

STATE OF MINNESOTA
IN SUPREME COURT

Endorsed:
SUPREME COURT
FILED
FEB 21 1969
MAE SHERMAN
CLERK

IN THE MATTER OF THE APPLICATION

FOR THE DISCIPLINE OF STEPHEN
FRANCIS VARICHAK, AN ATTORNEY

41871

ORDER

AT LAW OF THE STATE OF MINNESOTA.

Upon the Petition and Accusation herein which has been filed in the office of the Clerk of said Court, a copy of which is hereto attached, and on motion of the State Board of Law Examiners,

IT IS ORDERED that this Order and a copy of said Petition and Accusation be forthwith served upon Stephen Francis Varichak, wherever he may be found, within or without the State of Minnesota, in the manner provided for in Rule I of the Rules of the Supreme Court for the discipline and reinstatement of attorneys, as amended to March 21, 1968, and that Stephen Francis Varichak plead or file his answer in duplicate to the said Petition and Accusation in the office of the Clerk of this Court at the State Capitol Building in the City of St. Paul, Minnesota, and serve a copy thereof upon the attorney for the Petitioner herein at his office at 6100 Excelsior Boulevard, St. Louis Park, Minnesota, within twenty (20) days after service of this Order, Petition and Accusation upon said

Stephen Francis Varichak.

DATED: This 21st day of February, 1969.

BY THE COURT:

s/ Oscar R. Knutson
Chief Justice of the Supreme Court

STATE OF MINNESOTA

IN SUPREME COURT

IN THE MATTER OF THE APPLICATION

**FOR THE DISCIPLINE OF STEPHEN
FRANCIS VARICHAK, AN ATTORNEY**

**PETITION
AND
ACCUSATION**

AT LAW OF THE STATE OF MINNESOTA.

**TO: THE SUPREME COURT OF THE STATE OF MINNESOTA AND TO
OSCAR R. JNUTSON, CHIEF JUSTICE:**

The undersigned, President and counsel of the State Board of Law Examiners, on behalf of the Board, represent and state to the Court the following:

That Stephen Francis Varichak is and at all times since the 4th day of October, 1957, has been licensed to practice law in the State of Minnesota and has practiced law in this state during all the times material to this Petition. That said attorney paid the registration fee required by Rule II of the Rules of the Supreme Court for Registration of Attorneys as amended to March 21, 1968, for the year 1966, but has not paid such fee for the years 1967, 1968 and 1969 and is thereby subject to the penalty provided by Rule III of said Rules.

That complaints have been made to your Petitioner that Stephen Francis Varichak has been and is guilty of misconduct as hereinafter set forth. These

complaints have been duly referred to the Petitioner by the Practice of Law Committee of the Minnesota State Bar Association by Resolution of the Committee June 7, 1968, in which said Committee forwarded the complaints against Stephen Francis Varichak to the Board with the recommendation that disciplinary proceedings be instituted in the Supreme Court. Your Petitioner has reviewed the files and records filed by the Practice of Law Committee and, upon the basis of such review, has found reasonable grounds to believe and does believe that Stephen Francis Varichak has been guilty of the acts of professional misconduct hereinafter set forth and that competent proof of such misconduct is available for presentation in support of this Petition.

WHEREFORE, your Petitioner alleges that Stephen Francis Varichak is guilty of the following acts of misconduct which acts, if proved, would justify and require disciplinary action by this Court against such attorney.

I

In March of 1966, Stephen Francis Varichak received certain money and property from one David McPhillips who was charged with attempted robbery. He received \$100.00 in cash, a star sapphire and a diamond ring, both of which were valued at approximately \$250.00, and a title card to a 1955 Cadillac automobile, valued at approximately \$350.00, with instructions to sell these items of property and account to his client for the proceeds. Despite repeated requests, no accounting has ever been made.

II

Mrs. Maxine Osgar retained Stephen Francis Varichak to represent her in a custody proceeding and paid a retainer fee of \$125.00. Despite repeated calls from the client on August 16, 1965, September 10, 1965, October 10, 1965, and other calls to the attorney's office which were not returned, no action was ever instituted by Mr. Varichak on behalf of his client.

III

Pamela Keeler engaged the services of Stephen Francis Varichak to represent her in a divorce proceeding. The divorce was granted July 15, 1966. Mrs. Keeler was awarded possession of the furniture of the parties. Her husband had taken half of the furniture prior to the time of the divorce decree. The client has attempted, on numerous occasions, to contact her attorney, has had extreme difficulty in contacting him, and, when contacted, the attorney puts her off with some excuse or other. Nothing has been done to secure for her enforcement of the decree.

IV

Donna J. Diercks engaged the services of Stephen Francis Varichak on June 29, 1966, paid him his entire fee by check, to represent her in a divorce proceeding. No proceeding was ever taken on behalf of the client.

V

September 1, 1964, Vernon R. Christian paid Stephen Francis Varichak \$50.00 as a retainer to see whether he could secure a reduction in support payments for his daughter. No action was taken by the attorney, despite several calls to him. Said attorney also failed to keep an appointment December 24, 1964, when the office was locked. The \$50.00 retainer was returned, but only after action by the Ethics Committee of the Hennepin County Bar Association.

VI

Early in 1965, Joseph A. Hancuch engaged Stephen Francis Varichak to represent him in relation to the default by the Wachtler Independent Oil Company on a Contract for Deed in the amount of \$2,500.00. In August of 1965, a compromise settlement in the amount of \$1,650.00 was made and payment was made through Vincent Johnson, attorney for Wachtler, to Varichak. Varichak negotiated the trust account draft on August 24, 1965; did not notify his client for nearly three months thereafter that payment had been received. On November 17, 1965, the attorney gave a promissory note, payable on demand, to his client which he predated to August 24, 1965. Checks were given in payment of such note, some of which were not honored by the bank upon which they were drawn. The client instituted a proceeding in Municipal Court, Case No. 516393, to recover the sum of \$440.00 and was

awarded a default judgment of \$446.00, which remains unpaid. Claim has been presented to the Clients' Security Fund for recovery of the balance due under the judgment.

VII

Roger Suss engaged Stephen Francis Varichak to represent him in a criminal charge placed against him in September of 1966. He paid Varichak \$900.00 to be paid to one Mr. Chisholm for bail bond premiums for himself and Ronald Vlasnik. The attorney paid \$700.00 of the \$900.00 bond premium and advised the bondsman that he would pay the \$200.00 balance within a short time. The bondsman, however, did not receive the \$200.00 and withdrew the bond of Ronald Vlasnik. The client then was required to furnish the bondsman an additional \$200.00 to secure his friend's release on bond. While Roger Suss was awaiting sentencing in the Hennepin County jail, Varichak, without permission, secured release of \$231.70 of money taken from Suss at the time of his arrest and held on deposit at the police department. The attorney did not inform the client of the fact that he had secured this money nor has he made any accounting or payment of such sum to him. Mr. Roger Suss has presented an application to the Clients' Security Fund for the return of \$431.70.

VIII

Stephen Francis Varichak was engaged by Dr. John M. Warren to represent him in connection with a divorce proceeding pending in the District Court of Hennepin

County. No Answer to an Amended Complaint was interposed on Dr. Warren's behalf nor were Interrogatories ever answered which were submitted by the Plaintiff's attorney. The Pre-Trial Conference on the matter was continued because of the inability of Plaintiff's attorney, the Clerk of Court, and the client to contact the attorney. Upon discharge of the attorney by the client, the client engaged the services of Harry M. Ray, who requested that Varichak forward the Summons and Complaint on January 16, 1967. The Complaint was not forwarded promptly and on February 8, 1967, Mr. Ray again made a request for the original Complaint and for a Substitution of Attorneys. That such failure on the part of Varichak constitutes dilatory conduct.

IX

In July of 1966, Luther Witte engaged Stephen Francis Varichak to represent him in connection with a criminal charge. In discussion of fees, Varichak secured an authorization from the client to secure release of a Mercedes Benz automobile owned by the client. Varichak did secure the release of the car but advised the client that it was of no use to him. The client's mother paid Varichak \$1,000.00 as a retainer fee and was directed by the client to pick the car up from Varichak's home. Varichak advised Witte's mother that the car had been stolen. Witte values the car in excess of \$2,000.00. Upon inquiry from the client to the police department of Minneapolis on

