FILE NO. A07-0158

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against MARK DAVID PITZELE,
a Minnesota Attorney,
Registration No. 235507.

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 January 19, 2007, petition for disciplinary action. 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:

FOURTH COUNT

Continued Misappropriation of Client Funds

27. As noted in the Director's January 19, 2007, petition for disciplinary action, on December 6, 2006, pursuant to Rule 1.15(j)-(o), Minnesota Rules of Professional Conduct, the Director began receiving additional notices of overdraft on respondent's Anchor Bank, West St. Paul, N.A., trust account no. 316224 (hereinafter "trust account").

28. In response to the Director's inquiries regarding the overdrafts, respondent produced trust account books and records for the period October 2006 to April 2007. These books and records reflect that as of October 1, 2006, the balance in respondent's trust account was approximately $78,000 short of that necessary to cover client balances. By January 31, 2007, the balance in respondent's trust account was approximately $178,000 short of that necessary to cover client balances.

29. Effective on or about April 13, 2007, respondent transferred his collection practice to another attorney. On April 9, 2007, respondent produced to the Director a "spreadsheet of the remaining money that is due [respondent's] clients" from his trust account. That spreadsheet reflected client balances totaling approximately $32,500. The balance in respondent's trust account immediately prior to that date was only $5,184.14.

30. During the period from at least October 2006 through January 2007, respondent consistently paid himself attorney's fees in amounts greater than that to which his client collection summaries indicated he was entitled.

31. In October 2006, for example, respondent paid himself attorney's fees totaling approximately $88,000, but had earned only approximately $50,500 in attorney's fees during that month. In fact, during the period October 2006 through January 2007, respondent paid himself average monthly attorney's fees of $70,000, while earning average monthly attorney's fees of only $45,000.

32. Respondent's payments of excess attorney's fees to himself during the period October 2006 through January 2007 was a significant cause of the shortage in respondent's trust account.

33. Respondent's payments of excess attorney's fees to himself constituted misappropriation of client funds.

34. At all times relevant, respondent has continued to maintain and print on a regular basis individual client collection statements reflecting all amounts respondent collected for clients, the portion of the collections to which the client was entitled and the portion of the collections to which respondent was entitled in the form of attorney's fees and costs.

35. Respondent's conduct in continuing to misappropriate client funds from his trust account violated Rule 8.4(c), MRPC.

FIFTH COUNT

Continued Failure to Maintain Required Trust Account Books and Records

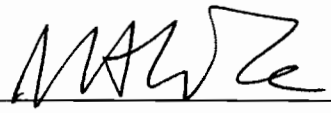
36. During the period from at least October 2006 to April 2007, respondent failed to maintain his trust account books and records in the manner required by

Rule 1.15, MRPC, as interpreted by Appendix 1 thereto (formerly Lawyers Professional Responsibility Board Opinion No. 9). In particular, respondent failed to prepare the required trial balances and reconciliations.

37. Respondent's conduct in continuing to fail to maintain required trust account books and records violated Rule 1.15, MRPC, as interpreted by Appendix 1 thereto (formerly Lawyers Professional Responsibility Board Opinion No. 9).

WHEREFORE, the Director respectfully prays for an order of this Court disbarring respondent 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: June 21, 2007.



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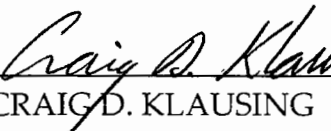
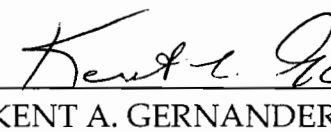


CRAIG D. KLAUSING
SENIOR ASSISTANT DIRECTOR
Attorney No. 202873

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

Dated: June 28, 2007.



KENT A. GERNANDER
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD