

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against KRISTIAN LEE OYEN,
a Minnesota Attorney,
Registration No. 386383.

**PETITION FOR REVOCATION OF
PROBATION AND FOR FURTHER
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 pursuant to Rule 12(a), Rules on Lawyers Professional Responsibility, and pursuant to this Court's March 8, 2011, order in the matter.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on May 22, 2006. Respondent currently practices law in St. Paul, Minnesota.

INTRODUCTION

By December 3, 2010, order, this Court imposed a 60-day suspension on respondent followed by two years of supervised probation. A copy of the Court's order is attached as Exhibit 1.

Respondent's discipline was based upon having sexual relations with a client in violation of Rules 1.8(j) and 1.7(a)(2), Minnesota Rules of Professional Conduct (MRPC), failing to diligently handle three client matters in violation of Rule 1.3, MRPC, failing to communicate with two clients in violation of Rule 1.4(a)(3) and (4), MRPC, and delaying the return of a client's files upon termination of the representation in violation of Rule 1.16(d), MRPC.

Respondent was reinstated by order of the Minnesota Supreme Court on March 8, 2011.

Among the conditions of respondent's probation were the following:

a. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation and promptly respond to the Director's correspondence by the due date. Respondent shall provide to the Director a current mailing address and shall immediately notify the Director of any change of address. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

b. Respondent shall be supervised by a licensed Minnesota attorney, appointed by the Director to monitor compliance with the terms of this probation. Respondent shall provide to the Director the names of four attorneys who have agreed to be nominated as respondent's supervisor within two weeks from the date of the Court's reinstatement order. If, after diligent effort, respondent is unable to locate a supervisor acceptable to the Director, the Director will seek to appoint a supervisor. Until a supervisor has signed a consent to supervise, the respondent shall on the first day of each month provide the Director with an inventory of active client files described in paragraph c. below. Respondent shall make active client files available to the Director upon request.

c. Respondent shall cooperate fully with the supervisor in his/her efforts to monitor compliance with this probation. Respondent shall contact the supervisor and schedule a minimum of one in-person meeting per calendar quarter. Respondent shall submit to the supervisor an inventory of all active

client files by the first day of each month during the probation. With respect to each active file, the inventory shall disclose the client name, type of representation, date opened, most recent activity, next anticipated action, and anticipated closing date. Respondent's supervisor shall file written reports with the Director at least quarterly, or at such more frequent intervals as may reasonably be requested by the Director.

d. Respondent shall abide by the Minnesota Rules of Professional Conduct.

Respondent has committed the following unprofessional conduct warranting revocation of probation and further public discipline:

FIRST COUNT

1. Charles B. Young retained respondent in March 2009 to represent him in two child support matters involving two women, C.L. and S.R. Young lives in Brainerd, but both of the cases were venued in Hennepin County.

2. At the time Young retained respondent, he had a solo practice law firm in Brainerd. Respondent told Young he would only charge him \$250 to handle both cases partly because respondent frequently traveled to the Twin Cities. Respondent closed his law office in late 2009 and joined a St. Paul law firm as an associate attorney.

C.L. Matter

3. Respondent did not prepare moving papers to modify Young's child support obligation to C.L. until June 2010. Respondent prepared a supporting affidavit that Young signed under oath on June 6, 2010. Respondent failed to attach documentation necessary in order for the court to make a decision, such as pay stubs, tax returns, or other income information.

4. Sometime before June 30, 2010, respondent obtained a court hearing date of August 2, 2010, at 9:30 a.m. Respondent prepared a motion to modify Young's child support, which he dated June 30, 2010. Respondent did not serve the motion and

Young's affidavit on C.L. and Hennepin County (which had intervened in the case) until July 19, 2010.

5. C.L. retained attorney Daniel Van Loh, who phoned respondent on July 23, 2010. Van Loh noted several deficiencies in the motion papers, including the lack of any supporting financial and income documentation. Respondent also failed to notify C.L. of the hearing date and time promptly after obtaining it from the court in June 2010, as required by Rule 303.01(a)(2), Minn. Gen. R. Prac.

6. Respondent agreed with Van Loh to continue the August 2, 2010, hearing to an unspecified future date. Van Loh confirmed the agreement in a letter faxed to respondent on July 31, 2010. Van Loh noted that respondent had still not gotten back to him to discuss a new date and time for the hearing.

7. At approximately 9:34 a.m. on August 2, 2010, respondent faxed a letter to the court stating the parties wished to continue the 9:30 a.m. hearing.

8. In late August 2010, respondent received income information from Young's employer and expense information from Young. Respondent did not, however, take further action on Young's behalf in the C.L. matter. Respondent had no further contact with Van Loh until December 13, 2010, when respondent wrote to notify Van Loh of his suspension from the practice of law. Respondent had no further involvement in Young's C.L. child support matter.

S.R. Matter

9. Young met with respondent in September or October 2009 to review Young's wish to reduce his child support obligation to S.R. Young provided respondent with some paystubs at that time, but further income information was necessary to file a motion to modify Young's child support because Young's work schedule was variable and included overtime hours.

10. Between meeting with Young in September or October 2009 and July 2010, respondent took no action on Young's S.R. case.

11. Respondent had scheduled a motion hearing for May 21, 2010, but canceled the hearing shortly before that date because he had not served or filed any motion papers. Respondent failed to inform Young that he had canceled the hearing.

12. On May 20, 2010, Young attempted to phone respondent about the May 21 hearing because he had not heard anything recently from respondent. Young was unable to reach respondent, so he phoned the court and learned that the May 21, 2010, hearing had been canceled.

13. Young also phoned S.R. on May 20, 2010. S.R. told Young she was unaware of the May 21 hearing and she had never been served with any motion papers. Young then reached respondent and relayed what S.R. had told him. Respondent claimed he had served S.R. with a motion.

14. Respondent rescheduled the hearing to August 2, 2010. Respondent again had to cancel the hearing, however, because he had not served or filed a motion.

15. As noted above, in August 2010 respondent received income information from Young's employer and expense information from Young. Respondent did not, however, take further action in the S.R. matter prior to his suspension in October 2010.

16. On October 28, 2010, respondent signed a stipulation for discipline with the Director in a previous disciplinary matter. Respondent agreed to be suspended from the practice of law for 60 days, followed by a two-year period of probation. On December 3, 2010, the Minnesota Supreme Court approved the stipulation and issued an order suspending respondent for 60 days effective immediately.

17. After respondent was reinstated in March 2011, respondent served and filed a motion at Young's request in the S.R. matter on April 8, 2011.

18. Respondent appeared in court with Young on May 3, 2011. On May 11, 2011, a child support magistrate issued an order reducing Young's child support obligation and approving the parties' agreement to transfer the venue to Crow Wing

County District Court because Young resides in Brainerd and S.R. resides in Pine River, Minnesota.

19. On June 9, 2011, respondent served and filed a motion for review of the order. The court issued an order on July 7, 2011, slightly lowering respondent's child support.

20. Respondent's conduct violated Rules 1.1, 1.3, 1.4(a)(3) and (4), and 3.4(c), MRPC, and this Court's probation order.

SECOND COUNT

21. Delores A. Boyd retained respondent in October 2008 to represent her in a dispute with Gerald Holmquist, a contractor who did poor quality remodeling work on Boyd's home. Respondent agreed to accept a "flat fee" of \$500, which Boyd paid in cash. Respondent did not prepare a written retainer agreement or confirm the scope of representation and basis for his fees in writing.

22. In late 2008 or early 2009, respondent obtained from Boyd an estimate of additional or corrective work that needed to be done on Boyd's house. Thereafter, as described below, respondent did little or no work on Boyd's case and had very little contact with her.

23. Between January 2009 and December 2010, when respondent was suspended from the practice of law, Boyd attempted to reach respondent on average three or four times per month for progress reports on her case. On most of the occasions, Boyd was unable to reach respondent or leave a message. Respondent rarely returned Boyd's calls and never wrote to her during this period of time.

24. Respondent did not serve and file a summons and complaint until October 2009. The court scheduled a trial for April 27, 2010. Respondent agreed with Holmquist's attorney to continue the trial in order to attempt to reach a settlement, but respondent failed to notify Boyd of the continuance until the morning of April 27, 2010, as Boyd was preparing to leave for court.

25. The court scheduled a pretrial hearing for August 16, 2010. Respondent failed to inform Boyd until that morning, however, that he was in the Twin Cities and would not be attending the hearing. Respondent also failed to inform the court that he would not be attending the hearing. Boyd was forced to represent herself at the hearing. The presiding judge told Boyd that, in the future, court notices would also be sent to her.

26. After August 2010, when respondent was suspended from the practice of law, respondent took no further action on Boyd's case. Boyd retained another attorney in March 2011 and settled her case through mediation in June 2011.

27. On several occasions in 2009 and 2010, Boyd requested the return of original papers she left with respondent at the beginning of respondent's representation. Respondent has not, to date, returned Boyd's papers to her.

28. Respondent's conduct violated Rules 1.3, 1.4(a)(3) and (4), and 1.16(d), MRPC, and this Court's probation order.

THIRD COUNT

29. In November 2009, Phillip L. Stephan retained respondent to attempt to have his child support obligations in two separate cases reduced. Stephan paid respondent an advance fee of \$750.

30. Respondent failed to create a client file in Stephan's case, failed to take any action, and failed to communicate with Stephan, including failing to respond to Stephan's telephone messages.

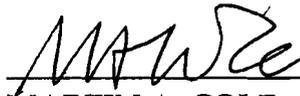
31. Respondent has not refunded any portion of Stephan's retainer fee.

32. Respondent failed to send a letter notifying Stephan of his suspension, as required by Rule 26, RLPR.

33. Respondent's conduct violated Rules 1.3, 1.4(a)(3) and (4), 1.5, 1.15(c)(4), 1.16(d), and 3.4(c), MRPC, and this Court's probation order.

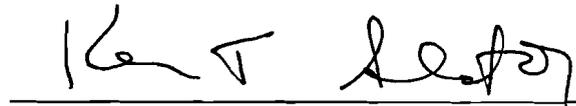
WHEREFORE, the Director respectfully prays for an order of this Court revoking respondent's probation, suspending respondent's license to practice law or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: July 27, 2011.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

and



KEVIN T. SLATOR
ASSISTANT DIRECTOR
Attorney No. 204584