

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against BRADLEY C. RHODES,  
a Minnesota Attorney,  
Registration No. 155913.  
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**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 (RLPR). The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on May 11, 1984. Respondent currently practices law in Aitkin, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

- A. On July 29, 1996, respondent was issued an admonition for failing to serve an answer to a summons and complaint until after a default hearing.
- B. On February 5, 1992, respondent was issued an admonition for failing to refund the unearned portion of a retainer fee for nearly four years.

FIRST COUNT

Neglect, Failure to Comply with Court Order

1. Respondent represented James Moon in a criminal matter.
2. On June 25, 2003, the court conducted a contested omnibus hearing.

Respondent was instructed to serve and file a brief no later than July 16, 2003.

Respondent failed to do so timely. Respondent did not serve or file his brief until September 24, 2003, more than two months after it was due.

3. During a January 6, 2004, hearing, respondent advised the court that respondent's client wanted respondent to brief additional issues. Accordingly, on January 7, 2004, the court scheduled a hearing for January 14, 2004. The January 7 scheduling order directed respondent to submit a brief no later than January 28, 2004, and stated that failure to do so would be deemed a waiver of the right to brief the issues.

4. On January 14, the hearing was conducted. Respondent failed to serve and file a brief.

5. Respondent's representation of Moon subsequently ended.

6. Respondent's conduct violated Rules 1.3, 3.2, 3.4(c) and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

## SECOND COUNT

### Failure to Respond to Disciplinary Complaint

7. On March 30, 2004, the Director mailed to respondent notice of investigation of Moon's complaint. The notice requested respondent to provide his complete written response within 14 days of the notice. Respondent failed to respond.

8. On April 16, 2004, the district ethics committee (DEC) investigator requested respondent to provide his written response as soon as possible. Respondent failed to respond.

9. On April 30, 2004, the DEC investigator informed respondent that the investigator had not received respondent's response to the complaint and requested respondent to provide his written response immediately. Respondent failed to respond.

10. On May 11, 2004, the DEC investigator advised respondent that the investigator had received no response from respondent and requested respondent to contact the investigator immediately. Respondent failed to respond.

11. In early June 2004 the Chair of the DEC spoke with respondent. Respondent did not, however, then provide a response to the complaint or contact the investigator.

12. On July 13, 2004, the Director informed respondent that the matter would be considered further by the Director's Office.

13. On July 14, 2004, the Director mailed to respondent copies of the complaint, notice of investigation, and DEC investigator's report and requested respondent to provide his complete written responses to the complaint and to the investigator's report no later than July 24, 2004.

14. On July 28, 2004, the Director sent a letter to respondent by first class mail and by certified mail, return receipt requested. The certified mail return receipt was signed on July 30, 2004. The Director's July 28 letter informed respondent that the Director had received no response to the Director's July 14 letter, requested respondent to provide at that time his complete written responses to the complaint and to the investigator's report, and advised respondent that the failure to cooperate with the investigation of a complaint against him, including the failure to respond to a complaint or provide requested information and documents, could constitute a separate ground for disciplinary action. Respondent failed to respond.

15. On August 15, 2004, an Assistant Director telephoned respondent's office and left a message on respondent's voice mail for respondent to return the call. Respondent failed to do so.

16. To date, the Director has received no response to the complaint from respondent.

17. On September 22, 2004, the Director issued charges of unprofessional conduct against respondent. On October 12, 2004, the Director issued amended and supplementary charges of unprofessional conduct and notice of pre-hearing meeting. The notice specifically stated that under Rule 10(d), RLPR, flagrant non-cooperation with the Director's Office including failure to attend a pre-hearing meeting may, upon motion to the Panel Chair, result in filing of a public petition for disciplinary action,

without a Panel hearing. The pre-hearing meeting was scheduled for October 27, 2004. Respondent failed to attend.

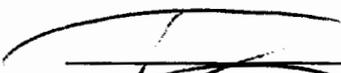
18. Respondent's failure to cooperate violated Rule 8.1(a)(3), MRPC, and Rule 25, RLPR.

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: October 28, 2004.

  
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KENNETH L. JORGENSEN  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
Attorney No. 159463  
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345 St. Peter Street  
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(651) 296-3952

and

  
\_\_\_\_\_  
TIMOTHY M. BURKE  
SENIOR ASSISTANT DIRECTOR  
Attorney No. 19248x

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

Dated: Nov. 12, 2004.   
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KENNETH R. WHITE  
PANEL CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD