

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against BRIAN J. PETERSON,
an Attorney at Law of the
State of Minnesota.

**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 1, 1976. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

Respondent's disciplinary history is as follows:

a. In August 1985 respondent was issued an admonition for violations of former DRs 5-101(A), 5-105(A) and (C), and 5-107(B), Minnesota Code of Professional Responsibility. Exhibit 1.

b. In January 1992 respondent was issued an admonition for violations of Rules 3.3(d), 5.1(b) and 8.4(d), Minnesota Rules of Professional Conduct (MRPC). Exhibit 2.

c. In February 1994 respondent was issued an admonition for violations of Rules 1.2(c), 3.3(a)(2), 3.4(c), 4.1, 8.4(c) and 8.4(d), MRPC. Exhibit 3.

d. In June 1994 respondent was issued an admonition for violations of Rules 1.4, 1.15(b)(1), (b)(3) and (b)(4), and 1.16(d), MRPC, and Lawyers Board Opinion No. 13. Exhibit 4.

e. In September 1994 respondent stipulated to an amended admonition for violations of Rules 1.5(a) and 3.1, MRPC. Exhibit 5.

FIRST COUNT

Pranke Matter

1. Carolyn Pranke retained respondent on June 4, 1998, to represent her in a marital dissolution matter. Pranke signed a Legal Services Agreement and Truth in Lending Disclosure document on that date.

2. Depending on the nature of the case, respondent requires his clients to also sign documents entitled Security Agreement, hereinafter referred to as a homestead exemption waiver or homestead waiver, and Family Law (or other area of law as is appropriate) Supplement to Legal Services Agreement.

3. In this matter, Ms. Pranke did not sign the additional documents referred to in paragraph 2, or otherwise agree to the terms contained in such documents.

4. Absent a signed homestead waiver document, Lawyers Board Opinion No. 14 states that it is professional misconduct for an attorney to file an attorney lien on a client's homestead property.

5. In September 1999 respondent filed an attorney lien on Ms. Pranke's homestead property.

6. In October 1999 Ms. Pranke filed a complaint with the Director alleging the above facts.

7. In response to the complaint, respondent provided copies of a homestead waiver document and Family Law Supplement to Legal Service Agreement to the district ethics committee investigator. Exhibits 6 and 7.

8. The signatures of Ms. Pranke are photocopies of her signature block from an affidavit prepared and filed earlier by respondent in the dissolution matter. The signature block has been "cut and pasted" into the document.

9. Terri Yares is a former employee of respondent. She is identified as the notary who witnessed Ms. Pranke's purported signature on the homestead waiver. Ms. Pranke's name, as written in the notarization block, is not in Ms. Yares' handwriting, while the other parts of the block are in her handwriting. The notarization block was also "cut and pasted" into the homestead waiver document.

10. Respondent fabricated these documents himself or the fabrication was done at his direction.

11. Respondent's conduct in the Pranke matter violated Rules 1.8(j), 3.1, 3.4(b), 5.3(c), 8.1(a)(1), 8.4(c) and 8.4(d), MRPC, and Lawyers Board Opinion No. 14.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent from the practice of law, 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: November 22, 2000.



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