

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against ELIZABETH JANE SUNDBY,
an Attorney at Law of the
State of Minnesota.

**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. The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on January 9, 1990. Respondent currently practices law in Fargo, North Dakota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Failure to Cooperate with Trust Account Inquiry and Disciplinary Investigation

1. On December 19, 2001, the Director wrote to respondent at the address appearing on a trust account insufficient funds notice (Exhibit 1). The Director requested an explanation for, and various documents relating to, the insufficient funds notice. Respondent failed to respond.

2. On January 7, 2002, the Director wrote to respondent at the address appearing in the records of the Minnesota attorney registration office (Exhibit 2). The

Director again requested an explanation for, and various documents relating to, the trust account insufficient funds notice. Respondent failed to respond.

3. On January 28 and February 11, 2002, the Director wrote to respondent at her attorney registration address (Exhibits 3 and 4). The Director again requested a response to the January 7 letter. Respondent failed to respond.

4. Based on respondent's failures to respond, the Director determined to commence a formal disciplinary investigation. On February 27, 2002, the Director mailed to respondent a notice of investigation (Exhibit 5). The notice requested respondent's trust account books and records for the period September 1, 2001, to February 28, 2002, and an explanation for her failure to respond to the Director's earlier letters. Respondent failed to respond.

5. On March 28, 2002, the Director wrote to respondent to again request her response to the Director's notice of investigation (Exhibit 6).

6. On April 22, 2002, respondent telephoned the Director's Office, leaving a message for the Assistant Director assigned to her disciplinary file to call her. On April 23, 2002, the Assistant Director called and left a message for respondent, to which respondent has failed to respond.

7. On May 29, 2002, the Director issued charges of unprofessional conduct against respondent and mailed to her notice of June 14, 2002, pre-hearing meeting (Exhibit 7). Respondent failed to appear for the pre-hearing meeting or to otherwise communicate with the Director regarding it.

8. None of the Director's letters to respondent have been returned by the postal service as undeliverable. To date, aside from her April 22 telephone message, respondent has not responded to any of the Director's letters and has not otherwise communicated, or attempted to communicate, with the Director.

9. Respondent's conduct in failing to respond to the Director's letters or to otherwise cooperate with the Director's investigation of the overdraft violated Rule

8.1(a)(3), MRPC, Rule 25, Rules on Lawyers Professional Responsibility, and the Minnesota Supreme Court's holding in *In re Cartwright*, 282 N.W.2d 548 (Minn. 1979).

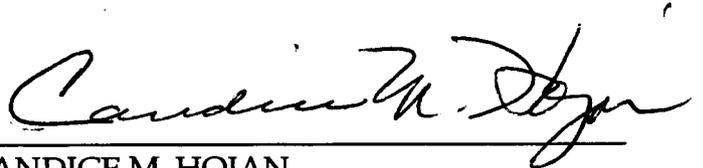
WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: June 19, 2002.



EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
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and



CANDICE M. HOJAN
SENIOR ASSISTANT DIRECTOR
Attorney No. 125982

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

Dated: July 3, 2002.



TIMOTHY M. O'BRIEN
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD