

FILE NO. C1-97-629

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against LOUIS B. OBERHAUSER, JR.,
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(e) and 12(a), Rules on Lawyers Professional Responsibility (RLPR).

Respondent is currently the subject of a February 26, 1997, petition for disciplinary action. The Director has investigated further allegations of unprofessional conduct against respondent and determined that the following additional unprofessional conduct warrants public discipline:

FOURTH COUNT

Failure to Timely File Federal Tax Returns

19. Respondent did not timely file federal personal income tax returns for tax years 1992 and 1993, although required by law to do so.

a. Respondent did not file his 1992 tax returns, due on October 15, 1993, pursuant to a valid extension until December 29, 1995.

b. Respondent did not file his 1993 tax returns, due on October 15, 1994, pursuant to a valid extension until November 23, 1994.

20. The Internal Revenue Service notified respondent on or about April 11, 1995, that he had failed to file his 1992 federal tax returns. Respondent wrote back to the IRS on May 11, 1995, and stated that he had already filed the 1992 return. Respondent did not send a copy of his return with his letter.

21. Although respondent sent copies of his state and federal 1992 tax returns to the Minnesota Department of Revenue in August 1995, *see supra* ¶¶ 9 and 10 (petition for disciplinary action), he did not comply with the federal request for a copy of his tax return until December 1995.

22. The IRS did not process respondent's 1992 tax return until October 21, 1996. At that time, the IRS assessed penalties against respondent for late filing of his return and late payment of his tax, as well as interest on the late payment, totaling over \$18,000. The IRS sent respondent a notice of the amount due on November 25, 1996.

23. Respondent wrote to the IRS on January 6, 1997, to attempt to explain his deficiencies and asked that the IRS waive the penalties for late filing and late payment. Respondent's letter falsely claims that he prepared the 1992 return and issued a check for the amount of tax due in October 1993 and that his check register shows that a check was prepared to the IRS for the amount of tax due. By its responsive letter of January 28, 1997, the IRS denied respondent's request based on respondent's failure to establish reasonable cause or show due diligence.

24. Respondent's conduct in failing to timely file his federal tax returns violated Rule 8.4(d), MRPC, and the holding in *In re Bunker*, 199 N.W.2d 628 (Minn. 1972).

25. Respondent's conduct in misrepresenting facts to the IRS violated Rule 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: September 25, 1997.



EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
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and



ERIC T. COOPERSTEIN
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This supplementary petition is approved for filing pursuant to Rule 10(e), RLPR, by the undersigned.

Dated: Sept. 26, 1997



WILLIAM M. KRONSCHNABEL
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD