

## 2017 year in review: Public discipline

By

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Public discipline in professional responsibility cases is imposed not to punish the attorney, but to protect the public, the profession, and the judicial system, and to deter future misconduct by the attorney and others. In 2017, 40 attorneys were publicly disciplined, with discipline ranging from a reprimand to disbarment. This number is slightly down from 2016, when 44 attorneys were publicly disciplined, and remains below 2015's record-breaking year, when 65 attorneys were publicly disciplined. While I'm not sure that this constitutes a trend, it is always good to see fewer public discipline cases.

### **Disbarments**

Five attorneys were disbarred in 2017. This number is consistent with the annual average. The attorneys disbarred were:

- Terri Lynn Fahrenholtz, who was disbarred in Minnesota following her disbarment in North Dakota for misappropriation of a modest client retainer in a bankruptcy case and abandoning at least eight open client matters;
- Diane Lynn Kroupa, who pleaded guilty to one count of felony conspiracy to defraud the United States and was sentenced to 32 months in prison and ordered to pay restitution in the amount of \$532,000. Ms. Kroupa was a United States Tax Court judge who was indicted on several felony charges of federal tax evasion, conspiracy to defraud the U.S., making and submitting a false tax return, and obstructing an IRS audit;
- Jesse David Matson, who misappropriated a \$550 filing fee, made false statements to clients, fabricated a document, neglected and abandoned numerous client files, failed to return unearned fees, used improper fee agreements, failed to cooperate with the disciplinary investigation, and also committed misconduct in North Dakota, where he was subsequently disbarred as well;
- Steven Michael O'Brien, who misappropriated more than \$300,000 from a trust for which he was appointed the trustee (the Order of St. Benedict at St. John's Abbey was the trust beneficiary); and
- Geoffrey R. Saltzstein, who misappropriated approximately \$68,000 from two clients, made false statements to clients, failed to diligently pursue client matters or communicate with his clients, used improper fee agreements, and failed to cooperate with the disciplinary investigation.

The common thread, obviously, is misappropriation of client funds. Abusing your trust account responsibilities by converting client funds to your own use will always lead to serious discipline, whether or not you have paid the client back. Conviction for a serious felony will also generally lead to disbarment. One unusual fact about the attorneys disbarred in 2017 is that three of the five attorneys had been in practice less than 10 years: Matson was admitted in 2008, and O'Brien and Saltzstein were admitted in 2009.

### **Suspension**

Twenty-six attorneys were suspended for periods ranging from 30 days to five years. This number continues the trend of higher than normal numbers of suspensions. 2017 involved some particularly troubling conduct, such as the misconduct of William Keith Bulmer, II. Mr. Bulmer was suspended for three years for having sex with his client's wife while Mr. Bulmer was representing his client on a first degree murder charge. Mr. Bulmer also had sex with a different client, and had previously been admonished for having sex with a client. In addition, Mr. Bulmer made a false statement to the county attorney who was investigating Mr. Bulmer's sex with his client's wife. While on its face this misconduct is serious, prior court cases in Minnesota and elsewhere had not generally imposed such lengthy suspensions for sex with clients and witnesses. Given the confluence of events in Mr. Bulmer's case, the Court imposed twice the level of discipline recommended by the Director.

Another troubling case was that of Shawn Patrick Siders. Mr. Siders pleaded guilty to soliciting a minor to engage in prostitution, and was suspended for a minimum of two years. Other suspensions ran the gamut. They included a 30-day suspension for Patrick Chinedu Nwaneri for filing an untimely brief, making a false statement under oath by signing and filing an affidavit containing false information, and lying about the reason for the late filing during the disciplinary investigation; and a two-year suspension for Randall D. Tigue for failing to maintain trust account books and records while on probation for past trust account books and records violations, negligently misappropriating client funds through poor recordkeeping, and intentional misappropriation of a \$400 filing fee from a client. Notably, two justices dissented from the Court's *per curiam* opinion, and would have disbarred Mr. Tigue given his disciplinary history and other factors.

### **Public reprimands**

Nine attorneys received public reprimands (four reprimands only, five reprimands and probation). A public reprimand is the least severe public sanction the court generally imposes. Reprimands are appropriate for rule violations that are more than "isolated and non-serious" (conduct that would warrant a private admonition) but not so serious that suspension is needed to protect the public and deter future misconduct.

Conduct that resulted in public reprimands included instructing non-lawyer assistants to use a notary stamp and sign the attorney's name on two occasions, notarizing a signature not witnessed, and inaccurately attesting to witnessing a signature on a prior date (Kelly Moore Sater), agreeing to settle a case without client consent, failing to communicate the settlement agreement to a client, providing financial assistance to a client, and making an inaccurate

statement to the court (Michael Padden), and, for several attorneys, failing to maintain the required trust account books and records, negligently misappropriating client funds, and commingling client funds with personal funds (Eric Chiadikobi Anunobi, Anthony J. Elfelt, Terrance James Hislop, Brent Schafer, and Joanna M. Wiegert).

The OLPR maintains on its website (*lprb.mncourts.gov*) a list of disbarred and currently suspended attorneys. You can also check the public disciplinary history of any Minnesota attorney by using the “Lawyer Search” function on the first page of the OLPR website. While it is always disheartening to see the number of attorneys who engage in serious professional misconduct, it is important to keep these numbers in context. Currently, Minnesota has approximately 28,000 licensed attorneys, with approximately 25,000 attorneys engaged in active practice. Once again, thank you to the thousands of Minnesota lawyers who uphold the integrity of the legal profession every day.