FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action against LISA MARIE AMUNDSON, a Minnesota Attorney, Registration No. 18035X.	**PETITION FOR DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition upon the parties' agreement pursuant to Rules 10(a) and 12(a), Rules on Lawyers Professional Responsibility.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on April 22, 1987. Respondent currently practices law in Bloomington, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

1. Respondent represented the husband in a dissolution proceeding. Attorney Michele Schorbahn was opposing counsel.

2. On April 19, 2013, the trial court issued a pre-trial order scheduling trial for July 25, 2013, and requiring that the parties exchange witness and exhibit lists two weeks prior to trial (July 11, 2013).

3. On May 24, 2013, Schorbahn sent respondent a letter requesting, among other things, that the parties agree to exchange "witness lists and exhibits" by 5:00 p.m. on Friday, July 11, 2013. Schorbahn asked respondent to confirm her agreement.

4. On June 7, 2013, respondent sent Schorbahn a letter stating, "Since our Exhibit and Witness Lists are due two weeks prior to trial, (July 11, 2013), please

provide me with your client's discovery response no later than July 8, 2013." Respondent was unresponsive to Schorbahn's request that she confirm an agreement to exchange witness and exhibit lists along with the parties' actual exhibits.

5. On June 18, 2013, Schorbahn sent respondent a letter stating, "Your June 7, 2013, letter failed to address my inquiry as to the exchange of Exhibits and Witness Lists. If I do not hear from you, I will assume that we will exchange them by 5:00 p.m. on July 11th."

6. Since respondent did not respond to the June 18, 2013, letter, Schorbahn presumed that the parties had an agreement to exchange actual exhibits. On the afternoon of July 11, 2013, Schorbahn delivered copies of her witness and exhibit lists as well as her actual exhibits, which included a copy of a report from a financial expert, Dax Stoner.

7. When Schorbahn did not receive respondent's exhibits, she attempted to contact respondent by telephone and also emailed her that evening inquiring why she had not received them. The next day, July 12, 2013, respondent emailed Schorbahn and stated, "You did not get my exhibits because we did not make any agreement to exchange the actual exhibits in the Pretrial Order; just the lists."

8. That same day, respondent directed her legal assistant to arrange for the exhibits to be returned to Schorbahn, who retrieved them by courier that same day. Schorbahn then emailed respondent expressing her dissatisfaction with the situation. Schorbahn also stated, "I expect that your office had gone through my exhibits and likely photocopied them, scanned them or **sent them to your experts for review**." (Emphasis thereon).

9. On July 15, 2013, respondent emailed Schorbahn stating that although she had received Schorbahn's May 24, 2013, letter, she had never agreed to exchange actual exhibits and that the pretrial order only required exchange of exhibit and witness lists. Respondent was unresponsive to Schorbahn's assertion that she had photocopied her exhibits prior to returning them. In fact, Schorbahn's exhibits were photocopied, in

particular Stoner's expert report, by someone in respondent's law office the day that they were received.[1]

10. Upon information and belief, respondent reviewed Stoner's expert report and directed her legal assistant, Julie Jacobs, to contact CBIZ, a professional services company providing various accounting, financial and business services, about retaining a financial expert for the upcoming dissolution trial. Jacobs contacted CBIZ by email on Wednesday, July 17, 2013, and noted that they needed an expert opinion by the following Monday and that trial was scheduled for Thursday, July 25, 2013. Jacobs stated, "I understand this is late notice but we were not privy to the fact that opposing counsel would be including expert reports/expert witnesses until late last week."

11. Respondent eventually retained Christopher Riley, a CPA/ABV with CBIZ, to give an expert opinion. On July 17, 2013, Jacobs emailed Riley a copy of Stoner's expert report along with copies of the parties' individual and corporate tax returns, which Schorbahn's expert relied upon in preparing his report. Respondent was copied on the email. Jacobs also noted that "we are preparing Trial Schedules which more accurately reflect the parties' actual monthly expenses" and that they would be provided upon completion. Upon information and belief, respondent reviewed or had discussions with her legal assistant about the content of Stoner's expert opinion within the context of retaining a financial expert and directing the content of his report.

12. On July 24, 2013, which was the day before trial was scheduled to begin, respondent served "final" witness and exhibit lists, which listed Riley as an expert witness for trial.

13. On July 25 2013, the parties appeared for trial and spent a large portion of the day in unsuccessful settlement negotiations. The court declined to start trial that day due to the court's calendar. The trial was continued to August 7, 2013.

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[1] Respondent asserts that a legal assistant, Julie Jacobs, photocopied the exhibits without respondent's knowledge or direction. The Director interviewed Jacobs, who denied photocopying the exhibits but could not specify who had copied them.

14. On August 7, 2013, the parties again appeared for trial. After a dispute between Schorbahn and respondent about how exhibits would be exchanged, the court called the parties into chambers for a conference off the record.

15. While in conference, the parties noted several disputes about exchange of exhibits and the timeliness of the disclosure of respondent's financial expert. Ultimately, the court gave the parties two options, either provide the reports to the experts and proceed with trial or continue the matter. Schorbahn vehemently objected to continuing the trial a second time and requested the parties provide their expert reports with trial to begin that day. Respondent stated that her expert did not have Stoner's expert report; therefore, she did not know how long her expert would need to review it. On this basis, respondent told the court she preferred the trial be continued, which the court did to August 12, 2013.

16. Respondent's statement to Schorbahn and the court that her expert did not have a copy of Stoner's expert's report was a false statement since the report had been emailed to Riley on July 17, 2013. Respondent was aware that Riley had the report since she was copied on the email providing it to him and upon information and belief had discussions with her legal assistant about its content.

17. On August 12, 2013, the parties appeared for trial. On August 13, 2013, Riley testified and under cross examination by Schorbahn stated that he had received Stoner's expert's report by email on July 17, 2013.

18. At the close of trial, Schorbahn made an oral motion for sanctions against respondent for making a false statement about her expert not having Stoner's expert report and thus obtaining a continuance under false pretenses. Under questioning by the court, respondent made a series of further false statements on the record.

19. Respondent falsely denied stating that her expert needed time to review Schorbahn's expert report or that this was the basis for the court's continuance:

Ms. Amundson: And I do take exception to the allegations being made by Ms. Schorbahn. That was not the basis for the continuance of the trial. As I recall, the

judge wanted all exhibits to be exchanged at that time. I never said anything to the effect that Mr. Riley needed more time to review Mr. Stoner's report. August 14, 2013, transcript, pp. 7, 11, 13-19.

20. When the court inquired how Riley received Schorbahn's expert's report, respondent made another false statement by stating that she was unaware how Riley had received the report and implying that Stoner versus her office had provided it to him.

COURT:	How about, I recall yesterday Mr. Riley indicated that he had seen Dax Stoner's report on July 17.
Ms. Amundson:	I imagine he did. I imagine he did.
COURT:	How?
Ms. Amundson:	Well, he obviously had a copy of it. I did not give him a copy.
COURT:	And you weren't aware that he had seen a copy when we discussed this case last, was it, Wednesday or Thursday, first day? I can't recall.
Ms. Amundson:	I was aware that he had information that Dax Stoner had prepared. Did I know if it was what was prepared for that second FENE that the attorney's didn't go to that my client got presented with when he got to the second FENE, did I know if it was that? **Did I know if it was what was in Michele's exhibits that she dropped off or picked up? Did I know if it was something new and different?** No, I did not know. I did not know. But I did know that, yes, he did see that report on the 17th.
COURT:	He did see it.
Ms. Amundson:	Yeah, as far as I know. That's what he said yesterday when he testified, so that's what I believe is true.
COURT:	**When you were in my chambers you didn't know that?**
Ms. Amundson:	**I did not know that when I was in chambers. No, I did not.**
COURT:	**And you didn't forward a copy of the exhibit to him?**

Ms. Amundson:	**No I did not.**
COURT:	**Did anyone under your control? An agent? An employee?**
Ms. Amundson:	I wasn't in my office. I don't know when it was--I don't know when it was sent over. **I don't know who sent it over. I don't know if Dax gave it to him. I don't know.**

(Emphasis added). August 14, 2013, transcript, pages 11-13. Only when the court threatened to call back the experts and inquire how Riley received the report, did respondent concede the report could have come from her office. *See*, August 14, transcript, pages 13-21.

21. The court then directed Schorbahn to make a formal motion for sanctions and for respondent to respond.

22. On September 6, 2013, Schorbahn submitted a written motion and memorandum of law in support of sanctions. On September 12, 2013, respondent submitted a reply memorandum in response to Schorbahn's motion and memorandum in support of sanctions, which was voluminous and largely non-responsive to the issue of whether respondent had made a false statement.

23. By order dated November 8, 2013, the court sanctioned respondent for "circumstances involving a request for a continuance that Ms. Amundson's actions and words were made in bad faith and an attempt to unnecessarily delay the proceedings." The court further found that:

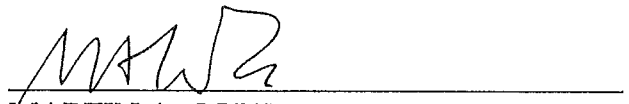
> . . . during an off the record discussion for the parties in chambers and on the record in the courtroom, Ms. Amundson made false and/or misleading statements to the court and petitioner's counsel regarding whether respondent's financial expert had received the petitioner's financial expert's reports and her need for a continuance of the proceedings. These comments were made in such a way that the Court finds Ms. Amundson has violated the Minnesota Rules of Civil Procedure and also was in direct contempt of court for making false or misleading comments.

The court found that respondent's misconduct unnecessarily increased court costs for the opposing party and ordered her to pay $1,500 as a sanction therefore. Respondent subsequently paid the sanction in full.

24. Respondent's conduct in making a false statement to the opposing party and the court in order to obtain a continuance and thereafter making false statements on the record when questioned by the court about the veracity of her earlier statement violated Rules 3.3(a)(1), 4.1, 8.4(c) and (d), Minnesota Rules of Professional Conduct.

WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: August 22, 2014.



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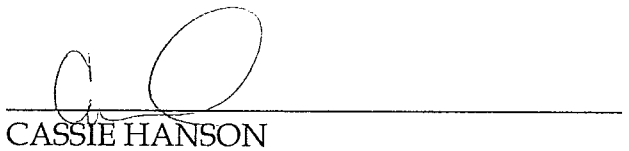

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