

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against KENT E. NYBERG,
a Minnesota Attorney,
Registration No. 0080159.

**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 October 5, 1973. Respondent currently practices law in Grand Rapids, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

Respondent has the following disciplinary history:

A. On October 7, 1999, respondent was suspended from the practice of law for 30 days for failing to file an appeal on behalf of clients, failing to keep clients reasonably informed of the status of the representation, and knowingly making false statements to clients in violation of Rules 1.2(a), 1.3, 1.4(a), 4.1 and 8.4(c), Minnesota Rules of Professional Conduct (MRPC).

B. On April 24, 1995, respondent was issued an admonition for failing to keep a client reasonably informed of the status of the representation, in violation of Rule 1.4, MRPC.

FIRST COUNT

1. In May 2013, T.M. and S.M. (the "buyers") entered into a purchase agreement for a property on Stark Road in Cohasset, Minnesota. The purchase agreement contained a contingency relating to a survey of the property, which ultimately revealed potential issues relating to the property line. As a result, the buyers decided to cancel the purchase agreement. The sellers, however, refused to execute the cancellation document or refund the buyers earnest money.

2. In June 2013, William Dotlich, the buyers' real estate agent, contacted respondent to pursue a statutory cancellation of the purchase agreement and obtain a refund of the buyers' earnest money. Dotlich informed respondent the task was urgent based on the buyers' desire to purchase a home and their reluctance to enter into a subsequent purchase agreement until the Stark Road purchase agreement was canceled. Respondent told Dotlich he would charge a fee of \$200.00 to complete the task and that it would take approximately 30 days.

3. During June and July 2013, while the buyers continued to look for a home, respondent assured Dotlich that the sellers were being served with the appropriate paperwork and that the matter should pose no problems. Respondent did not complete the necessary paperwork or have the sellers served.

4. In July 2013, when the buyers attempted to enter into a purchase agreement for a different property, they were prohibited by their bank from doing so because the Stark Road purchase agreement had not been canceled. They then contacted respondent to discuss the status of the cancellation and he assured them the required paperwork had been sent to the Stark Road sellers. Respondent told Dotlich that the sellers had been served. Respondent's statements regarding service were false.

5. In August 2013, prior to the closing date set forth in the Stark Road purchase agreement, the buyers again requested a status update from respondent. Respondent informed them that he was working on the matter, that it was complete, and that he was waiting on it to be finalized. Respondent had yet to have the sellers served.

6. On or about September 26, 2013, after the Stark Road purchase agreement had expired, the buyers were permitted by their bank to enter into a purchase agreement for a different property.

7. Respondent finally had the sellers served on November 12, 2013, with the notice of cancellation of residential property agreement.

8. Respondent failed to obtain a refund of the buyers' earnest money until December 2013.

9. Respondent's conduct in failing to diligently pursue cancellation of the Stark Road purchase agreement violated Rules 1.3 and 3.2, MRPC.

10. Respondent's conduct in failing to keep his clients reasonably informed as to the status of the matter violated Rule 1.4, MRPC.

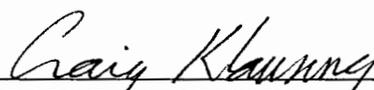
11. Respondent's conduct in making false statements regarding the status of the matter violated Rules 4.1 and 8.4(c), MRPC.

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: June 17, 2015.


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