

FILE NO. CX-81-1120

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against HARRY N. RAY,
an Attorney at Law of the
State of Minnesota.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of a Lawyers Professional Responsibility Board Panel Chair, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(d) 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 September 30, 1953. Respondent currently resides in Bloomington, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

1. Respondent was suspended from the practice of law for a period of three years by Supreme Court order dated June 14, 1985. Respondent's suspension was for his use of money in clients' trust funds for loans and investments in which he had substantial personal interest, commingling of clients' and personal funds, and failure to maintain adequate records, as a result of which clients suffered no direct loss. 368 N.W.2d 924.

2. Respondent's suspension was extended until at least January 1, 1991, by Supreme Court order dated March 16, 1990. Respondent's further discipline was for his unauthorized practice of law during his period of suspension. 352 N.W.2d 689.

FIRST COUNT
A. R.M.B. Matter

1. On December 31, 1997, Hennepin County served a summons and complaint to determine paternity on R.M.C. in the matter of *Hennepin County and T.S.R. v. R.M.B.* A hearing on the matter was scheduled for February 19, 1998.

2. On February 19, 1998, R.M.B. appeared for the hearing before Referee Milton G. Dunham. Respondent also appeared at the hearing as counsel for defendant R.M.B. After the hearing, the court issued an order requiring the parties to submit to paternity testing and continuing the matter to May 21, 1998. The February 19, 1998, order states, "Defendant Appeared with counsel Harry Ray."

3. On May 21, 1998, the parties again appeared before Referee Dunham. Following the hearing, the court issued an order continuing the hearing to June 25, 1998. The court's order states, "Defendant appeared represented by atty Harry Ray."

4. While the paternity action was pending, representatives of Hennepin County corresponded with respondent rather than with R.M.B. By letter dated May 26, 1998, Hennepin County Child Support Officer Susan Morris wrote to respondent and requested a completed financial statement from R.M.B. The letter was addressed to "Mr. Harry Ray, Attorney at Law." By letter dated June 2, 1998, respondent submitted the requested financial statement to Theresa Farrell-Strauss, the assistant county attorney handling the matter. Respondent did not inform the county attorney's office that he was not licensed to practice law.

5. Some time in late May or early June 1998, Theresa Farrell-Strauss learned that respondent was suspended from the practice of law. By letter dated June 10, 1998, Ms. Farrell-Strauss informed respondent that she had learned respondent was not a licensed attorney and that she did not want to continue negotiations in the R.M.B. paternity matter.

6. On June 25, 1998, the paternity matter was heard by Referee Judy Mack. The court, in its findings, stated:

Defendant was being represented by attorney Harry Ray. Mr. Ray appeared with Defendant at two prior hearings in this matter. Mr. Ray appeared on this date with the Defendant and provided counsel to the Defendant and participated in negotiations. The Defendant had no knowledge that Mr. Ray's attorney's license was suspended. Defendant told the court that Mr. Ray told him he was retired.

B. T.J.B. Matter

7. On March 11, 1998, Hennepin County served a summons and complaint to determine paternity on T.J.B. in the matter of *Hennepin County and C.L.W.O. v. T.J.B.* A hearing on the matter was scheduled for May 21, 1998.

8. On May 21, 1998, a hearing was held before Referee Milton G. Dunham. Following the hearing, the court issued an order continuing the matter to June 25, 1998. The order states that "Defendant did not appear. Harry Ray, atty, appeared for Defendant."

9. By letter dated June 2, 1998, respondent wrote to Theresa Farrell-Strauss, the assistant county attorney handling the T.J.B. paternity matter, in an attempt to negotiate an agreement as to child support.

10. On June 10, 1998, Theresa Farrell-Strauss wrote to respondent regarding the T.J.B. matter. Ms. Farrell-Strauss informed respondent that she had learned respondent was not a licensed attorney and that she could not continue to negotiate a settlement with respondent.

11. On June 11, 1998, respondent wrote to Theresa Farrell-Strauss with a settlement offer. Ms. Farrell-Strauss forwarded respondent's offer to the plaintiff, but the parties failed to resolve the matter.

12. On June 25, 1998, the matter was again heard by Referee Dunham. Defendant T.J.B. did not appear for the hearing. Referee Dunham found that the matter should be continued until July 9, 1998, "for Defendant to consult with an attorney."

13. By order dated July 9, 1998, Honorable Diana Eagon continued the matter until September 9, 1998, to allow the parties time to reach a possible settlement. After the

June 11, 1998, settlement offer, respondent did not attempt to represent T.J.B.'s interests in the paternity matter.

14. Respondent's conduct in practicing law while suspended violated Rules 5.5(a) and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

WHEREFORE, the Director respectfully prays for an order of this Court disbarring respondent, 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: January 11, 1999.



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and



MARTIN A. COLE
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This petition is approved for filing pursuant to Rules 10(d) and 12(a), RLPR, by the undersigned Panel Chair.

Dated: January 25, 1999



WILLIAM M. KRONSCHNABEL
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD