

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against GREGORY J. REBEAU,
a Minnesota Attorney,
Registration No. 89977.

**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 28, 2009, 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

Dishonesty in a Vehicle Forfeiture Matter

56. On December 13, 2006, C.S. was involved in an automobile accident resulting in damage to his vehicle. At that time, C.S. was arrested for driving while impaired (DWI). Pursuant to Minn. Stat. § 169A.03 ("Vehicle Forfeiture"), the Ramsey County Sheriff's Office seized his vehicle. C.S. retained respondent to represent him in both the DWI and vehicle forfeiture matters.

57. On December 20, 2006, Ramsey County Sheriff's Office served its notice of seizure and intent to forfeit on Farmer's Insurance Company ("Farmers"), which insured C.S.'s vehicle. On January 12, 2007, respondent contested the forfeiture on C.S.'s behalf, and filed a demand for judicial determination of the forfeiture.

58. On March 5, 2007, C.S. pled guilty to second degree DWI.

59. Minn. Stat. § 169A.63 provides for the forfeiture of a vehicle if “it was used in the commission of a designated offense” and presumes a vehicle to be subject to forfeiture if “the driver is convicted of the designated offense upon which the forfeiture is based.” Second degree DWI is among the “designated offenses” covered by the statute.

60. Minn. Stat. § 169A.63 further provides that “All right, title, and interest in a vehicle subject to forfeiture under this section vests in the appropriate agency *upon commission of the conduct* resulting in the designated offense . . . giving rise to the forfeiture” (emphasis added).

61. Further, since 2003, Minnesota case law has provided that insurance proceeds for damage to a vehicle subject to forfeiture are likewise subject to forfeiture. *See, Schug v. \$9,916.50 in U.S. Currency*, 669 N.W.2d 379, 384 (Minn. 2003).

62. Amy K.L. Schmidt, a prosecutor for the city of Shoreview, prosecuted the matters involving C.S. On July 13, 2007, Schmidt served on respondent a notice of motion and motion for summary judgment in the vehicle forfeiture matter. The hearing on Schmidt’s motion was held on July 24, 2007. Neither respondent nor C.S. appeared for the hearing. The court ordered summary judgment in Schmidt’s favor.

63. On August 23, 2007, respondent wrote to Schmidt and claimed, among other things, that she had failed to timely serve him with her summary judgment motion. Schmidt responded to respondent on August 23, 2007, stating that she believed service had, in fact, been timely. Schmidt stated, “I have instructed the Sheriff’s Department to not dispose of the vehicle pending your motion to reconsider or other avenue of appeal.” Respondent did not take any further action in the matter at that time.

64. On September 25, 2007, Schmidt wrote again to respondent and asked whether C.S. intended to challenge the order for summary judgment. Respondent responded on October 1, 2007, stating that he was awaiting word from his client.

65. On October 8, 2007, respondent filed an appeal of the order for summary judgment with the Minnesota Court of Appeals. Shortly thereafter, respondent and Schmidt agreed that respondent would withdraw C.S.'s appeal in exchange for Schmidt's entry into a stipulation to vacate the order for summary judgment based on the untimely service issue. Schmidt made clear to respondent that she was agreeing to vacate the order for summary judgment based solely on the untimely service issue and intended to re-file the motion for summary judgment. On October 23, 2007, based on the parties' stipulation, the court ordered the July 24, 2007, order for summary judgment vacated.

66. On November 16, 2007, Schmidt served and filed an amended notice of motion and motion for summary judgment. The hearing on Schmidt's motion was scheduled for January 10, 2008.

67. On January 2, 2008, respondent served on C.S.'s behalf a response to Schmidt's summary judgment motion.

68. Also on January 2, 2008, respondent wrote to Farmer's. Respondent enclosed a copy of the court's October 23, 2007, order vacating the summary judgment order. Respondent stated that the vehicle was "solely owned by [C.S.]" and demanded payment of the insurance proceeds to C.S. Respondent further stated that if the proceeds were not paid by January 7, 2008, "I have been instructed by my client to utilize any and all remedies to secure your cooperation including a bad faith claim and the possibility of personal liability." Respondent did not copy Schmidt on his letter to Farmer's or otherwise inform her of his actions. Based on respondent's representations, Farmers issued a check for the insurance proceeds to respondent and/or C.S.

69. Respondent's statement to Farmer's that the vehicle was owned solely by C.S. was false. At that time, C.S.'s vehicle and the insurance proceeds for the damage to the vehicle were subject to forfeiture.

70. On January 10, 2008, the court again ordered summary judgment in Schmidt's favor. In approximately May 2008, in attempting to recover the insurance

proceeds from Farmer's, Schmidt learned of respondent's January 2, 2008, letter and Farmer's issuance of the proceeds check to respondent and/or C.S.

71. On July 2, 2008, Schmidt served and filed a notice of motion and motion and related papers seeking an order finding respondent and C.S. in contempt of court, for repayment of the insurance proceeds and for attorney's fees and sanctions. The hearing on Schmidt's motion was held on August 12, 2008.

72. On August 14, 2008, the court issued an order (a) directing C.S. to return to the Ramsey County Sheriff's Office the insurance proceeds he received from Farmer's, (b) finding respondent in contempt of court and sanctioning him \$500, and (c) ordering respondent and C.S. to pay attorney's fees of \$1,854.84.

73. In the memorandum to its August 14, 2008, order, the court stated that respondent "acted in contempt of court and in bad faith and that he acted deceitfully and abused the process of the Court by misrepresenting a Court order in order to obtain proceeds that he and his client were not legally entitled to."

74. Respondent's conduct in making a false statement to Farmer's in order to obtain the insurance proceeds violated Rules 4.1 and 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC).

FIFTH COUNT

Florida Licensure Matter

75. For an unknown period until at least August 2007, respondent stated on his law office letterhead that he was "Also Admitted in Florida."

76. In fact, respondent's Florida license lapsed in October 2000 because he failed to pay the annual registration fee. Respondent has been continuously unlicensed in Florida since that time.

77. After October 2000, respondent's inclusion of the statement on his letterhead that he was admitted in Florida was false and misleading.

78. Respondent's conduct in including a false and misleading statement on his letterhead violated Rules 7.1 and 7.5(a), MRPC.

SIXTH COUNT

Failure to Cooperate with the Director

79. On October 1, 2008, Schmidt submitted a complaint to the Director. On October 13, 2008, the Director sent respondent a notice of investigation requesting respondent's written response to Schmidt's complaint. Respondent responded to the complaint on October 23, 2008.

80. On November 14, 2008, the Director wrote to respondent and requested additional information regarding the Schmidt complaint. Respondent failed to respond.

81. On December 2, 2008, the Director wrote to respondent again requesting his response to the Director's November 14, 2008, letter. Respondent failed to respond.

82. On December 9, 2008, after learning about the Florida licensure matter, the Director sent respondent a notice of investigation requesting his response in the matter. Respondent failed to respond.

83. On January 7, 2009, the Director wrote two letters to respondent, one requesting his response to the Director's November 14, 2008, letter in the Schmidt matter, and the other requesting his response to the Florida licensure matter. Respondent failed to respond to either letter.

84. On January 28, 2009, the Director wrote to respondent and requested his appearance for a February 17, 2009, meeting in the Director's Office to discuss the Schmidt and Florida licensure matters. Respondent failed to appear for the meeting and did not contact the Director to request that the meeting be rescheduled.

85. On February 18, 2009, respondent's assistant wrote to the Director and stated that respondent had been unavailable due to a "family medical illness resulting in death" and that respondent would be in court in out-state Minnesota on February 19, 2009. Respondent's assistant stated that respondent would be "addressing the matters you are awaiting response to" the following week "when he returns to the office."

86. As of March 2, 2009, the Director's Office had received nothing further from respondent.

87. Respondent's conduct in failing to cooperate in the Director's investigation of the Schmidt and Florida licensure matters violated Rule 8.1(b), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility.

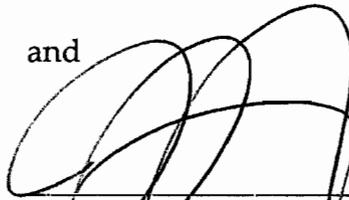
WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: March 4, 2009.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
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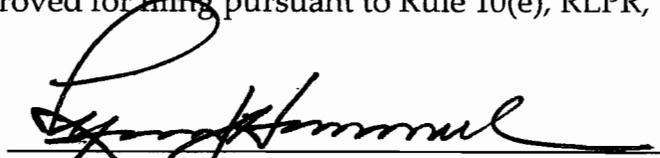
and



JULIE E. BENNETT
SENIOR ASSISTANT DIRECTOR
Attorney No. 289474

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

Dated: March 9, 2009.



LYNN J. HUMMEL
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD