

STATE OF MINNESOTA

IN SUPREME COURT

A09-1443

In re Petition for Disciplinary Action against
John D. Ellenbecker, a Minnesota Attorney,
Registration No. 13465X.

O R D E R

The Director of the Office of Lawyers Professional Responsibility has filed initial and supplementary petitions for disciplinary action alleging that respondent John D. Ellenbecker committed professional misconduct warranting public discipline, namely, misplacing or failing to properly account for client property, failing to pay a professionally-incurred judgment, failing to diligently pursue a client matter and to communicate with that client, and failing to cooperate with the Director's investigation, in violation of Minn. R. Prof. Conduct 1.15(c)(2), (3), and (4), 8.4(d), 1.3, 1.4, and 8.1(b) and Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

Respondent waives his procedural rights under Rule 14, RLPR, and admits that his conduct violated the Rules of Professional Conduct. The parties have entered into a stipulation in which they jointly recommend that the appropriate discipline is a public reprimand and two years of supervised probation. In addition, the parties recommend that respondent be required to be assessed for issues relating to depression.

The court has independently reviewed the file and approves of the recommended disposition.

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

IT IS HEREBY ORDERED that respondent John D. Ellenbecker is publicly reprimanded and placed on probation for a period of two years from the date of filing of this order under the following terms and conditions:

(a) Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation. Respondent shall promptly respond to the Director's correspondence by its due date. Respondent shall provide the Director with a current mailing address and telephone number and shall immediately notify the Director of a change of either. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct that may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

(b) Respondent shall abide by the Minnesota Rules of Professional Conduct.

(c) Respondent shall be supervised by a licensed Minnesota attorney, appointed by the Director to monitor compliance with the terms of this probation. Within two weeks of the date of filing of this order, respondent shall provide the Director with the names of three attorneys who have agreed to be nominated as respondent's supervisor. If, after diligent effort, respondent is unable to locate a supervisor acceptable to the Director, the Director will seek to appoint a supervisor. Until a supervisor has signed a consent to supervise, respondent shall on the first day of each month provide the Director with an inventory of active client files described in paragraph (d) below. Respondent shall make active client files available to the Director upon request.

(d) Respondent shall cooperate fully with the supervisor's efforts to monitor compliance with this probation. Respondent shall contact the supervisor and schedule a minimum of one in-person meeting per calendar quarter. By the first day of each month during probation, respondent shall provide the supervisor with an inventory of all active client files. For each active client file, the inventory shall disclose the client name, type of representation, date opened, most recent activity, next anticipated action, and anticipated closing date. Respondent's supervisor shall file written reports with the Director at least quarterly, or at such more frequent intervals as the Director may reasonably request.

(e) Respondent shall initiate and maintain office procedures that ensure that there are prompt responses to correspondence, telephone calls, and other important communications from clients, courts and other persons interested in matters that respondent is handling, and that will ensure that respondent regularly reviews each and every file and completes legal matters on a timely basis. Respondent shall initiate and maintain office procedures that ensure compliance with Minn. R. Prof. Conduct 1.15(c) (concerning receipt and safekeeping of client property).

(f) Respondent shall be assessed by a licensed psychologist or other mental health professional acceptable to the Director for issues relating to depression and shall complete all therapy programs (including, but not limited to, those involving depression) recommended by the therapist.

Respondent shall pay \$900 in costs and \$50 in disbursements pursuant to Rule 24, RLPR.

Dated: February 17, 2010

BY THE COURT:

/s/

Alan C. Page
Associate Justice