SUMMARY OF ADMONITIONS

BY EDWARD J. CLEARY

"[most] admonitions were issued for isolated neglect or failure to adequately communicate with the client"

ADVERTISING VIOLATIONS

- Improper Direct Mail Solicitation. An attorney sent a person, with whom the attorney had no family or prior professional relationship, a letter concerning the attorney's ability to provide legal services on debt issues. The solicitation letter did not contain the word "advertisement." The attorney's conduct in sending the solicitation letter violated Rule 7.2(f), MRPC.
- Free Initial Consultation. An attorney published a Yellow Pages ad in which he offered "Free Initial Consultation." A client met with the attorney, and at the end of the meeting gave the attorney a $500 check for a retainer. He decided to hire the attorney. The next day, the client and his wife decided not to hire the attorney, and asked for the $500 check back. The attorney returned the check along with a bill for $145 for the initial consultation. The attorney asserted that the free initial consultation was limited to one-half hour, although no such disclaimer appeared in the ad. The failure to include the limitation on the free initial consultation in the ad was an omission of fact that made the ad materially misleading. The attorney violated Rule 7.1(a), MRPC. The attorney appealed the Director's admonition. A Lawyers Professional Responsibility Board (LPRB) panel affirmed the admonition.
- Misleading Letterhead. An attorney sent solicitation letters on letterhead bearing the name "XYZ" firm (not the name of the attorney). The attorney stated that "XYZ" was a term used to describe the service he provided to his clients. The attorney had not registered "XYZ" as an

FAILURE TO PAY DEBTS.

- Failure to Pay Court Reporter. An attorney ordered transcripts of three deposition on behalf of his client. The court reporter provided the transcripts and billed the attorney. The attorney failed to pay for the transcripts, despite being billed seven times. The court reporter then brought a conciliation court action to recover payment. The attorney did not appear at the hearing, and judgment was entered in favor of the court reporter. The attorney did not remove the matter to district court or otherwise appeal. The attorney did not pay the judgment or contact the court reporter to arrange a payment plan. Failure to pay the judgment violated Rule 8.4(d), MRPC.
- Failure to Pay a Non-Law Related Debt. An attorney rented a vehicle for a family vacation. The rental company obtained a default judgment against the attorney for some additional charges arising out of the rental. The attorney did not appeal, vacate or otherwise contest the default judgment. For over five years, the attorney made no payments on the judgment. The rental company then filed an ethics complaint against the attorney. In response, the attorney claimed that he didn't pay because he didn't think he was responsible for the additional charges. The attorney then retained counsel, negotiated a settlement with the rental company, and satisfied the judgment. The attorney's failure to pay the judgment violated Rule 8.4(d), MRPC.

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PROFESSIONAL RESPONSIBILITY

assumed name with the Secretary of State’s Office. The attorney’s use of that name was misleading and violated Rule 7.5(a), MRPC.

■ Telephone Solicitation. An attorney received a resume from a person in response to the attorney’s advertisement for a legal secretary. The attorney determined from the resume that the applicant was not qualified, and also that the applicant was injured and unemployed and possibly eligible for workers compensation, an area in which the attorney practiced. The attorney telephoned the applicant and told him that he was not qualified for the job, but went on to ask the applicant about his injuries and whether he had counsel. Three additional telephone conversations occurred a month later. The attorney appealed the Director’s admonition finding the attorney had violated Rule 7.3, MRPC. The hearing panel affirmed the admonition as to the first phone call. The Supreme Court, on the attorney’s appeal, affirmed and held that Rule 7.3, MRPC, is a constitutional restriction on commercial speech. In re Charges of Unprofessional Conduct against 97-29, 581 N.W.2d 347 (Minn. 1998).

FINANCIAL ASSISTANCE TO THE CLIENT

An attorney represented a client for eight years in a series of workers compensation and personal injury cases. During the representation, the attorney made at least 24 loans to the client in the total amount of about $10,000.00. There were no written agreements concerning the loans, and the attorney did not advise the client to seek the advice of counsel. Each loan was repaid with the settlement proceeds of the cases the attorney was handling for the client. The attorney did not charge interest. Lending money to the client violated Rules 1.8(a) and (e), MRPC.

TAPE RECORDING CONVERSATIONS

An attorney represented a client concerning a conservatorship for the client’s aunt. The client was not the conservator. The attorney listened to and tape-recorded a telephone conversation between his client and her aunt, without the consent of the aunt. A month later, the attorney himself had a telephone conversation with the aunt, which he tape-recorded without her knowledge. A month after that, the attorney had a telephone conversation with the conservator, which he tape-recorded without her knowledge. The attorney’s tape recording of the conversations violated Rule 8.4(c), MRPC. Since the time of the conduct, the LPRB has adopted Opinion
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