

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against MICHAEL G. SINGER,
an Attorney at Law of the
State of Minnesota.

**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 petition upon the parties' agreement pursuant to Rules 10(a) 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 April 19, 1973. On January 5, 1996, the Minnesota Supreme Court suspended respondent from the practice of law. Respondent has not been reinstated.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

A. In May 1987 respondent was issued an admonition for failure to timely file individual income tax returns and to pay the taxes due thereon for tax years 1980 and 1983 in violation of DR 1-102(A)(5) and (6), Minnesota Code of Professional Responsibility (MCPR), and the Court's holding in *In re Bunker*, 199 N.W.2d 628 (Minn. 1972).

B. In April 1988 respondent was issued an admonition for failing to secure timely recording of appropriate documentation of transfer of title pursuant to a decree of dissolution of marriage, or to instruct his client of the necessity that she do so, in violation of DR 6-101(A)(3), MCPR.

C. In 1993 the Supreme Court suspended respondent for 30 days and placed him on probation for tax violations. *In re Singer*, 499 N.W.2d 467 (Minn. 1993).

D. On January 5, 1996, the Supreme Court indefinitely suspended respondent, two years minimum, for failure to file state and federal personal income and employer withholding tax returns while on unsupervised probation, failure to comply with other conditions of probation, failure to maintain proper trust account records, failure to account for client funds, and failure to cooperate with an ethics investigation. *In re Singer II*, 541 N.W.2d 313 (Minn. 1996).

FIRST COUNT

1. Respondent represented Pamela Fisher and her husband for many years prior to 1993. Mr. Fisher died in the spring of 1993. Respondent continued to represent Pamela Fisher in matters relating to medical bills and insurance proceeds involving her husband's death.

2. At a meeting in the spring of 1993, respondent advised Ms. Fisher to not make any decisions regarding the insurance proceeds for at least one year and to keep the monies liquid. In April 1993 respondent asked Ms. Fisher to loan him \$10,000 for business expenses. Respondent gave her a demand note for the funds (Exhibit 1).

3. In May 1993 respondent told Ms. Fisher that he ran into some unexpected trouble with his lease and requested an additional loan of \$3,000. Respondent again gave her a promissory note for the funds (Exhibit 2).

4. In August 1994 respondent advised Ms. Fisher to put the remainder of the insurance proceeds (\$50,000) into his law firm's trust account, in a fiduciary capacity. Respondent assured Ms. Fisher that attorneys' trust accounts were strictly regulated, so the monies would be safe. Respondent also misrepresented that his trust account funds were invested in funds which were generating a greater rate of interest than any of the accounts she had invested in. Ms. Fisher gave respondent \$50,000 pursuant to his advice. Respondent gave her a handwritten receipt (Exhibit 3).

5. Respondent did not deposit the \$50,000 into his trust account, but rather misappropriated the funds and used them for his own purposes.

6. Ms. Fisher made numerous demands for an accounting of the funds, but was advised that the investment was making good money and she should leave it there as opposed to demanding its withdrawal. Respondent never furnished an accounting, despite numerous requests.

7. In the fall of 1995 Ms. Fisher advised respondent that she had financial demands and had to have the amount he owed her returned. In January 1996, after repeated demands, respondent gave Ms. Fisher a "Promissory Note and Estate Lien" for \$63,176.14 purporting to secure the \$50,000 she had given him, plus interest, in the event of his death (Exhibit 4). In fact, respondent did not have a custodial stock account and the lien was a sham.

8. On May 15, 1997, respondent issued Ms. Fisher a check for \$26,000 as a partial repayment (Exhibit 5). The bank dishonored the check for insufficient funds when it was presented on May 20. Respondent told Ms. Fisher to wait until he transferred funds into the account to present the check again. When Ms. Fisher presented the check to the bank in August, the account had been closed. Respondent closed this account on May 27, 1997, without honoring the check.

9. In late 1997 Ms. Fisher negotiated with respondent to secure a confession of judgment in Hennepin County District Court in the amount of \$96,729.35 (Exhibits 6 and 7). Thereafter, despite numerous demands, respondent failed to pay any portion of the judgment.

10. On August 12, 1998, respondent filed personal bankruptcy. On October 14, 1998, Ms. Fisher filed a complaint in the bankruptcy seeking to have the debt to her excepted from discharge on the grounds of fraud and defalcation while acting in a fiduciary capacity.

11. On December 15, 1998, respondent stipulated to except the debt to Ms. Fisher, and the judgment thereon, from discharge (Exhibit 8). Respondent has nevertheless failed to pay any portion of the judgment.

12. Respondent's conduct in borrowing funds from a client, obtaining funds through misrepresentations, failing to deposit client funds into his trust account, misappropriating funds entrusted to him in a fiduciary capacity, making misrepresentations to the client to avoid paying the debt or to provide an accounting, failing to honor a check written to partially repay the debt, issuing a false promissory note and estate lien and failing to pay the judgment violated Rules 1.8(a), 1.15(a), 3.4(c) and 8.4(b) and (c), Minnesota Rules of Professional Conduct (MRPC).

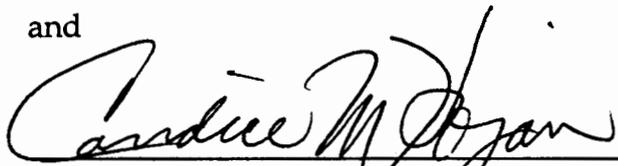
WHEREFORE, the Director respectfully prays for an order of this Court disbarring respondent or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: February 7, 2000.



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