

FILE NO. C5-02-1203  
STATE OF MINNESOTA  
IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against ELIZABETH JANE SUNDBY,  
an Attorney at Law of the  
State of Minnesota.  
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**SUPPLEMENTARY PETITION  
FOR DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Acting 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 July 3, 2002, petition for disciplinary action. The Director has investigated further allegations of unprofessional conduct against respondent.

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

SECOND COUNT

Drinnin Bankruptcy Matter

10. In August 1997, Christopher and Debra Drinnin retained respondent to represent them in pursuing a federal fair housing claim. In the fall of 1998, respondent filed the Drinnins' claim with the Department of Housing and Urban Development (HUD).

11. The Drinnins thereafter retained respondent to represent them in filing bankruptcy. On December 11, 1998, respondent filed a Chapter 7 bankruptcy petition on the Drinnins' behalf. Respondent did not include the fair housing claim on the bankruptcy schedules.

12. The first meeting of creditors in the Drinnins' bankruptcy was held on January 8, 1999. Another lawyer in respondent's office appeared with the Drinnins. The Drinnins orally disclosed their pending fair housing claim, stating that the claim had little or no value. Kip Kaler, the bankruptcy trustee, told the Drinnins that they had to notify him if the claim resulted in any recovery.

13. The trustee determined that the Drinnins had no assets, and in February 1999, closed their bankruptcy with no distribution to creditors.

14. In November 1999, after HUD determined that the Drinnins had a viable fair housing claim, respondent filed a federal district court complaint on the Drinnins' behalf.

15. In May 2000, respondent settled the Drinnins' fair housing claim for \$75,000 and received \$10,000 in fees.

16. Respondent did not at any time notify Kaler of the settlement or amend the Drinnins' bankruptcy petition to disclose it.

17. In August 2000, after learning of the Drinnins' fair housing claim settlement from a third party source, Kaler reopened the bankruptcy to recover the \$75,000 in proceeds from respondent and the debtors.

18. In February 2001, the debtors stipulated to entry of judgment of \$46,102.70 against them, the amount of the proceeds received by them. In September 2001, Kaler and respondent agreed to a settlement, which was approved by the bankruptcy court. Under the terms of the settlement, respondent was required to repay the Drinnin bankruptcy estate \$3,000 on or before January 31, 2002. If respondent failed to timely make the payment, the settlement provided that the bankruptcy estate could obtain a \$10,000 judgment against respondent. Respondent signed a confession of judgment to that effect.

19. Respondent failed to make the \$3,000 payment as required and judgment was thereafter entered against her.

20. To date, respondent has not satisfied the judgment.

21. Respondent's conduct in failing to list the fair housing claim in the bankruptcy and failing to pay the settlement or judgment violated Rules 3.4(c) and 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC).

### THIRD COUNT

#### Additional Failure to Cooperate with Disciplinary Investigation

22. On September 3, 2002, the Director received a complaint against respondent regarding her handling of the Drinnin bankruptcy.

23. On September 13, 2002, the Director sent respondent a notice of investigation of the complaint and requested respondent's response to the complaint within fourteen days. Respondent failed to respond.

24. Respondent has not communicated with the Director at any time regarding the Drinnin bankruptcy complaint.

25. Respondent's conduct in failing to respond to the notice of investigation 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: November 27, 2002.



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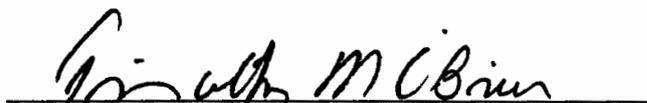
and



CANDICE M. HOJAN  
SENIOR ASSISTANT DIRECTOR  
Attorney No. 125982

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

Dated: December 3, 2002.



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