

FILED

February 9, 2023

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

A22-1250

In re Petition for Disciplinary Action against
Charles E. Keenan, a Minnesota Attorney,
Registration No. 027737X.

O R D E R

The Director of the Office of Lawyers Professional Responsibility filed a petition for disciplinary action alleging that respondent Charles E. Keenan committed professional misconduct warranting public discipline, namely, neglecting a client matter, failing to communicate with the client, making misrepresentations by omission to the client and opposing counsel, practicing law while suspended for failure to pay lawyer registration fees, failing to withdraw from representation, making a knowingly false statement to the Director, and failing to cooperate with three disciplinary investigations. *See* Minn. R. Prof. Conduct 1.3, 1.4(a)(3), 1.4(a)(5), 1.4(b), 1.16(a)(1), 4.1, 5.5(a), 8.1(a), 8.1(b), 8.4(c), 8.4(d); Rule 25(a), Rules on Lawyers Professional Responsibility (RLPR). Respondent did not respond to the petition. On October 14, 2022, we deemed the allegations in the petition admitted. *See* Rule 13(b), RLPR. The parties were invited to submit memoranda on the appropriate discipline to be imposed; however, only the Director filed a memorandum on the issue of the appropriate discipline.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Respondent Charles E. Keenan is indefinitely suspended from the practice of law, effective 14 days from the date of the filing of this order, with no right to petition for reinstatement for 6 months.

2. Respondent may petition for reinstatement pursuant to Rule 18(a)–(d), RLPR. Reinstatement is conditioned on successful completion of the written examination required for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility, *see* Rule 18(e)(2), RLPR; *see also* Rule 4.A.(5), Rules for Admission to the Bar (requiring evidence that an applicant has successfully completed the Multistate Professional Responsibility Examination); and satisfaction of continuing legal education requirements, *see* Rule 18(e)(4), RLPR.

3. Respondent shall comply with Rule 26, RLPR (requiring notice of suspension to clients, opposing counsel, and tribunals), and shall pay \$900 in costs pursuant to Rule 24(a), RLPR.

Dated: February 9, 2023

BY THE COURT:



Natalie E. Hudson
Associate Justice

PETITION

FILED

September 6, 2022

**OFFICE OF
APPELLATE COURTS**

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against CHARLES E. KEENAN,
a Minnesota Attorney,
Registration No. 027737X.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of a Lawyers Professional Responsibility Board Panel Chair, the Director of the Office of Lawyers Professional Responsibility (Director) files this petition pursuant to Rules 10(d) and (e) and 12(a), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney (respondent) was admitted to practice law in Minnesota on October 24, 1997. Respondent is currently not authorized to practice law due to a suspension for non-payment of fees. Prior to his suspension, respondent practiced law in St. Paul, Minnesota

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Unauthorized Practice of Law

1. Respondent worked as “of counsel” at a law firm in January 2020. Respondent’s agreement with the firm stated that he was responsible for maintaining his law license in good standing.

2. On February 20, 2020, the Minnesota Supreme Court Lawyer Registration Office (LRO) mailed an initial notice of fees to respondent at the firm. The notice advised respondent that his annual registration fees were due on April 1, 2020.

3. Respondent did not pay his fees by April 1, 2020. On April 2, 2020, the LRO mailed a past-due notice to respondent at the firm. Respondent still failed to pay his registration fees.

4. On May 4, 2020, the LRO mailed another notice to respondent that advised him his license to practice was suspended and he would need to pay a late penalty as well as a reinstatement fee for his license to be reinstated. Respondent has not paid any fees and his license remains suspended.

5. In November 2020, a summons and complaint was served on respondent's client, R.P. On January 7, 2021, despite not being licensed to practice law, respondent prepared and signed an answer. Respondent sent the answer to opposing counsel on January 11, 2021, apologizing "for the delay in getting the attached answer to you." Respondent then asked, "[a]re you a [sic] available tomorrow afternoon to speak about possible resolution of the matter?" Respondent and opposing counsel agreed to discuss the matter on January 19, 2021.

6. At no time did respondent advise opposing counsel or R.P. that respondent's license to practice was suspended since May 2020. As a result, opposing counsel continued to work with respondent, and R.P. continued to pay and retain respondent to represent him. Indeed, R.P. paid respondent monthly for legal services throughout 2020, 2021, and early 2022, though respondent was not licensed to provide such legal services. Respondent's failure to inform R.P. of his suspended license also prevented R.P. from making informed decisions about the representation, including whether to retain respondent.

7. Thereafter, respondent continued to correspond intermittently with opposing counsel in January, March and April 2021. On June 2, 2021, opposing counsel sought a counteroffer from respondent who replied the same day: "To avoid protracted litigation, I am confident I can get a [\$3,000] offer to you..are we in the ballpark?"

8. Respondent and opposing counsel also corresponded about a joint discovery plan prepared by opposing counsel. When asked, respondent said "[i]t all looks good."

9. In December 2020, the Director received a complaint against respondent. As part of the investigation, respondent spoke with the Director's Office in July 2021. Respondent reported that he was aware his license had been suspended but had not practiced law since December 2020. Given the work respondent did for and on behalf of R.P. in January, March, April, and June 2021, this statement of material fact was knowingly false.

10. Opposing counsel filed the civil lawsuit against R.P. in September 2021. *See* District Court File No. 27-CV-21-11423. Respondent was listed as R.P.'s attorney in the filed documents. At this time, respondent was aware that the case moved into litigation, triggering specific timelines and requiring an appearance. Respondent continued to fail to advise opposing counsel and R.P. that respondent's license to practice had been suspended since spring 2020, despite knowing he could not file papers or appear on R.P.'s behalf. Further, respondent did not withdraw from the representation as required by Rule 1.16(a)(1), Minnesota Rules of Professional Conduct (MRPC), knowing that he could not possibly appear on R.P.'s behalf in the litigation.

11. On January 3, 2022, opposing counsel filed a motion for summary judgment and a hearing on the motion was scheduled for February 23, 2022. Respondent's response to the motion was due 14 days before the hearing, on February 9, 2022, pursuant to Minnesota Rules of General Practice 115.03(b).

12. Respondent contacted opposing counsel on February 13, 2022, via an email that read:

It has been over a year since we discussed the above referenced matter. In that regard, I received an[] envelope with your client's motion documents for summary judgment via US mail which were sent to my home, however, since I receive nearly nothing of any material importance via regular mail, I rarely check my mail. As a result, I did not actually open your client's motion documents until this evening. Further, I have not practiced law since leaving [the firm] effective December 31, 2020 and without speaking to [R.P.], I am don't [sic] even know about my representation status of he and his company.

Given the above, I think it best that you reschedule the hearing in the above entitled matter for at least 30 days so that all involved can sort things out. Please call me as soon as possible to discuss this matter. . . . Thank you very much.

13. At the time respondent sent this email, his license to practice law had been suspended for over 21 months and he knew that he could not represent R.P. in the lawsuit. Yet, given the opportunity to clarify his status in this email to opposing counsel, respondent continued to fail to notify opposing counsel that he had been unauthorized to practice law since May 2020, which included periods of interacting with opposing counsel in representation of R.P.

14. Despite his license to practice being suspended, respondent was still R.P.'s attorney of record when he was served the summary judgment papers. Respondent was therefore obligated to maintain office procedures that allowed for the prompt opening of mail and communications. By his admission in his email to opposing counsel, respondent failed to do so. Respondent did not address the lawsuit or summary judgment motion until the February 13, 2022, email, which was after the February 9 deadline for filing a response. Respondent's delay in opening mail related to R.P.'s matter and responding to it was not reasonably prompt.

15. Opposing counsel advised respondent that he was unwilling to reschedule the hearing. On February 15, 2022, opposing counsel received an email from “The UPS Store” which is located approximately two miles from respondent’s home address. Attached to the email was a seven-page memorandum in opposition to the motion for summary judgment; the memorandum was dated February 15, 2022. Also attached was a declaration from R.P., dated February 14, 2022, and two additional exhibits.

16. To prepare the declaration, R.P. spoke with respondent via phone. Respondent drafted the document before sending it to R.P. to sign. After signing it, R.P. provided it to respondent so that it could be included in the response to the summary judgment motion. Respondent did not inform R.P. that the response to the summary judgment motion was late, that he tried to get an extension from opposing counsel but it was denied, that the reason for the tardiness was due to respondent’s failure to timely open his mail, and that respondent’s failure to open his mail was because he had been suspended since the beginning of the representation and did not make efforts to ensure mail sent to his office was promptly opened.

17. Although the memorandum in opposition of the motion for summary judgment was emailed to opposing counsel, it was not filed with the court.

18. On the day of the motion hearing, respondent contacted the presiding judge’s law clerk via email stating:

I am writing regarding the hearing scheduled for 10:30 AM today in the above entitled matter. I will not be able to appear for the hearing as my attorney registration has lapsed. I implore the court to reschedule the hearing (30-60 days) so that the defendants in the above entitled matter may seek and retain legal counsel to properly represent them.

19. This was the first time respondent informed his client or opposing counsel of the suspension, despite having many opportunities and reasons to inform them

throughout the representation. Respondent only notified the court when the truth could not be hidden any longer and his appearance on the summary judgment motion was required.

20. Neither respondent nor R.P. appeared for the February 23, 2022, motion hearing. R.P. was unaware of the hearing date until late March 2022 when he looked up the case information online. R.P. saw that a judgment had been entered against him and tried unsuccessfully to get in contact with respondent.

21. The practice of law includes “act[ing] in a representative capacity in protecting, enforcing, or defending the legal rights of another, and advises and counsels that person in connection with those rights.” *In re Jorrissen*, 391 N.W.2d 822, 825 (Minn. 1986) (holding that the practice of law included negotiating a marital dissolution stipulation and advising the client about it).

22. Respondent’s conduct in corresponding with opposing counsel in order to defend R.P.’s legal rights; advising and counseling R.P. regarding offers, counteroffers, and the declaration; and drafting the answer and memorandum opposing summary judgment constitutes the practice of law.

23. Respondent’s failure to promptly open mail containing time-sensitive materials and his failure to timely file a response to the motion for summary judgment violated Rule 1.3, MRPC.

24. Respondent’s conduct in failing to notify R.P. that his license to practice law was suspended, that he had unsuccessfully tried to obtain an extension for the response to the motion for summary judgment, that the response prepared with R.P. was already late at the time they were drafting it, and failing to notify R.P. of the motion for summary judgment hearing date, violated Rule 1.4(a)(3), 1.4(a)(5), and 1.4(b), MRPC.

25. Respondent's failure to withdraw from the representation of R.P. upon his license suspension and having undertaken no efforts to reinstate his license violated Rule 1.16(a)(1), MRPC.

26. Respondent's failure to inform his client and opposing counsel that his license to practice law was suspended, knowing he was suspended and when it was clear that both believed he was licensed to practice law, constitutes a misrepresentation by material omission in violation of Rules 4.1 and 8.4(c) and (d), MRPC.

27. Respondent's conduct in practicing law without a law license violated Rules 5.5(a) and 8.4(d), MRPC.

28. Respondent's conduct in knowingly making a false statement to the Director's Office regarding when he last practiced law violated Rules 8.1(a) and 8.4(c), MRPC.

SECOND COUNT

Noncooperation

29. On December 9, 2020, the Director received J.C.'s complaint against respondent.

30. On December 23, 2020, the Director issued a notice of investigation in the matter and requested respondent's response to the complaint within 14 days. Respondent did not submit a response to the complaint within 14 days.

31. On February 1, 2021, the Director learned that respondent's mailing address had changed. Another copy of the notice of investigation and complaint was mailed to the updated address along with a letter explaining the prior mailing. The Director requested a response to the complaint by February 12, 2021. The mailing was not returned as undelivered by the post office. Respondent failed to respond to the Director's request.

32. On March 24, 2021, an investigator with the Director's Office went to respondent's home but did not locate anyone at the residence. The investigator left her business card and a note. On April 21, 2021, the investigator spoke with a family member of respondent and called five different numbers but was unable to reach respondent. Concerned for respondent's welfare, on May 12, 2021, the investigator spoke with a different family member of respondent seeking to reach respondent. The investigator provided her name and phone number to the family member. Respondent did not contact the investigator.

33. On May 14, 2021, the Director sent respondent a letter describing the efforts that had been made to reach him. Included in the letter was a copy of the February 1, 2021, letter and another copy of the complaint. The mailing was not returned as undelivered by the post office.

34. On July 2, 2021, the investigator called respondent's number twice but was unable to leave a message as the mailbox was full. The investigator sent a text message to the number seeking a return call. Respondent did not contact the investigator.

35. On July 5, 2021, the investigator again attempted to make contact at respondent's home but did not locate him there.

36. On July 15, 2021, the investigator sent a text message to respondent seeking a return call. Respondent sent a text message the next morning advising that he had just left the investigator a voicemail. Later that day, respondent spoke with the investigator via phone and advised he was aware his license had been suspended but did not receive any of the mailings sent by the Director's Office. Respondent also advised he had not practiced law since December 2020.

37. Following the phone call on July 16, 2021, the investigator emailed respondent a copy of the previous mailings sent to him (dated February 1, 2021, and

May 14, 2021). Respondent confirmed receipt of the documents and agreed to provide a written response to the complaint by July 20, 2021. Respondent also agreed to pay his unpaid registration fees by the same date.

38. On July 20, 2021, respondent met with the Director's Office via Zoom. Respondent had not provided his response or paid his fees as promised, but again agreed to do so by July 23, 2021.

39. On Friday, July 23, 2021, at 4:46 p.m., respondent emailed the investigator stating he did not have a copy of the complaint. On Monday July 26, 2021, the investigator reminded respondent that he confirmed receipt of the documents on July 16, 2021. The investigator provided another copy of the complaint and reminded respondent that his response was due immediately. Respondent replied to the investigator's email "Received. I will provide written response today. Thank you." Respondent failed to provide any response to the Director's Office.

40. On March 9, 2022, the Director wrote to respondent regarding J.C.'s complaint and outlined all of the efforts taken to obtain respondent's response. The Director again offered respondent an opportunity to respond by March 25, 2022. The mailing was not returned as undelivered by the post office. Respondent failed to respond to the Director's request.

41. On March 11, 2022, the Director issued a notice of investigation related to a new complaint and requested respondent's response to this complaint within 14 days. Respondent failed to provide a response to the Director's Office within 14 days.

42. On April 5, 2022, the investigator called respondent but was unable to leave a message as the voicemail box was full. The investigator then sent a text message to respondent asking him to call back. Respondent did not contact the investigator.

43. On April 5, 2022, the Director issued a notice of investigation related to a third complaint and requested respondent's response to the complaint within 14 days.

The correspondence was sent to respondent via email and standard mail. The mailing was not returned as undelivered by the post office. Respondent failed to respond to the Director's request within 14 days.

44. That same day, the Director wrote respondent related to the two prior complaints. The Director requested a response to the complaints by April 15, 2022. The letter was sent via email and standard mail. The mailing was not returned as undelivered by the post office. Respondent failed to respond to the Director's request.

45. Also on April 5, 2022, the investigator called respondent but was unable to leave a message as the voicemail box was full. The investigator then sent a text message to respondent asking him to call back. Respondent did not contact the investigator.

46. To date, the Director's Office has received no further communication from respondent with respect to this matter.

47. On June 29, 2022, the Director mailed to respondent at his home address the charges of unprofessional conduct in this matter. Pursuant to Rule 9(a)(1), Rules on Lawyers Professional Responsibility (RLPR), and Rule 6, Minn. R. Civ. Proc., respondent's answer to the charges of unprofessional conduct was due to the Director and the Panel Chair by July 18, 2022.

48. To date, the Director has not received respondent's answer to the June 29, 2022, charges of unprofessional conduct. Further, respondent has not contacted the Director at any time since the charges of unprofessional conduct were mailed to him.

49. Respondent's noncooperation in the Director's investigations and failing to answer the charges of unprofessional conduct violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent or imposing otherwise appropriate discipline, awarding costs

and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

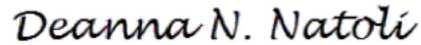


Humiston, Susan

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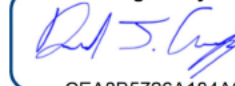
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This petition is approved for filing pursuant to Rules 10(d) and (e) and 12(a),
RLPR, by the undersigned Panel Chair.

Dated: July 28, 2022, 2022.

DocuSigned by:



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DANIEL J. CRAGG
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD