

Central District  
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**NON-REMOVABLE MILLE LACS BAND OF OJIBWE INDIANS**

**District of Nay-Ah-Shing**

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**IN THE COURT OF APPEALS**

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In the Matter of:

Docket #APP01

Kristian Oyen  
Attorney at Law

**DISCIPLINARY ORDER**

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A complaint was presented to this Court alleging improper conduct by an attorney, Kristian Oyen, licensed to practice law before this Court by Special Magistrate Paul Day who presided over probate proceedings, In the Matter of the Estate of Richard Pendegayosh, in which Mr. Oyen represented Rachel Shaugobay. Magistrate Day found fault with Mr. Oyen's representation in several respects: 1) Mr. Oyen appeared with Ms. Shaugobay at an October 18, 2007 hearing in the estate matter and was directed by then Chief Judge Day to file a memorandum of law on several legal issues as well as a proposed order. Despite being contacted by the Court on several occasions looking for the filings Mr. Oyen never filed the documents; 2) Mr. Oyen appeared again for Ms. Shaugobay at the probate proceedings on November 23, 2009 and alleged that he had filed the documents required of him in October of 2007 and was surprised that the Court had not entered his proffered order. Judge Day gave him until November 24, 2009 to file copies of what he filed as well as proof of notification of the creditors to the estate. Mr. Oyen failed to file any of the documents; 3) Mr. Oyen failed to appear for further hearing on December 28, 2009 but instead called the Court and alleged that his vehicle had broken down; however he failed to appear by phone and never got permission from the Court to withdraw from his representation of his client.

Upon receipt of the February 5, 2010 order from Judge Day referring the matter to this Court for investigation and imposition of appropriate discipline, Chief Justice Mattinas on February 17, 2010 issued an order for hearing on the complaint and directed Mr. Oyen to respond in writing to the issues raised by Special Magistrate Day on or before March 11, 2010 and to appear before the Court of Appeals on March 18, 2010 at 10:00 AM. Mr. Oyen failed to file any written response, nor did he appear in person on March 18, 2010 at 10 AM to show cause why some discipline should not be imposed upon him. Instead, he contacted the Court by phone at approximately 10:40 AM to allege that he just learned of this Court's order of February 17, 2010 and asked to appear by phone. This Court granted him substantial leeway by permitting him to appear by phone some forty minutes late. Mr. Oyen alleged that his mail is picked up in Brainerd by a "volunteer" who was very unreliable about apprising him of his court dates. Mr. Oyen further alleged that he has recently taken a new job in the Twin Cities and that he has left his "volunteer" in charge of his yet to be closed Brainerd office.

Mr. Oyen again alleged, as he did to Magistrate Day, that he submitted the memorandum of law and order in accordance with Magistrate Day's order of October 18, 2007 and further that he resubmitted the documents in November of 2009. These allegations are refuted by the Clerk's notes and letters to Mr. Oyen in the Court file that indicate that the Court contacted Mr. Oyen on numerous occasions from October of 2007 to November of 2009 seeking the order and memorandum of law, all of which went unresponded to. This Court asked Mr. Oyen why he did not submit copies of what he claims he submitted and did not receive an adequate response.

This Court finds that Mr. Oyen failed to adequately represent a client before this Court and he compounded this lack of adequate representation by being less than forthcoming with this Court and the lower Court. This Court finds that Mr. Oyen never submitted the order and memorandum he was directed to by Magistrate Day and further that he was dishonest in his assertions to this Court and the lower Court that he had. Mr. Oyen could have faxed the filings that he allegedly sent to this Court as proof of his mailing, but he never did so. Additionally, had Mr. Oyen submitted the documents requested he certainly would have responded to the many letters sent to him advising him that said documents were never filed. The Court concludes that he never filed the documents he alleges he did.

Even more concerning to this Court is Mr. Oyen's failure to appear on two consecutive occasions at hearings scheduled before this Court- one in December in the probate matter and the second the show cause hearing on his own discipline. If it is true, as Mr. Oyen asserted at hearing on March 18, 2010, that he leaves the responsibility of noting his court appearances to a "volunteer", who he acknowledges is extremely unreliable, this points out to this Court that Mr. Oyen's practice of law is reckless.

This Court finds that Mr. Oyen has violated the following Minnesota Rules of Professional Conduct, as incorporated into Rule 60 of the District Court rules: Rule 1.1(5) of the Minnesota Rules of Professional Conduct by not providing competent representation to his client before the lower court; Rule 1.3(d) by not submitting the proposed order and memorandum of law as directed by the lower court; and Rule 3.3 by being less than honest with the lower court and this Court on his alleged submission of documents and for attempting to blame a volunteer for his shortcomings.

These violations are serious and warrant substantial discipline. Rule 60 of the District Court rules permit this Court to impose discipline ranging from reprimands to disbarment for ethical lapses such as those documented in this case. The Court understands that Mr. Oyen has represented other Band members and only received \$150 from the client in the probate case. However, this Court feels that counsel's shortcomings warrant a one-year suspension, a fine of \$200, reimbursement of the client's fee of \$150 and proof of satisfaction of a CLE on professional conduct prior to applying to be readmitted to the tribal bar.

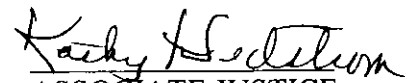
WHEREFORE, the Court having fully considered this matter and having found violations of the Rules of Professional Conduct and being duly advised in the premises it is hereby

ORDERED, ADJUDGED, AND DECREED that Kristian Oyen is hereby SUSPENDED from the practice of law before the Mille Lacs Band of Ojibwe Courts for a period of one year from the date of this order. He is also fined in the amount of \$200 plus required to reimburse his client in the amount of \$150. Prior to his admission to practice back before this Court he must provide proof that he has completed a course on professional ethics of lawyers.

So ordered this 22<sup>nd</sup> day of March 2010.

  
CHIEF JUSTICE

  
ASSOCIATE JUSTICE

  
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SPECIAL ASSOCIATE

ATTEST: Alia Bull

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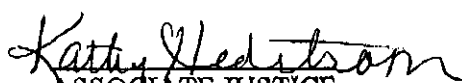
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 SPECIAL ASSOCIATE