on Lawyers Professional Responsibility (RLPR).

Respondent is currently the subject of a March 15, 2001, petition for disciplinary action. Respondent was suspended on July 2, 2001, for non-payment of attorney registration fees. The Director has investigated further allegations of unprofessional conduct against respondent.

The Director alleges that respondent has committed the following additional unprofessional conduct warranting public discipline:

THIRD COUNT

20. Mark DeLaitre retained respondent in June 1999 to represent him in a dissolution of marriage action. Respondent negotiated and drafted a Marital Termination Agreement (MTA), which was signed and notarized by each party.

21. On January 26, 2000, Mr. DeLaitre paid respondent \$150 to cover the filing fee and remaining legal work. Respondent deposited the client money in his trust account. Respondent stated he would send Mr. DeLaitre the signed dissolution of

marriage decree in two weeks. As there were no children born of the marriage, the dissolution could be accomplished under MSA § 518.15, subd. 5, without a hearing.

22. After January 26, 2000, Mr. DeLaittre made numerous attempts to contact respondent, and has not received return calls when he could not reach respondent.

23. After January 26, 2000, when Mr. DeLaittre reached respondent, respondent made numerous promises to Mr. DeLaittre to deliver the dissolution of marriage final decree either by mail or personally, but has failed to do so. In fact, by June 8, 2001, when Mr. DeLaittre filed an ethics complaint, the MTA had not been filed with the court, the filing fee had not been paid, and a decree of dissolution had not been signed.

24. As of mid-May 2001, Mr. DeLaittre had been unable to reach respondent by phone. Respondent kept the original MTA and the filing fee. Mr. DeLaittre cannot reach his spouse, who is in the military and now stationed somewhere in Colorado, and cannot obtain a dissolution of marriage without the original MTA.

25. The Director's Office sent respondent a notice of investigation of Mr. DeLaittre's complaint on June 11, 2001, and requested a response within two weeks. Respondent failed to respond to the Director's Office.

26. Respondent's conduct in collecting the filing fee to file Mr. DeLaittre's dissolution of marriage action and thereafter failing to take action on the case, or file the MTA and obtain a decree of dissolution, failure to return Mr. DeLaittre's phone calls or keep him advised of the status of the matter and failure to respond to the Director's Office violated Rules 1.3, 1.4 and 8.1(a), 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 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 14, 2001.



EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 17267
25 Constitution Avenue, Suite 105
St. Paul, MN 55155-1500
(651) 296-3952

and



CANDICE M. HOJAN
SENIOR ASSISTANT DIRECTOR
Attorney No. 125982