

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

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against STEVEN WAYNE VAN LIEW,  
a Minnesota Attorney,  
Registration No. 280793.  
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**PETITION FOR  
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

At the direction of a Lawyers Professional Responsibility Board Panel, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on November 17, 1997. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

A. On May 2, 2000, respondent received an admonition for failing to notify his client that his employment at the public defender's office had terminated and failing to promptly return his client's file to the public defender's office in violation of Rules 1.3 and 1.4, Minnesota Rules of Professional Conduct (MRPC) (Exhibit 1).

B. In 2005, at the same Panel hearing authorizing the filing of this petition for disciplinary action, respondent received a Panel admonition for failing to provide the court with any evidence in defense of opposing counsel's motion and failing to communicate with his client in violation of Rules 1.1, 1.3 and 1.4, MRPC (Exhibit 2).

#### FIRST COUNT

1. On November 25, 2003, David Duerkop and his long-term partner, Susan Olson, met with respondent regarding representation relating to post-dissolution parenting time issues. Duerkop wanted his ex-wife held accountable for refusing visitation and wanted respondent to handle an anticipated motion by his ex-wife to modify parenting time. Duerkop signed a retainer and Olson gave respondent a \$1,200 check for the representation (Exhibit 3).

2. At the November 25, 2003, meeting Duerkop gave respondent the November 21, 2003, letter he had received from his ex-wife's attorney, Robert Youngerman, informing Duerkop that a hearing had been scheduled for December 16, 2003 (Exhibit 4). Duerkop had not yet received the motion in the mail. Duerkop and Olson provided respondent with their file regarding previous parenting time issues.

3. During the December 16, 2003, hearing, opposing counsel stated they had received no response from respondent to their motion and objected to any arguments respondent might make at the hearing. The judge confirmed there was no response in the court file from respondent.

4. Respondent misrepresented to the court that Duerkop "came and retained me ten days ago." (Exhibit 5, p. 4.)

5. The judge allowed each side to present arguments, noting that any decision would be based only on the evidence in front of the court (Exhibit 5, p. 5).

6. At the end of the hearing the judge stated, "I know you are aware of that issues, for example, such as compensatory visits are not properly before me and I am

not in any position to make a decision on those issues. I gave essentially -- in order to permit you to continue to talk essentially gave Mr. Youngerman a continuing objection to any evidence or facts not properly before the Court, . . . . So any facts that you mentioned in your argument I do not and will not consider." (Exhibit 5, p.16.)

7. In granting opposing counsel's motion, the judge stated, "I understand that [respondent] got into in [sic] late but I -- I can't fix that. I mean -- and I understand maybe sometimes the parties don't understand when they get some of the documents they need to talk to an attorney right away and they need to discuss it and move on quick." (Exhibit 5, p. 16.)

8. Respondent's misrepresentation caused the court to believe that Duerkop was late in seeking counsel when, in fact, Duerkop set up an appointment with respondent even before he received the motion and retained respondent on November 25, 2003, the same day he received the motion.

9. On January 13, 2004, without consulting his client, respondent wrote the judge requesting permission to file a motion for reconsideration to allow respondent to file additional information. In this letter, respondent again reiterated the false statement that Duerkop hired him "just prior to the hearing." (Exhibit 6, p. 2.)

10. Respondent's January 13, 2004, letter to the judge stated that Duerkop wished to submit the affidavit of Lori Kuenn, which had already been denied as untimely, and affidavits from others in the community, which respondent had previously told Duerkop would not be helpful to his case. The judge denied respondent's request.

11. Respondent's conduct violated Rules 3.1(a)(1), 4.1, 8.4(c) and (d), MRPC.

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: August 29, 2005.

  
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and

  
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