

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against DAVID L. BREHMER,
an Attorney at Law of the
State of Minnesota.

**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 contained in the attached May 24, 1999, Stipulation for Extension of Probation and pursuant to Rules 10(a) and 12(a), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 27, 1989. Respondent currently practices law in Bloomington, Minnesota.

INTRODUCTION

Among the conditions of respondent's probation was that respondent would abide by the Minnesota Rules of Professional Conduct and commit no further unprofessional conduct, and that if, after giving respondent an opportunity to be heard, the Director concluded that respondent had not complied with the conditions of the probation, then the Director could file this petition without the necessity of Panel proceedings.

Also among the conditions of respondent's probation were the following:

- a. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation and promptly respond to the Director's correspondence by the due date. Respondent

shall cooperate with the Director's investigation of any allegations of unprofessional which 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.

The Director, after giving respondent an opportunity to be heard, has concluded that respondent has not complied with the conditions of the probation and has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

a. On September 14, 1995, respondent was issued an admonition for failing to submit a required informational statement in a timely manner, failing to inform his client that the client's case would be dismissed if the informational statement were not filed, and withdrawing from representation without telling his client that the client's case was already beyond the dismissal deadline for filing the informational statement (Exhibit 1).

b. On February 23, 1996, respondent was issued an admonition for failing to communicate his billing practices clearly to his client, failing to return his client's telephone calls, failing to abide by his client's decisions regarding litigation strategy, failing to pursue his client's matter diligently and failing to communicate adequately with his client (Exhibit 2).

c. On February 23, 1996, respondent was issued another admonition for failing to pursue his client's matter diligently, failing to return his client's telephone calls, failing to communicate clearly to the client the status of the client's claim, and asserting a lien on the claim for fees in an unrelated matter (Exhibit 3).

d. On September 24, 1997, respondent was placed on supervised private probation for a period of two years. Respondent's discipline was for failing to pursue his client's matter and failing to communicate with his clients in the matter (Exhibit 4).

e. On May 14, 1999, respondent was issued an admonition for pursuing frivolous litigation, failing to file a court-ordered reply brief or written response addressing sanctions, and failing to draft appellate briefs pursuant to court rules (Exhibit 5).

f. On May 24, 1999, respondent's private probation was extended (Exhibit 6). (See p. 1, above.) Respondent's discipline was for failing to handle a matter with the required thoroughness and preparation, failing to handle a client matter timely, failing to communicate adequately with the client, and failing to identify a client matter on inventories of all active client matters he was required to provide monthly to his probation supervisor. Respondent remains on probation.

COUNT ONE

Frivolous Litigation, False Statements, Violations of Court Orders - *Green v. Green* Matter

1. Respondent represented A.G. in *Green v. Green*. Respondent's claim was stated as one to increase A.G.'s child custody and visitation.

2. The evidentiary hearing took 16 days. The court found that during the case respondent violated court orders, attempted to perpetrate a fraud on the court, was unprepared, engaged in numerous acts of bad faith, frivolous and/or harassing litigation, and committed other misconduct.

3. After the hearing the court found the conduct of respondent and his client to be improper in multiple ways (Exhibit 7). Respondent was sanctioned \$48,133.65, which was 95 percent of the opposing parties' attorneys' fees and costs incurred relative to the hearing. To date, respondent has paid none of this sanction.

4. Respondent attempted to appeal on behalf of both himself and his client. On or about September 21, 1999, respondent filed a notice of appeal. Respondent failed to file a proper statement of the case with the notice of appeal. Minn. R. Civ. App. P. 110.02, subds. 1 and 2(a), require an appellant to order a transcript within ten days after

the appeal is filed, and to file with the clerk of appellate courts within ten days thereafter a certificate as to transcript. Respondent did not order a transcript.

5. By order filed October 22, 1999, the Court of Appeals ordered respondent and his client to file no later than November 2, 1999, a completed certificate as to transcript and proper statement of the case. Respondent neither complied with, nor submitted any response to, the order.

6. By order filed November 12, 1999, the Court of Appeals dismissed the appeal (Exhibit 8).

7. On or about January 3, 2000, respondent served and filed a motion to reinstate the appeal. Before filing the motion, respondent had neither ordered a transcript nor filed a proper statement of the case.

8. By order filed January 26, 2000, the Court of Appeals denied respondent's motion to reinstate the appeal (Exhibit 9).

9. The trial court found that respondent and his client attempted to perpetrate a fraud upon the court. At a pretrial scheduling conference, respondent denied the existence of certain medical records regarding his client, including records relating to drug-related hospitalizations, some of which occurred during the pendency of the child custody proceeding. During the trial, opposing counsel discovered and obtained additional such records. Respondent's client then attempted to deny that the records were hers because they were not in her handwriting. When reminded that medical records would not be in the patient's handwriting but in that of doctors, nurses or the like, respondent's client stated that two persons with the client's name lived in the Twin Cities, had the same date of birth, etc. Respondent offered no other evidence to support this assertion.

10. On October 30, 1998, the court had ordered that all applications for relief of any kind regarding the case be brought before Judge Patrice Sutherland.

11. In December 1998 respondent drafted documents seeking *in forma pauperis* (IFP) status for his client and submitted them to the signing judge at the courthouse. That judge signed the requested order. After that judge became aware of the October 30 order (§ 5, above), that judge vacated his IFP order and described respondent's conduct as an attempted fraud on the court (Exhibit 10).

12. By letter dated January 20, 1999, respondent stated that he and his client understood that any application for IFP status must be brought before Judge Sutherland.

13. On April 20, 1999, respondent's secretary and respondent's client met at the courthouse and again applied for IFP status before the signing judge at the courthouse. This request was denied.

14. Although respondent's claim was stated as a claim to increase his client's child custody and visitation, respondent's theory of the case was that custody should be awarded to his client's parents. Respondent attempted to present numerous witnesses for the purpose of establishing that his client's parents were appropriate custodians for the children. However, a prior order precluded his client's parents from participating in the custody trial. Additionally, the court advised respondent that his client's parents could not and would not be awarded custody. Respondent's legal position and the evidence he attempted to introduce in support thereof constituted the presentation of frivolous claims.

15. Before the evidentiary hearing, the court ordered respondent to provide witness and exhibit lists no later than October 30, 1998, as respondent had promised on the record to do. Respondent failed to do so. On multiple occasions during the hearing respondent attempted to add witnesses. Many of these witnesses were called for the purpose of providing cumulative or irrelevant testimony. When the court would not allow testimony of some of these persons, respondent made repeated, belligerent

objections and was rude and insulting to the court and opposing counsel. Respondent's behavior continued despite the court repeatedly reminding respondent to cease.

16. During the trial, respondent made repeated, lengthy arguments on the admissibility of documents after the documents were admitted into evidence and the objections were repeatedly overruled.

17. Throughout the proceedings, respondent relied exclusively on his non-attorney client for the accuracy, credibility and legality of her claims and arguments.

18. Respondent was not prepared for trial. He had not reviewed his client's medical records in other than a most cursory manner and had not prepared most of his witnesses to testify.

19. During the hearing, a sequestration order was in effect. Respondent repeatedly violated the sequestration order. On multiple occasions respondent began his direct examination of his witnesses with a synopsis of previous witnesses' testimony. Respondent's conduct continued despite repeated admonitions from the court to cease.

20. Before the hearing ended, respondent assisted his client and her family in hiding the parties' children. Respondent advised his client that the *ex parte* order for protection authorized her to hide the children's whereabouts from the custodial father. Respondent's advice was incorrect.

21. Respondent's conduct violated Rules 1.1, 1.3, 3.1, 3.2, 3.3(a)(1), 3.4(c), 3.5(g), 4.1, and 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC).

COUNT TWO

Incompetence, Neglect, Unauthorized Practice of Law - Mattingly v. Nelson Matter

22. In April 1997 Mark and Diane Mattingly retained respondent to represent them in a dispute arising out of their purchase of a house in Wisconsin. Respondent's

retainer agreement provided that the Mattinglys would pay respondent \$150 per hour for his services, pay \$1,000 upon signing the retainer agreement, make monthly payments thereafter to a total retainer fee of \$2,500, and make monthly payments thereafter if respondent's billing exceeded \$2,500.

23. Respondent attempted to commence the action by serving a summons and complaint. However, under Wisconsin law, the summons and complaint must first be filed with the clerk of court. Wis. Stat. § 810.095.

24. In July 1997 two of the defendants, Coldwell Banker Real Estate and Emma Fuller, filed a motion to dismiss. Thereafter, an order was issued which set deadlines for respondent to serve the summons and complaint properly.

25. Respondent then failed to serve Coldwell Banker Real Estate and Fuller properly. On or about October 23, 1997, those defendants served and filed a motion to dismiss. On or about December 23, 1997, they served and filed an amended motion to dismiss. Respondent failed to serve or file any response to the motion or the amended motion. In January 1998 those defendants were dismissed from the case.

26. At all times material respondent was not licensed to practice law in Wisconsin. On or about September 9, 1997, respondent retained Barbara Miller to act as local counsel. Before this time, respondent was representing the Mattinglys without affiliating with Wisconsin counsel. This constituted the unauthorized practice of law in Wisconsin. Wis. Stat. § 802.05.

27. On October 3, 1997, Keith Rodli, counsel for defendants Mike and Rose Ann Nelson, served on respondent requests for admissions and interrogatories (set I).

28. By letter dated October 6, 1997, respondent sent the requests for admissions and interrogatories (set I) to the Mattinglys and requested them to prepare and send to him responses to the interrogatories.

29. On or about November 4, 1997, respondent received from the Mattinglys their draft answers to the requests for admissions and interrogatories (set I).

30. By letter dated November 17, 1997, Rodli advised respondent that the time to serve responses to the requests for admissions and interrogatories (set I) had passed and respondent had not served any responses. Respondent failed to respond.

31. By order dated November 22, 1997, the court ordered respondent to identify expert witnesses no later than December 1, 1997.

32. On December 1, 1997, respondent served on opposing counsel a list of expert witnesses. The list included as witnesses identification of three companies, but no individuals from those companies.

33. By letter dated December 5, 1997, Rodli again informed respondent that no responses to the requests for admissions and interrogatories (set I) had been received and stated that if answers were not received, then a motion to compel would be filed. Respondent failed to respond.

34. On or about December 18, 1997, the Nelsons' attorney served and filed a motion to compel discovery.

35. On or about December 16, 1997, Rodli served on respondent more interrogatories (set II).

36. On or about December 22, 1997, respondent served answers to the requests for admissions and to the interrogatories (set I). The interrogatory answers were not signed under oath.

37. On or about January 7, 1998, respondent sent the interrogatories (set II) to the Mattinglys, asked the Mattinglys to supply draft answers, and instructed the Mattinglys to sign a blank signature page for the answers.

38. By order dated January 12, 1998, the court extended the time for respondent to identify the specific names of his clients' proposed expert witnesses.

39. On or about February 2, 1998, respondent identified individual expert witnesses. However, respondent's amended expert witness list also identified eight new purported experts.

40. On or about February 6, 1998, Rodli served on respondent a request for production of documents.

41. On or about February 20, 1998, Rodli scheduled depositions for the Mattinglys' expert witnesses. The depositions were scheduled for March 16, 1998.

42. On February 23, 1998, Rodli served on respondent additional interrogatories (set III). On or about February 27, 1998, respondent sent the interrogatories (set III) to the Mattinglys and requested them to provide answers at their earliest possible convenience.

43. On or about March 2, 1998, Rodli rescheduled the expert witness depositions for March 18 and 24, 1998. The rescheduling was done at respondent's request.

44. On March 16, 1998, counsel for some of respondent's proposed expert witnesses would not attend their scheduled depositions because no party to the litigation had retained them as experts.

45. Shortly before March 20, 1998, respondent requested Rodli to reschedule the depositions scheduled for March 24. Rodli declined.

46. On or about March 23, 1998, Rodli served on respondent requests for admission (set III).

47. On or about March 26, 1998, the Mattinglys sent to respondent their draft response to the interrogatories (set III).

48. On March 24, 1998, the depositions of expert witnesses occurred. Respondent failed to attend.

49. On or about May 7, 1998, Rodli served and filed a motion to compel responses to the interrogatories (set III).

50. Also on or about May 7, 1998, Rodli sent notices of deposition for respondent's proposed expert witnesses whose depositions were originally scheduled for March 18. The depositions were scheduled for June 1, 1998.

51. Neither respondent nor the witnesses appeared on June 1, 1998, for the scheduled depositions.

52. By order dated June 9, 1998, the court granted the motion to compel and ordered full and complete responses to the interrogatories (set III).

53. On or about June 12, 1998, Barbara Miller, respondent's Wisconsin counsel, served and filed a motion to withdraw from representation. In a letter of that same date to respondent Miller stated:

My file indicates that I have made several attempts to contact you by telephone as well as a letter written to you at the end of March asking you to respond to me. Having received no communication I must move to withdraw from representing the Mattinglys as Wisconsin counsel.

54. On or about June 15, 1998, respondent served responses to the interrogatories (set III). The answers were not signed and were four months late.

55. On or about June 22, 1998, Rodli served interrogatories (set IV) on respondent. On or about June 24, 1998, Stanford P. Hill, counsel for Edina Realty and Betty Most, served on respondent interrogatories. Respondent failed to serve responses.

56. On or about July 6, 1998, respondent sent the interrogatories (set IV) which had been served on him on June 22, 1998, and the interrogatories from Hill, to the Mattinglys. Respondent provided the following instructions to the Mattinglys:

Please answer each of these to the best of your ability, on separate sheets of paper, as soon as possible, and return those answers to [me] at your earliest convenience. In addition, enclosed please find the 'blank' signature pages, please sign these and send them back to the office along with your answers to both of the enclosed sets of Interrogatories.

(Emphasis in original.)

57. On or about June 30, 1998, respondent again sent answers to interrogatories (set III) to Rodli. Although the answers were now signed, they were not executed under oath.

58. By letter dated July 6, 1998, Rodli requested respondent to provide signed and notarized responses.

59. Respondent failed to do so.

60. On or about July 9, 1998, respondent requested the Mattinglys to execute the answers to interrogatories (set III) in front of a notary and then return the answers to him.

61. On or about July 20, 1998, respondent served notice of the taking of the deposition of Emma Fuller. Fuller had been dismissed from the lawsuit because respondent failed to effect proper served upon her (§ 25, above). By letter dated August 3, 1998, Fuller's attorney, Michael R. Moline, informed respondent that Fuller did not wish to appear voluntarily for deposition as a nonparty but would appear pursuant to a proper subpoena.

62. Respondent did not subpoena Fuller for a deposition and did not inform Rodli or Hill that Fuller would not appear without a subpoena. She did not appear.

63. On or about July 27, 1998, Rodli filed a motion seeking an order prohibiting the testimony of the Freier employees as expert witnesses, requiring answers, under oath, to be given to the October 3, 1997, and February 23, 1998, interrogatories, and requiring answers to the fourth set of interrogatories and requests for production of documents.

64. By letter dated July 29, 1998, Hill informed respondent that the answers to Edina Realty and Betty Most's interrogatories were overdue.

65. On August 3, 1998, respondent took the depositions of defendants Mike and Rose Ann Nelson, even though at that time he was without Wisconsin counsel and

not admitted to practice law in Wisconsin. Accordingly, this conduct constituted the unauthorized practice of law in Wisconsin.

66. On or about August 10, 1998, all remaining defendants served and filed motions to dismiss the case.

67. The court granted the defendants' motions to dismiss (Exhibit 11). The court stated its reasoning as follows:

The Court having found that the facts set forth in the Affidavits of Keith Rodli and Stanford Hill, each dated August 10, 1998, are true and uncontradicted; and the Court having found that under the Scheduling Order, all discovery was to be completed on or before August 3, 1998, and the Court having found that the plaintiffs have failed to provide responses to various discovery requests of the defendants, despite having been ordered to provide the said responses on August 3, 1998; and that the Court having found that the conduct of plaintiff's counsel, as set forth in the above-referenced affidavits, is egregious.

68. The Mattinglys paid a total of \$1,675 to respondent.

69. At no time during the representation did respondent provide a bill for his services to the Mattinglys or an accounting of the retainer funds they had paid to him.

70. Respondent's conduct violated Rules 1.1, 1.3, 1.15, 3.4(d), 5.5, and 8.4(d), MRPC.

COUNT THREE

Neglect, Non-Communication, False Statements, Improper Withdrawal – Williams v. Minneapolis Park and Recreation Board Matter.

71. In 1997 Williams, appearing *pro se*, commenced an action against the Minneapolis Park and Recreation Board and others.

72. On or about January 13, 1998, opposing counsel served on Williams interrogatories and requests for production of documents. Williams requested and received an extension of time to answer.

73. On March 8, 1998, Williams on his own behalf served responses to the interrogatories and requests for production of documents.

74. By letter to Williams dated March 11, 1998, opposing counsel identified alleged inadequacies in Williams' discovery responses and requested full and complete responses within ten days of the letter.

75. In March 1998 Williams retained respondent to represent him in the matter.

76. By letter dated March 23, 1998, opposing counsel confirmed to respondent an extension to April 3, 1998, to provide full and complete discovery responses.

77. On April 6, 7 and 8, 1998, opposing counsel called respondent's office. Respondent did not return any of the calls and did not provide additional discovery responses.

78. On or about April 10, 1998, opposing counsel served and filed a motion to compel discovery. Respondent failed to send the motion papers to Williams, failed to inform Williams of the motion, failed to inform Williams of the hearing date for the motion, failed to serve or file any papers in opposition to the motion and failed to attend the motion hearing.

79. By order filed April 29, 1998, the motion was granted and sanctions in the amount of \$200 were imposed (Exhibit 12).

80. During the litigation, respondent told Williams that respondent was initiating discovery. This statement was false.

81. On or about October 8, 1998, opposing counsel served on respondent a motion for summary judgment and supporting papers.

82. Respondent failed to send the motion papers to Williams, failed to advise Williams of the motion, failed to inform Williams of the hearing date for the motion and failed to serve or file any papers in opposition to the motion.

83. In December 1998 respondent filed a motion to withdraw from representation. The defendants' summary judgment was pending at that time. Respondent failed to serve his motion to withdraw on Williams, failed to tell Williams

of his motion to withdraw, and failed to inform Williams of the date for the hearing on his motion to withdraw.

84. In his papers supporting his motion to withdraw, respondent stated that he had not been able to communicate adequately with Williams because of Williams' unavailability.

85. On December 10, 1998, respondent sent paperwork regarding his request to withdraw to Williams at an address on Russell Avenue in Minneapolis. At that time, Williams was incarcerated in the Hennepin County Jail. Respondent knew this.

86. By order dated December 18, 1998, the defendants' motion for summary judgment and respondent's motion to withdraw were granted (Exhibit 13).

87. Respondent's conduct violated Rules 1.3, 1.16(d), 3.2, 3.4(c), and 8.4(c) and (d), MRPC.

COUNT FOUR

Neglect and False Statements - *Williams v. City of Minneapolis* Matter

88. On or about February 28, 1996, Dennis C. Williams retained respondent to represent him in an action against the City of Minneapolis (the "City") in a wrongful arrest and harassment matter. Williams paid respondent a \$1,000 non-refundable retainer. The retainer agreement did not state that the \$1,000 would not be held in trust or that Williams would not receive a refund of any of that retainer if it were not earned.

89. In March and April 1996 and March 1997 respondent sent correspondence to the City.

90. Respondent otherwise failed to work on the matter. Respondent did, however, tell Williams that respondent was prosecuting the case. This statement was false.

91. Respondent's conduct violated Rules 1.3 and 8.4(c), MRPC.

COUNT FIVE

Improper Notarization and Neglect - Wimler Matter

92. On or about February 8, 1999, Elaina Wimler retained respondent to bring a motion on her behalf for a change of custody for her minor children. Wimler paid respondent a \$2,500 retainer.

93. During Wimler's initial meeting with respondent, he stated that he would promptly obtain a hearing date for the change of custody motion Wimler wanted respondent to bring. However, not until after March 8, 1999, did respondent through his assistant inform Wimler that respondent had obtained a hearing date of April 27, 1999.

94. Wimler provided substantial information to respondent for him to prepare an affidavit for her for the motion hearing.

95. On April 5, 1999, Wimler was scheduled to meet with respondent to sign her affidavit. When she arrived at respondent's office, respondent informed her that his legal assistant had Wimler's affidavit and was out for the day. Respondent told Wimler that she could sign a blank signature page which he would notarize and attach to the affidavit. They did this.

96. Respondent told Wimler that he would send her affidavit to her for her review before he served and filed it. Respondent failed to do so. Instead, respondent attached the signature page to a draft affidavit of Wimler and on April 8, 1999, served and filed Wimler's affidavit.

97. Wimler received and reviewed the affidavit shortly after April 8, 1999. She contacted respondent and told him that there were many mistakes in the affidavit and no supporting documents for the affidavit. Respondent stated that he would correct the affidavit at some future time. However, respondent never filed any supplemental or corrected affidavit of Ms. Wimler.

98. The original divorce decree provided that any disputes be submitted to mediation before litigation. Nevertheless, respondent served and filed his motion without making any effort to mediate the dispute.

99. After opposing counsel received respondent's motion papers, she informed respondent that the decree required the dispute to go through mediation before litigation. Accordingly, the April 27 hearing was canceled.

100. Mediation was conducted on June 4, 1999.

101. Respondent thereafter put the matter back on for hearing and obtained a hearing date of August 18, 1999. Respondent neither served nor filed any additional papers in support of the motion.

102. On or about August 13, 1999, opposing counsel served and filed an affidavit of Wimler's ex-spouse. Respondent provided a copy of the affidavit to Wimler and requested her to give to respondent information to be used in a responsive affidavit. Wimler did so. Respondent, however, thereafter declined to prepare a supplemental affidavit for Wimler's signature.

103. At no time has respondent sent to Wimler a bill or accounting of how the retainer funds were used.

104. Respondent's conduct violated Rules 1.1, 1.3, 1.15, and 8.4(c) and (d), MRPC.

COUNT SIX

Failure to Cooperate

105. On August 5, 1999, notice of investigation of a complaint regarding respondent's conduct in the A.G. matter was sent to respondent. The notice requested respondent to provide within 14 days of the notice the information and documents requested in the notice. Respondent failed to respond.

106. On August 19, 1999, notice of investigation of a complaint filed by Williams was sent to respondent. The notice requested respondent to provide within 14

days his complete written response to Williams' complaint. Respondent failed to respond.

107. By letter dated August 24, 1999, the Director informed respondent that the Director had received no response to the notice of investigation in the A.G. matter and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond.

108. By letter dated September 1, 1999, and sent both certified mail return receipt requested and first class mail, the Director informed respondent that the Director had received no response to the notice of investigation in the A.G. matter and requested respondent to provide at that time the information and documents requested in the notice. The certified mail receipt was signed for on September 2, 1999. Respondent failed to respond.

109. By letter dated September 3, 1999, the Director informed respondent that the Director had received no response to the notice of investigation in the Williams matter and requested respondent to provide at that time his complete written response to the complaint. Respondent failed to respond.

110. By letter dated September 13, 1999, and sent both certified mail return receipt requested and first class mail, the Director informed respondent that the Director had received no response to the notice of investigation in the Williams matter and requested respondent to provide at that time the information and documents requested in the notice. The certified mail receipt was signed for on September 14, 1999. By letter dated September 16, 1999, respondent provided his response to the complaint.

111. During the Director's investigation, respondent's probation supervisor informed the Director that respondent failed to provide to the supervisor case lists of active files since before respondent signed the stipulation for extension of probation (¶ f, above).

112. On September 13, 1999, notice of investigation was sent to respondent regarding his apparent failure to provide case lists to his probation supervisor. The notice requested respondent to provide within 14 days his response to that allegation, copies of all case lists that he had provided to his supervisor pursuant to his original or extension of probation (¶ d, f, pp. 2, 3, above), and a current case list. Respondent failed to respond.

113. By letter dated September 20, 1999, the Director requested respondent to provide the information and documents requested in that letter regarding the Williams matter no later than October 4, 1999. Respondent failed to respond.

114. On September 28, 1999, notice of investigation of a complaint filed by Mattingly was sent to respondent. The notice requested respondent to provide within 14 days his complete written response to the Mattinglys' complaint. Respondent failed to respond.

115. By letter dated September 29, 1999, the Director informed respondent that the Director had received no response to the notice of investigation regarding the case list matter and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond.

116. By letter dated October 6, 1999, the Director informed respondent that the Director had received no response to the Director's September 20 letter in the Williams matter and requested respondent to provide at that time the information and documents requested in the September 20 letter. Respondent failed to respond.

117. By letter dated October 7, 1999, sent both certified mail, return receipt requested and first class mail, the Director informed respondent that the Director had received none of the information and documents requested in the notice of investigation in the case list matter and requested respondent to provide at that time the information and documents requested in the notice. The certified mail receipt was signed for on October 12, 1999. Respondent failed to respond until November 28, 1999.

118. By letter dated October 13, 1999, the Director informed respondent that the Director had received no response to the notice of investigation in the Mattingly matter and requested respondent to provide at that time his complete written response to the Mattinglys' complaint. Respondent failed to respond.

119. By letter dated October 14, 1999, and sent both certified mail, return receipt requested, and first class mail, the Director informed respondent that the Director had received no response to the Director's September 20 letter in the Williams matter and requested respondent to provide at that time the information and documents requested in the September 20 letter. The certified mail receipt was signed for on October 15, 1999. Respondent failed to respond.

120. By letter dated October 21, 1999, and sent both certified mail, return receipt requested, and first class mail, the Director informed respondent that the Director had received no response to the notice of investigation of the Mattinglys' complaint and requested respondent to provide at that time the information and documents requested in the notice. The certified mail receipt was signed for on October 22, 1999. Respondent failed to respond until November 28, 1999.

121. On October 22, 1999, notice of investigation of Wimler's complaint was sent to respondent. The notice requested respondent to provide within 14 days of the notice the information and documents requested in the notice. Respondent failed to respond.

122. By letter dated November 8, 1999, the Director informed respondent that the Director had received no response to the notice of investigation of Wimler's complaint and requested respondent to provide at that time the information and documents requested in the notice of investigation of Wimler's complaint. Respondent failed to respond.

123. By letter dated November 16, 1999, and sent both certified mail, return receipt requested, and first class mail, the Director informed respondent that the

Director had received no response to the notice of investigation of Wimler's complaint and requested respondent to provide at that time the information and documents requested in the notice. The certified mail receipt was signed for on November 17, 1999. Respondent failed to respond until November 28, 1999.

124. Respondent's November 28, 1999, response to the notice of investigation of the case list matter did not include copies of any case lists respondent had provided previously to his supervisor and did not include a current case list.

125. To date, respondent has provided to the Director no case lists that respondent claims to have provided to his probation supervisor and no case lists for matters respondent was handling on or after September 13, 1999, the date notice of investigation of the case list matter was mailed to respondent.

126. By letter dated December 3, 1999, the Director advised respondent that on December 1, 1999, the Director had received letters from respondent regarding other complaints against him but no response to the Director's September 20 letter in the Williams matter, and requested respondent to provide at that time the information and documents requested in the September 20 letter. Respondent failed to respond.

127. By letter dated December 6, 1999, the Director requested respondent to provide no later than December 20, 1999, the information and documents requested in that letter regarding the Wimler, *Green v. Green*, Mattingly and case list matters.

128. By letter dated December 13, 1999, the Director informed respondent that the Director had received no response to the Director's September 20 letter in the Williams matter and requested respondent to provide at that time the information and documents requested in the September 20 letter. Respondent failed to respond.

129. To date, respondent has provided none of the information or documents requested in the September 20 letter in the Williams matter.

130. By letter dated December 17, 1999, respondent provided some of the information and documents requested in the Director's December 6 letter regarding the Wimler, *Green v. Green*, Mattingly and case list matters.

131. In that December 17 letter, respondent stated that he would provide his client file regarding the *Green v. Green* matter, which the Director had requested in the August 5, 1999, notice of investigation, "sometime in early January" 2000. Respondent then failed to do so.

132. By letters dated January 18 and 26 and February 2 and 11, 2000, the Director informed respondent that the Director still had not received respondent's client file regarding the *Green v. Green* matter and requested respondent to provide the file. Respondent failed to respond to any of these letters.

133. To date, respondent failed to provide his file regarding the *Green v. Green* matter, which the Director requested in the August 5, 1999, notice of investigation.

134. By letter dated January 21, 2000, the Director informed respondent that the Director had learned that respondent failed to pay his attorney registration fee due January 1, 2000, and requested respondent to provide no later than January 28, 2000, an explanation of his failure to pay the fee and a description of his practice since January 1, 2000. Respondent failed to respond.

135. By letter dated February 14, 2000, the Director informed respondent that the Director had received no response to the Director's January 21 letter and requested respondent to provide no later than February 21, 2000, the information requested in that January 21 letter.

136. By letter dated February 25, 2000, the Director requested respondent to provide no later than March 3, 2000, his entire client files regarding his representation of Williams. The Director originally requested respondent to provide these files in September 1999. Respondent failed to respond.

137. On March 1, 2000, the Director mailed to respondent notice of investigation of a complaint filed against him by Olubunmi Adebajo. The notice requested respondent to provide within seven days the information and documents requested in the notice. Respondent failed to respond.

138. By letter dated March 2, 2000, the Director informed respondent that the Director had received no response to the Director's January 21 and February 14 letters regarding respondent's failure to pay his attorney registration fee and requested respondent to provide no later than March 9, 2000, the information requested in that January 21 letter. Respondent failed to respond.

139. To date, respondent has provided none of the information requested in the Director's January 21 letter regarding respondent's failure to pay his attorney registration fee.

140. By letter dated March 7, 2000, the Director informed respondent that the Director had received no response to the Director's February 25 letter regarding the Williams matter and again requested respondent to provide his client files regarding his representations of Williams. Respondent failed to respond.

141. To date, respondent has failed to provide his files from his representations of Williams, which the Director originally requested by letter dated September 20, 1999.

142. By letter dated March 13, 2000, the Director informed respondent that the Director had received no response to the notice of investigation in the Adebajo matter and requested respondent to provide at that time the information and documents requested in the notice of investigation. Respondent failed to respond.

143. To date, respondent has provided none of the information or documents requested in the notice of investigation of the Adebajo matter.

144. Respondent's conduct violated the terms of his stipulation for extension of probation, Rule 8.1(a)(3), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility.

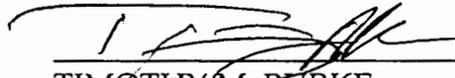
WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent from the practice of law or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief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

Dated: March 16, 2000.



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