

FILE NO. A12-0525

STATE OF MINNESOTA

IN SUPREME COURT

-----  
In Re Petition for Disciplinary  
Action against JON ELTON STANEK,  
a Minnesota Attorney,  
Registration No. 388792.  
-----

**AMENDED AND  
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 March 15, 2012, petition for disciplinary action. The Director has investigated further acts of unprofessional conduct by respondent which came to light after a determination that probable cause for public discipline was warranted.

The Director alleges that respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Failure to Comply with Consent Agreement for Conditional Admission

1. On September 26, 2008, a hearing examiner for the Minnesota State Board of Law Examiners ("BLE") concluded that respondent's "patterns of abuse of alcohol, unlawful conduct, incomplete disclosure and lack of candor raise serious questions about whether he has the present character and fitness for admission to the bar." The hearing examiner recommended respondent's conditional admission to the practice of

law, subject to his compliance with the terms of a September 26, 2008, consent agreement for conditional admission (“consent agreement”).

2. As noted, respondent was, in fact, conditionally admitted to the practice of law in Minnesota on October 9, 2008, subject to compliance with the consent agreement.

#### Failure to Remain Abstinent

3. The consent agreement provided that, “Applicant [respondent] shall maintain total abstinence from alcohol and other mood-altering chemicals, except that Applicant may use prescription drugs in accordance with the directions of the prescribing health care professional who has been fully advised of Applicant’s condition.”

4. Respondent did not remain abstinent from alcohol during the entire period of his conditional admission. Respondent drank alcohol on a regular basis from July of 2009 through at least July of 2011.

#### Failure to Report Violations of the Law

5. The consent agreement provided that “if [respondent] is charged with, arrested for, pleads guilty to, agrees to dismissal of charges after a period of time, or is convicted of any violation of the law, including traffic offenses, [he] shall make a written report of such incident or incidents to [BLE] within 72 hours of occurrence.”

6. On June 8, 2010, at 7:42 p.m., police discovered respondent’s abandoned car that appeared to have left the road and collided with a tree. Respondent was subsequently charged in Eau Claire County (Wisconsin) Court with driving too fast for the conditions in violation of Wisc. Stat. § 346.57(3), failing to notify police of an accident in violation of Wisc. Stat. § 346.70(1) and exhibition driving/excessive acceleration in violation of a local ordinance. On October 19, 2010, respondent was found guilty by the Eau Claire County Court of driving too fast for the conditions in

violation of Wisc. Stat. § 346.57(3) and exhibition driving/excessive acceleration in violation of a local ordinance, and was assessed a forfeiture penalty. Contrary to the terms of the consent agreement, respondent failed to inform BLE of the fact that he was charged and convicted as set forth above.

#### Failure to Timely Submit Required Reports

7. The consent agreement also required respondent to (a) complete and submit to BLE quarterly self-monitoring reports; (b) maintain abstinence from alcohol and other mood-altering chemicals; (c) attend at least two meetings a week at a sober support group and; (d) on or before the 10<sup>th</sup> day of each month, submit to BLE a report signed by a member of his sober support group, attesting to his attendance at the support group meetings.

8. Respondent failed to timely submit to BLE the self-monitoring reports that were due from him on July 20, 2010, and October 26, 2010.

9. On October 6, 2011, during the course of the disciplinary investigation, respondent submitted self-monitoring reports for May and July 2010 to the Director.

10. Respondent also failed to timely submit to BLE monthly sober support group attendance reports that were due from him during the months May through October 2010.

11. On October 6, 2011, during the course of the disciplinary investigation, respondent submitted sober support group attendance reports to the Director for May and July 2010.

#### Failure To Cooperate

12. The consent agreement also required respondent to cooperate fully with [BLE] and to “promptly respond to [BLE] requests for information, and . . . submit information required by this Agreement by the date requested.” The consent

agreement specifically stated that respondent's failure to cooperate as required "shall be a basis for finding a violation of the Agreement."

13. On March 10, 2011, BLE wrote to respondent regarding the missing self-monitoring and sober support group attendance reports. BLE asked respondent to submit the missing reports, together with an explanation for his failure to submit them when due. Respondent failed to respond to BLE.

14. On March 23, 2011, BLE wrote again to respondent regarding the missing self-monitoring reports and sober support group attendance reports. BLE again asked respondent to submit the missing reports, together with an explanation for his failure to submit them when due. Respondent again failed to respond to BLE.

15. On April 6, 2011, after independently discovering the criminal charges against respondent, BLE wrote to respondent and asked him to confirm that he had been criminally charged, to provide a narrative of each incident and to provide an explanation for his failure to affirmatively report the charges. Respondent failed to respond to BLE.

16. On April 8, 2011, BLE wrote to respondent to request an updated authorization and release form and to ask whether he had notified his treating physician of his alcohol dependence diagnosis in accord with the consent agreement. Respondent failed to respond to BLE.

17. On April 20, 2011, BLE wrote to respondent noting his failures to provide reports as required under the terms of the consent agreement. BLE asked respondent to provide a written explanation for the missed reports, or the missed reports themselves. Respondent failed to respond to BLE.

18. On January 18, 2012, the Director issued amended charges of unprofessional conduct (the charges) against respondent seeking a determination of probable cause for public discipline. The charges were based on the factual allegations set forth above.

19. Pursuant to Rule 9, Rules on Lawyers Professional Responsibility, respondent requested that the Lawyers Board Panel assigned to the matter conduct an oral argument on the charges. The Panel Chair granted that request.

20. Notice of oral argument was mailed to respondent on March 1, 2012. That notice scheduled the oral argument for 9:00 a. m. on March 14, 2012, at Courtroom 100 in the Minnesota Judicial Center. The notice specifically advised, "You must attend the oral argument. Failure to attend may be a separate ground for disciplinary action. See Rule 25, Rules on Lawyers Professional Responsibility (RLPR). You may be represented by counsel."

21. Respondent failed to appear at the oral argument as scheduled.

#### False Statements During Disciplinary Investigation

22. On August 25, 2011, the Director wrote to respondent. In that letter the Director, among other things, asked, "Have you maintained total abstinence from alcohol and other mood-altering chemicals pursuant to paragraph 7 of the September 26, 2008, consent agreement for conditional admission?"

23. On October 6, 2011, respondent replied to the Director's August 25 letter. In his reply, respondent falsely stated, "Yes, I was abstinent from alcohol and other mood-altering chemicals throughout my conditional admission period."

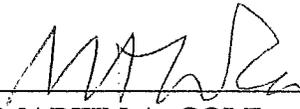
24. In fact, as noted in paragraphs 3 and 4 above, respondent drank alcohol on a regular basis throughout much of the conditional admission period.

25. Respondent's conduct in failing to comply with the terms of his consent agreement with BLE, his false statement to the Director in response to the Director's August 25, 2011, letter, and his failure to attend the oral argument he requested violated Rules 3.4(c), 8.1(a), 8.1(b), 8.4(c), and 8.4(d), Minnesota Rules of Professional Conduct, and Rule 25, Rules on Lawyers Professional Responsibility.

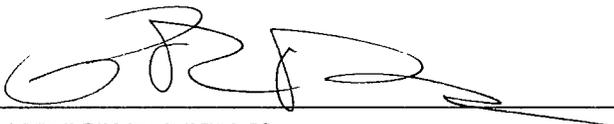
WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the

Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

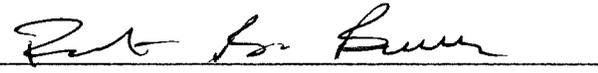
Dated: JUNE 4, 2012.

  
\_\_\_\_\_  
MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
Attorney No. 148416  
1500 Landmark Towers  
345 St. Peter Street  
St. Paul, MN 55102-1218  
(651) 296-3952

and

  
\_\_\_\_\_  
PATRICK R. BURNS  
FIRST ASSISTANT DIRECTOR  
Attorney No. 134004

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

Dated: 6/7, 2012.   
\_\_\_\_\_  
ROBERT B. BAUER  
PANEL CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD