

STATE OF MINNESOTA
IN SUPREME COURT
#46994

HEARING ON PROPOSED AMENDMENTS
TO COURT RULES ON PROFESSIONAL
RESPONSIBILITY

O R D E R

IT IS HEREBY ORDERED that a hearing be held before this Court in the Supreme Court, State Capitol Building, Saint Paul, Minnesota, on Friday, June 5, 1981, at 9:30 a.m. on proposed amendments to the Rules on Lawyers Professional Responsibility recommended by the Lawyers Professional Responsibility Board in its petitions filed June 11, 1980, and January 29, 1981, for amendment of Rules 11, 15, and 18 and adoption of new Rules 25, 26, and 27.

It is proposed to amend said Rules as follows:

Amend Rule 11 of said Rules to read as follows:

"RULE 11. RESIGNATION

This Court may at any time, with or without a hearing and with any conditions it may deem appropriate, grant or deny a lawyer's request petition to resign from the bar. A lawyer's petition to resign from the bar shall be served upon the Director. The original petition with proof of service and one copy shall be filed with this Court. If the Director does not object to the petition, he shall promptly advise the Court. If he objects, he shall also advise the Court, but then submit the matter to a Panel, which shall conduct a hearing and make a recommendation to the Court. The recommendation shall be

served upon the petitioner and filed with the Court."

Amend Rule 15 of said Rules by adding the following subsection:

"RULE 15. DISPOSITION: PROTECTION OF CLIENTS

(c) Examination on professional responsibility.

Every lawyer placed on a probationary status or reprimanded by this Court, pursuant to the foregoing provisions of Rule 15, shall be in a restricted status, subject to the limitations upon his activities imposed on lawyers in that status under the rules for Continuing Legal Education of members of the bar unless within six (6) months after his placement on a probationary status or the issuance of a reprimand by this Court, he shall have successfully completed such written examination as may be required of applicants for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility."

Amend Rule 18 of said Rules by adding the following subsection:

"RULE 18. REINSTATEMENT

(e) General requirements for reinstatement.

Unless such examination is specifically waived by this Court, no lawyer ordered reinstated to the practice of law after having been disbarred by this Court shall be effectively reinstated until he shall have successfully completed such written examinations as may be required of applicants for admission to the practice of law by the State Board of Law Examiners, and no lawyer ordered reinstated to the practice of law after

having been suspended by this Court shall be effectively reinstated until he shall have successfully completed such written examination as may be required for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility. Unless specifically waived by this Court, no lawyer shall be reinstated to the practice of law following his suspension or disbarment by this Court until he shall have satisfied the requirements imposed under the rules for Continuing Legal Education on members of the bar as a condition to a change from a restricted to an active status."

Add a new Rule 25 to said Rules to read as follows:

"RULE 25. REQUIRED COOPERATION

(a) Lawyer's duty.

It shall be the duty of any lawyer who is the subject of an investigation or proceeding under these Rules to cooperate with the District Committee, the Director or his staff, the Board, or a Panel, by complying with reasonable requests, including requests to:

- (1) Furnish designated papers, documents or tangible objects;
- (2) Furnish in writing a full and complete explanation covering the matter under consideration;
- (3) Appear for conferences and hearings at the times and places designated.

(b) Grounds of discipline.

Violation of this rule is unprofessional conduct and shall constitute a ground for discipline."

Add a new Rule 26 to said Rules to read as follows:

RULE 26. DUTIES OF DISCIPLINED OR
RESIGNED LAWYER

(a) Notice to clients in non-litigation matters.

Unless this court orders otherwise, a disbarred, suspended or resigned lawyer shall notify each client being represented in a pending matter other than litigation or administrative proceedings of the disbarred, suspended or resigned lawyer's inability to represent the client. The notification shall urge the client to seek legal advice of the client's own choice elsewhere.

(b) Notice to parties and tribunal in litigation.

Unless this Court orders otherwise, a disbarred, suspended or resigned lawyer shall notify each client, opposing counsel and the tribunal involved in pending litigation or administrative proceedings of the disbarred, suspended or resigned lawyer's inability to represent the client. The notification to the client shall urge the prompt substitution of other counsel in place of the disbarred, suspended or resigned lawyer.

(c) Manner of notice.

Notices required by this rule shall be sent by certified mail, return receipt requested, within ten (10) days of the disbarment, suspension or resignation order.

(d) Client papers and property.

A disbarred, suspended or resigned lawyer shall make arrangements to deliver to each client being represented in a pending matter, litigation or administrative proceeding any papers or

other property to which the client is entitled.

(e) Proof of compliance.

Within fifteen (15) days after the effective date of the disbarment, suspension or resignation order, the disbarred, suspended or resigned lawyer shall file with the Director an affidavit showing:

1. That the affiant has fully complied with the provisions of the order and with this rule;
2. All other State, Federal and administrative jurisdictions to which the affiant is admitted to practice; and
3. The residence or other address where communications may thereafter be directed to the affiant.

Copies of all notices sent by the disbarred, suspended or resigned lawyer shall be attached to the affidavit.

(f) Maintenance of records.

A disbarred, suspended or resigned lawyer shall keep and maintain records of the actions taken to comply with this rule so that upon any subsequent proceeding being instituted by or against the disbarred, suspended or resigned lawyer, proof of compliance with this rule and with the disbarment, suspension or resignation order will be available.

(g) Condition of reinstatement.

Proof of compliance with this rule shall be a condition precedent to any petition for reinstatement made by a disbarred, suspended or resigned lawyer.

Add a new Rule 27 to said Rules to read as follows:

"RULE 27. TRUSTEE PROCEEDING

(a) Appointment of trustee.

Upon a showing that a lawyer is unable to properly discharge responsibilities to clients due to disability, disappearance or death, or that a suspended, disbarred or resigned lawyer has not complied with Rule 26, and that no arrangement has been made for another lawyer to discharge such responsibilities, this Court may appoint a lawyer to serve as the trustee to inventory the files of the disabled, disappeared, deceased, suspended, disbarred or resigned lawyer and to take whatever other action seems indicated to protect the interests of the clients and other affected parties.

(b) Protection of records.

The trustee shall not disclose any information contained in any inventoried file without the client's consent, except as necessary to execute this Court's order appointing the trustee.

IT IS FURTHER ORDERED that advance notice of the hearing be given by publication of this Order once in the Supreme Court edition of FINANCE AND COMMERCE, ST. PAUL LEGAL LEDGER, and BENCH AND BAR.

IT IS FURTHER ORDERED that interested persons show cause, if any they have, why the proposed amendments should or should not be adopted. All persons desiring to be heard shall file briefs or petitions setting forth their views and shall also notify the Clerk of the Supreme Court in writing on or before May 29, 1981, of their desire to be heard on the proposed

amendments. Ten copies of each brief, petition, or letter should be supplied to the Clerk.

Dated: March 26th, 1981.

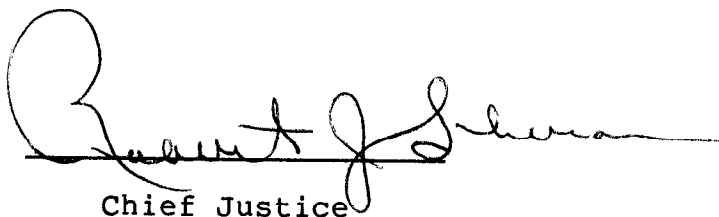
BY THE COURT

SUPREME COURT

FILED

MAR 26 1981

JOHN McCARTHY,
CLERK



Chief Justice