

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

-----  
In Re Petition for Disciplinary Action  
against RICHARD LEE SWANSON,  
a Minnesota Attorney,  
Registration No. 173423.  
-----

**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 (RLPR). The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on April 22, 1986. Respondent currently practices law in Chaska, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

1. Respondent has the following disciplinary history:
  - a. On April 13, 1988, respondent was issued an admonition for failing to adequately communicate with a client in violation of Rule 1.4, Minnesota Rules of Professional Conduct (MRPC).
  - b. On September 7, 1989, respondent was issued an admonition for advising a client to appear *pro se* at a hearing in violation of Rules 1.3 and 8.4(d), MRPC.

- c. On December 11, 1996, respondent was issued an admonition for failing to competently file a notice of appeal and failing to pay a client \$1,500 in a malpractice case settlement in violation of Rules 1.1 and 8.4(d), MRPC.
- d. On May 19, 2005, respondent was issued an admonition for failing to timely file a motion with the district court, failing to timely request a continuance of a hearing for which he had a scheduling conflict, and failing to provide a client with an accounting in violation of Rules 1.3 and 1.4, MRPC.

### FIRST COUNT

#### Jeffrey Poppler Matter

2. On October 13, 2005, the district court issued a final judgment and decree in Jeffrey Poppler's dissolution proceedings. Poppler hired respondent to appeal the final judgment and decree. Poppler paid respondent a retainer of \$2,500.
3. On December 17, 2003, respondent served and filed a notice of appeal. On January 8, 2004, the court of appeals issued an order directing the parties to serve and file informal memoranda with the clerk of the appellate courts addressing the timeliness of Poppler's appeal.
4. On January 19, 2004, respondent filed an informal memorandum stating that the deadline to appeal the final judgment and decree was December 18, 2003, which was 60 days from the date respondent had been notified of the filing of the final judgment and decree. Respondent incorrectly argued that his receipt of the notice of filing triggered the appeal time.
5. On January 27, 2004, the court of appeals issued an order dismissing the appeal as untimely. The court of appeals concluded that the appeal time expired on December 12, 2003, which was 60 days after judgment was entered. *See* Minn. R. Civ. App. P. 104.01, subd. 1.

6. On February 9, 2004, respondent sent Poppler a copy of the order dismissing his appeal. Respondent provided no explanation as to why the appeal was not timely filed.

7. Respondent's failure to timely file the Poppler appeal violated Rules 1.1, and 1.3, MRPC.

SECOND COUNT

Non-Cooperation

8. On July 21, 2005, the Director sent respondent a letter requesting additional information to his address at 207 Chestnut Street, Suite 235, Chaska, MN, 55318. On July 25, 2005, the Director's letter was returned to sender by the post office, which listed a forwarding address for respondent of P.O. Box 117, Chaska, MN, 55318. On July 25, 2005, the Director forwarded the July 21 letter to respondent at his new address. Respondent's response was due within nine days upon receipt. Respondent failed to respond.

9. On August 12, 2005, the Director sent respondent a second letter again requesting additional information. Respondent's response was due by no later than August 19, 2005. Respondent failed to respond.

10. On October 19, 2005, the Director sent respondent a third letter requesting information. Respondent's response was due no later than October 28, 2005. Respondent failed to respond.

11. On December 2, 2005, the Director issued charges of unprofessional conduct against respondent. Since that time, respondent has cooperated with the Director.

12. Respondent's failure to cooperate with the investigation of the Poppler complaint violated Rule 8.1(b), 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.

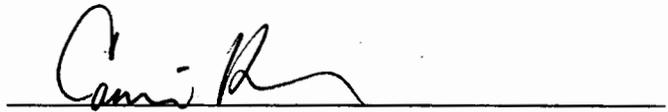
Dated: December 19, 2005.



KENNETH L. JORGENSEN  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY

Attorney No. 159463  
1500 Landmark Towers  
345 St. Peter Street  
St. Paul, MN 55102-1218  
(651) 296-3952

and



CASSIE HANSON  
ASSISTANT DIRECTOR  
Attorney No. 303422