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LAWYERS PROF. RESP. BOARD

STATE OF MINNESOTA

IN SUPREME COURT

C6-82-900

Supreme Court

Per Curiam

In Re Petition for Disciplinary
Action Against Roman S. Tymiak,
an Attorney at Law in the
State of Minnesota.

Endorsed
Filed January 27, 1984
Wayne Tschimperle
Clerk of Appellate Courts

Heard, considered, and decided by the court en banc.

O P I N I O N

This proceeding is before the court on an order to show cause, issued on motion of the Lawyers Professional Responsibility Board (LPRB), why respondent, Roman S. Tymiak, should not be disciplined.

In July 1982, the Director of the LPRB, having been directed by a panel of the LPRB, filed petitions for the immediate suspension from the practice of law and for disciplinary action against respondent.

The petition for discipline alleged five counts of unprofessional conduct under the Code of Professional Responsibility. In summary, they are:

1. That respondent repeatedly filed claims in both federal and state courts after his claims were dismissed in the first suit he brought and that respondent knowingly advanced unwarranted claims and filed suits to harass others and prejudice the administration of justice in violation of DR 1-102(A)(5) and (6) and DR 7-102(A)(1) and (2).
2. That respondent failed to comply with numerous court orders, resulting in his being held in contempt by the

Hennepin County District Court in violation of DR 1-102(A)(5) and (6).

3. That when respondent expended money from a client's trust fund for personal use, he improperly disposed of the trust funds in violation of his fiduciary obligations and in violation of DR 1-102(A)(6) and DR 9-102.
4. That respondent, in the course of the litigation described in count one, made numerous false or scandalous statements in violation of DR 1-102(A)(4) and (6).
5. That respondent's actions during his representation of a deceased client resulted in various conflicts of interests in violation DR 5-101(A) or DR 1-102(A)(4).

Because respondent failed to answer the petition, the allegations are deemed admitted pursuant to Rule 13(c) of the Rules on Lawyers Professional Responsibility.

On August 10, 1982, the court heard oral arguments regarding disciplinary action and immediate suspension from the practice of law. Respondent was notified of this hearing, but he chose not to appear.

By order dated August 31, 1982, this court suspended respondent from the practice of law pending a final disposition of the disciplinary proceedings pursuant to Rule 12(c)(1) of the Rules on Lawyers Professional Responsibility.

Respondent has not availed himself of the opportunity, under Rule 12(c)(1), for vacation of the order of suspension and for leave to answer the petition for disciplinary action. The LPRB, pursuant to Rule 12(c)(2), therefore brought the present motion for an order to show cause. That order was issued on September 22, 1983, with hearing set for December 5, 1983, and notice of the hearing to be served by publication. Respondent failed to appear at the December 5, 1983, hearing before the court.

In accord with respondent's failure to appear at the December 5, 1983, hearing or otherwise respond to the order to show cause, pursuant to Rule 12(c)(2), and based upon respondent's serious acts of misconduct that make him unfit to practice law in the State of Minnesota, respondent, Roman S. Tymiak, is disbarred as of this date.