

REPORT . . . LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

By

R. Walter Bachman, Jr., Administrative Director
Minnesota Office of Lawyers Professional Responsibility

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Minnesota's Court Rules on Professional Responsibility provide that one possible disciplinary sanction is the issuance of a private reprimand or admonition. Under rules which will be in effect until January 1, 1977, such reprimands could be issued either by the district ethics committee or by the Lawyers Professional Responsibility Board.

During 1976, 21 attorneys were reprimanded privately in Minnesota. Records of all reprimands are kept in the offices of the Board, and these files are carefully reviewed if additional complaints are lodged against the same attorney.

Because of the confidentiality rule, neither the general bar nor the public is aware of the types of violations for which lawyers have received private reprimands. Examples from 1976 include:

1. A lawyer who received a settlement check in connection with a personal injury action failed to deposit it in a trust account and failed to hold that portion of the check which was subject to a fee dispute in trust until resolution of the dispute. The lawyer was reprimanded for failure to keep the funds in trust under these circumstances.
2. A lawyer handling a divorce action was given tape recordings which his client had obtained by placing a recording device upon the spouse's telephone. The tape recordings included the spouse's confidential conversations with an attorney, physicians, and a minister, all of which conversations the attorney listened to and used in preparation for the divorce proceedings. The attorney was reprimanded for using evidence which appeared to have been obtained unlawfully and for violating the confidential communication privileges of the spouse.
3. A lawyer who handled civil litigation for a client which resulted in a summary judgment against the client failed to keep the client fully informed regarding developments in the case. An appeal was taken from the adverse summary judgment, and this appeal was dismissed by the attorney without a full understanding on the client's part that the case was being dismissed. The lawyer was reprimanded for dismissing the case without complete understanding of that fact by the client.

4. A class action was commenced by an attorney, specifying three named plaintiffs suing on behalf of a class. Discovery revealed that one of the named plaintiffs had been contacted by a representative of the attorney and asked whether or not he was interested in commencing legal action. This plaintiff further testified that he was unaware that a lawsuit had been commenced in his name and had no knowledge of the action prior to the taking of his deposition. The attorney was reprimanded for solicitation.
5. A lawyer handled several matters on behalf of a client whose mental competence was seriously in doubt. Knowing that the client's competence was in question, the attorney nonetheless received a transfer of certain real property from the client to himself. In its reprimand addressed to the lawyer, the district ethics committee noted: "A lawyer should be vigilant to see that properties of the client are at all times clearly separated from the property of the lawyer and property belonging to the client should at all times be clearly identified and acknowledged as such by the lawyer. Failure to maintain this separation of properties fails to protect the client, and inevitably creates an appearance of impropriety on the part of the attorney."
6. An attorney submitted an affidavit of non-military status in connection with dissolution of the marriage proceedings, stating under oath that the adverse party was not in military service. Investigation revealed that the party was, in fact, a serviceman on active duty. Although the attorney was not personally aware that the affidavit was false, insufficient efforts were made to determine that status. The attorney was reprimanded therefore, for submitting a false and misleading affidavit to the court.
7. An attorney was retained in 1971 to handle certain civil litigation. Notwithstanding reports of progress on the litigation, virtually nothing was done for approximately four years, at which time the client lodged a complaint against the attorney with the news media. Becoming irritated with his client, the attorney withdrew from the case. Under these circumstances, the attorney was reprimanded both for dilatory conduct and improper withdrawal from pending litigation.
8. A husband contacted an attorney with regard to anticipated dissolution of the marriage proceedings and paid the attorney a \$100 retainer. Subsequently, in connection with the same dissolution proceedings, the same attorney appeared on behalf of the wife. The attorney was reprimanded for placing himself in a *per se* conflict of interest situation.
9. A lawyer who represented one party in an automobile accident contacted another person who was injured in the accident and offered his services. He was reprimanded for solicitation.

In addition to the foregoing, reprimands have been issued in connection with improper collection practices

by attorneys, including intimidation and a threat to file an unlawful lien. Several lawyers have been reprimanded for their failure or refusal to communicate with clients, including the failure to return telephone calls and correspondence.

In the future, we will continue to report synopses of the confidential reprimand cases so as to inform the bar generally as to the types of misconduct which may lead to discipline.