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LAWYERS PROF RESP BOARD

STATE OF MINNESOTA
IN SUPREME COURT
C6-90-2255

OFFICE OF
APPELLATE COURTS

In Re the Petition for Disciplinary Action
against Michael D. Thalberg, an Attorney at Law
of the State of Minnesota.

NOV 15 1990

FILED

ORDER

The Director of the Lawyers Professional Responsibility Board filed a petition with this Court alleging that the respondent Michael D. Thalberg has committed professional misconduct warranting public discipline. In the petition, the Director alleges that respondent received a check from a bank on behalf of one of respondent's clients which was made payable to respondent, in exchange for which the client was to provide a satisfaction of mortgage; that respondent and the client had an ongoing dispute over the amount of attorney fees the client owed respondent for other legal services respondent previously had performed for the client; that respondent had no written fee agreement with the client relating to any of the matters respondent had handled for the client; that, although the bank specifically directed that the check was for the benefit of the client, respondent cashed the check and took \$775 of the proceeds in cash for himself as attorney fees for services he previously had performed for the client; that respondent thereafter informed the client that the bank's funds were being held in respondent's trust account, but did not inform the client of the amount of funds respondent had taken as attorney fees until November of 1989; that, upon learning that respondent took the \$775, the client demanded only that respondent refund \$215.99 to the client to cover respondent's share

of a telephone bill for a telephone line shared by respondent and the client; that respondent promptly paid the client the requested \$215.99; that subsequent fee arbitration showed that respondent was entitled to the amount of fees he had taken; and that neither the bank nor the client suffered any economic loss as a result of respondent's actions, although delay occurred in delivering the satisfaction of mortgage to the bank.

After the petition had been filed, respondent entered into a stipulation for discipline with the Director. In the stipulation, the respondent waived all of his procedural rights to hearings as provided in Rule 10(a), Rule 9 and Rule 14 of the Rules on Lawyers Professional Responsibility. Respondent also waived his right to interpose an answer and unconditionally admitted all of the allegations of the petition. Respondent joined with the Director in recommending that appropriate discipline pursuant to Rule 15, Rules on Lawyers Professional Responsibility, is a public reprimand. Respondent further agreed to the imposition and payment of \$750 in costs pursuant to Rule 24, Rules on Lawyers Professional Responsibility.

The Court, having considered all of the facts and circumstances surrounding this matter, the petition of the Director, and the stipulation of the parties, NOW ORDERS:

1. That the respondent, Michael D. Thalberg, hereby is publicly reprimanded pursuant to Rule 15 of the Rules on Lawyers Professional Responsibility.
2. That the respondent shall pay to the Director the sum of \$750 in costs and disbursements pursuant to Rule 24, Rules on Lawyers Professional Responsibility.

Dated:

11-15-90

BY THE COURT:


Peter S. Popovich, Chief Justice