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Supreme Court of Wisconsin

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September 14, 2021

To:

Robert T. Malloy
712 Fairview Avenue
South Milwaukee, WI 53172

William J. Weigel
Kim M. Kluck
Heidi T. Johnson
Office of Lawyer Regulation
110 E. Main Street, Suite 315
Madison, WI 53703

You are hereby notified that the Court has entered the following order:

1996AP1300-D
1996AP3636-D

Office of Lawyer Regulation v. Robert T. Malloy

Pending before us is a letter from Attorney Kim M. Kluck, on behalf of the Office of Lawyer Regulation (OLR), advising the court that Attorney Robert T. Malloy has failed to comply with certain conditions that we imposed upon him when we reinstated his license to practice law in Wisconsin. In re Disciplinary Proceedings Against Malloy, 2019 WI 16, 385 Wis. 2d 554, 923 N.W.2d 876. The OLR's letter thus alleges that Attorney Malloy has failed to substantially comply with an order of this court. Accordingly, pursuant to Supreme Court Rule (SCR) 22.185 (Enforcement of Disciplinary Orders), we direct Attorney Malloy to file a written response as set forth herein.

Attorney Malloy was admitted to practice law in Wisconsin in 1992. In 1994, we imposed a public reprimand on Attorney Malloy for his failure to appear for court hearings and mismanaging a trust account. Public Reprimand of Robert T. Malloy, No. 1994-8 (electronic copy available at <https://compendium.wicourts.gov/app/raw/000327.html>). In 1997, we suspended Attorney Malloy's law license for one year for mishandling client funds, comingling personal funds in his trust account, failing to keep proper trust records, lack of diligence, lack of communication with clients, failure to promptly refund unearned fees and repeated failure to cooperate with the OLR's investigations. In re Disciplinary Proceedings Against Malloy, 209 Wis. 2d 264, 562 N.W.2d 147 (1997). The same year we imposed an additional three-month suspension for his lack of diligence, lack of communication, failure to promptly refund unearned fees, and failure to cooperate with the disciplinary investigation. In re Disciplinary Proceedings

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Against Malloy, 212 Wis. 2d 649, 568 N.W.2d 638 (1997). In 2000, Attorney Malloy petitioned unsuccessfully for reinstatement. OLR v. Malloy, 1996AP1300 and 1996AP3636, unpublished order (S. Ct. Sept. 21, 2001) (denying petition for reinstatement for failure to comply fully with the requirements of SCR 22.26 and failure to establish that his resumption of the practice of law would not be detrimental to the administration of justice or subversive of the public interest and failure to establish the moral character to practice law in Wisconsin). In 2002, we imposed another public reprimand on Attorney Malloy stemming from an earlier grievance, for his failure to file certain documents, and failure to provide the client file to successor counsel. In re Disciplinary Proceedings Against Malloy, 2002 WI 52, 252 Wis. 2d 597, 644 N.W.2d 663.¹

Attorney Malloy's law license remained under suspension from 1997 until February 26, 2019, when this court reinstated his license to practice law in Wisconsin. However, his reinstatement was subject to certain conditions: (1) that Attorney Malloy attend the OLR's trust account seminar, and (2) provide the OLR with quarterly trust account and business accounting records for two years. We imposed these conditions because Attorney Malloy's underlying professional misconduct was substantial and protracted and because at the time of his reinstatement he had been under suspension for over 20 years, so the referee recommended and we agreed that "monitoring of his Trust Account and business accounts will help to insure that [Attorney Malloy's] past practice problems do not reappear and impact his future rendition of legal services to the public and in the Courts of this State." Our decision explicitly stated that "compliance with all of the terms of this order remains a condition of Robert T. Malloy's license to practice law in Wisconsin." Malloy, 385 Wis. 2d 554, ¶23.

On August 19, 2021, the OLR sent this court a letter advising that "Attorney Malloy has not been in full compliance with the conditions of the February 26, 2019 order." The OLR states that "Attorney Malloy has only sporadically provided trust account records to OLR. He never provided any of his business accounting records to our agency." The OLR's letter states that: "OLR has written to Attorney Malloy on five separate occasions outlining the records required by the Court's order. Attorney Malloy did not respond by providing the requested documents. Email and phone communications have not resulted in full compliance."

Based on the foregoing, Attorney Malloy is directed to show cause, in writing, within 21 days of the date of this order, why this court should not suspend Attorney Malloy's license to practice law in Wisconsin for his non-compliance with the terms of this court's reinstatement order. SCR 22.001(9)(h) (defining misconduct); SCR 22.185 (Enforcement). Therefore,

¹ In addition to his disciplinary suspension, Attorney Malloy's law license was also administratively suspended for noncompliance with continuing legal education requirements and for failure to pay State Bar dues.

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IT IS ORDERED that Attorney Malloy is directed to show cause, in writing, to this court within 21 days of the date of this order why this court should not suspend Attorney Malloy's law license for his non-compliance with the terms of this court's reinstatement order.

JILL J. KAROFSKY, J., did not participate.

Sheila T. Reiff
Clerk of Supreme Court