

FILE NO. C6-99-1781

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against BARRIE S. SCHUMACK,  
an Attorney at Law of the  
State of Minnesota.  
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**PETITION FOR REVOCATION OF  
PROBATION AND FOR FURTHER  
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 pursuant to Rule 12(a), Rules on Lawyers Professional Responsibility (RLPR), and pursuant to this Court's August 21, 2000, order in the matter.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 15, 1982. Respondent currently practices law in Burnsville, Minnesota.

#### INTRODUCTION

By August 21, 2000, order, this Court publicly reprimanded respondent and placed him on two years probation. A copy of the Court's order is attached as Exhibit 1.

Respondent's discipline was based upon a pattern of neglect and non-communication, failing to return client files, failing to provide accountings and return unearned fees, failing to properly pay court-ordered judgments against him and failing to cooperate in the investigation of disciplinary complaints filed against him in violation of Rules 1.3, 1.4, 1.15(d), 8.1(a)(3), and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

The conditions of respondent's probation included the following:

- a. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation and promptly respond to the

Director's correspondence by the due date. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

b. Respondent shall abide by the Minnesota Rules of Professional Conduct.

c. Respondent shall be supervised by a licensed Minnesota attorney appointed by the Director to monitor compliance with the terms of this probation. Until a supervisor has signed a consent to supervise, the respondent shall, on the first day of each month, provide the Director with an inventory of active files described in paragraph d. below. Respondent shall make active client files available to the Director upon request.

d. Respondent shall cooperate fully with the supervisor in his/her efforts to monitor compliance with this probation. Respondent shall contact the supervisor and schedule a minimum of one in-person meeting per calendar quarter. Respondent shall submit to the supervisor an inventory of all active client files by the first day of each month during probation. With respect to each active file, the inventory shall disclose the client name, type of representation, date opened, most recent activity, next anticipated action, and anticipated closing date. Respondent's supervisor shall file written reports with the Director at least quarterly, or at such more frequent intervals as may reasonably be requested by the Director.

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h. Respondent shall commence or continue direct therapy for the psychological conditions and personality factors which contributed to the impairment identified by Dr. Wojcik. Respondent's mental health professional

must be aware of his physical, psychological and disciplinary history and shall report quarterly to the Director's Office on the status of respondent's treatment.

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Respondent has committed the following unprofessional conduct warranting revocation of probation and further public discipline.

### FIRST COUNT

#### Neglect and Non-Communication

1. On April 25, 2000, Klæe A. Thompson retained respondent to pursue modification of visitation for his minor son and to amend his son's original birth certificate.
2. In early May 2000, respondent served a summons and complaint in the visitation matter. On June 20, 2000, respondent provided Thompson with an invoice detailing his services to date. Respondent did not thereafter proceed further with Thompson's matter.
3. In spite of numerous calls by Thompson and his mother between June 2000 and October 2001, respondent's only communication with Thompson was one vague telephone conversation.
4. In late 2001, Thompson hired a new attorney who promptly scheduled a hearing where the matter was resolved.
5. Respondent's conduct violated Rules 1.3 and 1.4, MRPC, and the Court's probation order.

### SECOND COUNT

#### Failure to Pay Law-Related Debt

6. On November 8, 2000, US West Dex entered a \$3,307.37 judgment against respondent after respondent failed to pay for law office advertising. On November 10, 2000, US West Dex served post-judgment discovery upon respondent and requested

that respondent provide written responses within 30 days. Respondent did not respond.

7. US West Dex's attorney wrote to respondent about the outstanding judgment on December 15, 2000, and on April 19, 2001, but respondent made no arrangements to pay the judgment or to provide written responses to US West Dex's discovery requests.

8. On September 28, 2001, US West Dex served a notice of motion and motion to compel his answers to these post-judgment interrogatories on respondent. The court heard US West Dex's motion on November 14, 2001. Respondent did not appear.

9. On November 14, 2001, the court ordered respondent to make full and complete responses to US West Dex's post-judgment interrogatories within 10 days. On November 20, 2001, US West Dex served the court's order on respondent. Respondent has not complied with the court's order or made arrangements to pay US West Dex's judgment.

10. Respondent's conduct violated Rules 3.4(c) and 8.4(d), MRPC, and the probation order.

### THIRD COUNT

#### Failure to Cooperate with Disciplinary Investigation

11. On October 12, 2001, the Director mailed to respondent a notice of investigation in the Thompson matter asking respondent to provide the District Ethics Committee (DEC) investigator with a written response within 14 days.

12. When respondent did not timely respond, the DEC investigator handling the Thompson matter wrote to respondent on December 7, 2001, and telephoned respondent four times. Respondent did not respond. The investigator submitted his report without receiving a response from respondent.

13. On December 27, 2001, the Director mailed to respondent a notice of investigation in the US West Dex matter asking respondent to provide the DEC investigator with a written response within 14 days. He did not do so.

14. On January 29, 2002, the DEC investigator handling the US West Dex complaint wrote to respondent requesting an immediate response. Respondent did not respond.

15. On February 15, 2002, the Director provided respondent with a copy of the DEC investigator's report in the Thompson matter and asked that he provide a written response within 10 days. Respondent did not respond.

16. On February 20, 2002, the DEC investigator in the US West Dex matter wrote to respondent again requesting his written response to the US West Dex complaint. Respondent provided his written response on March 7, 2002.

17. Respondent's conduct violated Rule 8.1(a)(3), MRPC, Rule 25, RLPR, and the Court's probation order.

#### FOURTH COUNT

##### Failure to Cooperate with Probation

18. As stated above, respondent was required to cooperate with his probation supervisor.

19. Respondent did not provide his supervisor with client inventories for December 2001 and January 2002. When asked by his supervisor to provide clarification of several client matters, respondent failed to timely and completely respond.

20. In late November 2001, respondent indicated he was having a difficult time emotionally and appeared to his supervisor to be more depressed. Respondent's counseling psychologist, Dr. Mark Prichard, referred him for medical assessment for possible psychotropic medication. Respondent's doctor prescribed and respondent

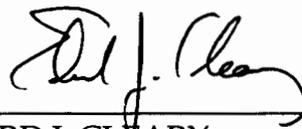
began taking an anti-depressant, but cancelled his last appointment with Dr. Prichard during December 2001 and has failed to schedule further treatment.

21. On May 7, 2002, the Director wrote to respondent requesting a meeting on May 15, 2002, regarding his probation compliance problems. Respondent did not appear for the meeting or contact the Director's Office to say that he could not attend.

22. Respondent's conduct violated Rule 8.1(a)(3), MRPC, Rule 25, RLPR, and the Court's probation order.

WHEREFORE, the Director respectfully prays for an order of this Court revoking respondent's probation, suspending respondent's license to practice law 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: May 21, 2002.



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EDWARD J. CLEARY  
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