

**PROFESSIONAL
RESPONSIBILITY
AND DISCIPLINE**

By

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A WARNING

As of July 31, the new procedures have been in effect for six months. During that period, almost 45% of the complaints which crossed our desk involved neglect of clients' business and the failure to keep the client and others entitled thereto advised as to the status quo. Neglect and failure to communicate seem to go hand in hand, probably because the only response the neglectful lawyer can make to an inquiry is that he has done nothing.

Almost invariably these complaints involve small matters, and in over half the cases, involve small probate estates. While these matters may seem small to the lawyer, frequently they are of importance to the client. Furthermore, more often than not, the client's first contact with the profession is as a beneficiary of a small estate, or in connection with a minor business matter. If for no other reason, the frequency of this type of complaint causes incalculable harm to the profession.

Also we find that attorneys against whom complaints have been made frequently fail to answer communications from the district ethics committees.

DR 6-101 of the Code of Professional Responsibility provides:

"A lawyer shall not neglect a legal matter entrusted to him."

Our Supreme Court has held that failure to reply to correspondence relating to a client's affairs is professional misconduct, and further held that the failure to answer communications from ethics committees is professional misconduct. *In re Chmelik*, 203 Minn. 156, 280 NW 283.

In probate matters, lawyers frequently make the excuse that the administrator of the estate has not functioned. This excuse is not acceptable because the probate rules are specific. Probate Court Rule 6.6 provides:

"It shall be the duty of the attorney for the representative to prepare all the papers for the representative in said estate and to see that they are made properly and filed within the time required by statute."

Rule 6.7 provides:

“Attorney should assist the Court in the prompt and timely closing of the estates and shall report to the Court any failure of the representative to cooperate with him in the proper handling of the estate.”

Because of the frequency of this type of complaint and the serious consequences to the profession on account of it, this type of professional misconduct must be, and will be stopped.

Recently a Panel of the State Board of Professional Responsibility severely reprimanded an attorney because of his failure to close a number of small estates, and further notified him that he should close a number of these estates within ninety days if he wished to avoid more serious disciplinary action.

Future discipline for this type of misconduct will not be confined to private reprimand. The practice is going to be stopped if we have to seek the suspension of lawyers in order to drive home to the profession the fact that this type of professional misconduct will no longer be permitted.

Finally, where an attorney has failed to answer communications from a district ethics committee, this office will assume that the complaints against such attorney are valid, and will bring the complaints on for hearing before a Panel of the Board and will make the failure of the attorney to respond to ethics committees an additional ground for disciplinary action.