

FILE NO. C3-00-529

STATE OF MINNESOTA

IN SUPREME COURT

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

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of a Lawyers Professional Responsibility Board Panel Chair, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(d) and (e) and 12(a), Rules on Lawyers Professional Responsibility (RLPR). The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 27, 1989. As set forth more fully on pp. 2-3 below, on January 4, 2001, respondent was suspended from the practice of law for a minimum of one year. Respondent remains suspended.

Respondent 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). 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.

g. On January 4, 2001, respondent was suspended from the practice of law for a minimum of one year (Exhibit 7). *In re Brehmer*, 620 N.W.2d 554 (Minn. 2001). Respondent's discipline was for neglecting client matters, fraudulently executing clients' affidavits, making false statements, pursuing frivolous claims, engaging in the unauthorized practice of law, violating the conditions of his probation, failing to maintain clients' retainers and cost advances in trust, failing to provide an accounting of

clients' funds, failing to return the unearned portion of clients' funds, failing to cooperate with the disciplinary investigation, and failing to communicate with clients.

COUNT ONE

Incompetence, Neglect, Violation of Court Orders,  
Failure to Pay Sanction - Sauter Matter

1. Respondent represented Mary Sauter in litigation against Illinois Farmers Insurance Co. ("Illinois Farmers"). Sauter claimed that her house had been burglarized and damaged, Illinois Farmers was her homeowners insurer, and Illinois Farmers owed compensation to her.

2. During trial in February 2000, respondent failed to introduce a copy of any homeowner's insurance policy between Illinois Farmers and Sauter.

3. Sauter contended at trial that at or shortly after the time of the burglary, she suffered an epileptic seizure. Respondent did not introduce medical testimony during trial to support this claim. At the conclusion of the trial, the court allowed respondent to depose Sauter's medical expert within 10 days after the trial concluded. Respondent failed to take the deposition during this period, failed to apply for an extension of time and failed to inform the court of any scheduling problems.

4. As a result, by order filed February 25, 2000, the court dismissed Sauter's case unless within five days substantial reason for the failure to take the medical deposition timely was provided and \$150 was paid to Illinois Farmers. Respondent did not apply for relief within the five-day period.

5. More than two months later respondent filed a one-page motion to vacate the dismissal of Sauter's claim. The motion was dated May 11, 2000, but was not filed until May 22, 2000. Respondent did not file an affidavit or other documentation in support of his motion. Respondent's motion did not identify the rules upon which respondent relied in support of the motion. Neither respondent nor Sauter had made the \$150 payment required for relief to be granted.

6. By order filed June 14, 2000, the court denied respondent's motion to vacate the default and allowed Illinois Farmer's counsel to request compensation for attorneys' fees and costs incurred in defending against the motion (Exhibit 8).

7. By order filed June 30, 2000, the court ordered Sauter and respondent to pay Illinois Farmers' fees and costs in the amount of \$322.04 (Exhibit 9). Despite multiple requests for payment, respondent failed to pay until November 2000, after Illinois Farmers' counsel had filed a complaint with the Director's Office.

8. Respondent's conduct violated Rules 1.1, 1.3, 3.2, 3.4(c), and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

#### COUNT TWO

##### Misleading Statement, Neglect, Failure to Return Client Documents Promptly - Gunderson Matter

9. In June 2000 Dawn M. Gunderson retained respondent to represent her in a family law matter. Gunderson paid a \$1,000 retainer.

10. When she retained respondent, Gunderson gave to respondent a diary which her spouse had kept and two unnegotiated checks made payable to Gunderson and her spouse. One check was a Minnesota sales tax rebate and the other was from an insurance company. Respondent told Gunderson that he would hold the checks in trust.

11. On June 21, 2000, respondent attended a hearing on Gunderson's request for an order for protection. After discussion with opposing counsel, a negotiated agreement was read into the record. Respondent agreed to draft a proposed order. Respondent failed to do so.

12. The court then signed a "form" order which varied from the parties' negotiated agreement. Opposing counsel spoke by telephone with respondent, who agreed to submit a corrected order for the judge's signature. Respondent failed to do so. Opposing counsel ultimately drafted a proposed corrected order. The corrected order was filed on August 28, 2000.

13. During the June 21 hearing, opposing counsel had agreed to accept service by mail of a summons and petition.

14. On or about June 30, 2000, Gunderson reviewed a draft summons and petition respondent had prepared. Gunderson requested changes to the petition. Respondent told Gunderson to sign the signature page to the petition and said that he would make the requested changes to the petition and attach the executed signature page. Gunderson then signed the signature page of the petition. Respondent failed, however, to finalize and serve the summons and petition.

15. On or about August 10, 2000, Gunderson spoke by telephone with respondent. Gunderson asked respondent if her husband had answered the petition. Respondent stated that he did not believe so. Respondent's statement was misleading, for it suggested respondent had served the summons and petition when he had not done so. Respondent told Gunderson that he would send a letter to opposing counsel requesting an answer to the petition and requesting permission for Gunderson to sell certain property. Respondent failed to send such a letter.

16. On or about August 22, 2000, Gunderson terminated respondent's services. Gunderson requested respondent to forward her file to her and to return the diary and checks she had provided to him previously (*see* ¶ 10, above). Respondent failed to return the checks or the diary timely. Gunderson ultimately requested the issuers of the checks to stop payment on them and issue new checks. Respondent failed to return the checks and diary until January 2001, after Gunderson had filed a complaint with the Director's Office.

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

COUNT THREE

Neglect, Non-Communication - Dalton Matter

18. In September 1999 Jacqlyn Dalton retained respondent for representation in a post-dissolution matter. There was no signed retainer agreement.

19. On December 17, 1999, Dalton paid respondent \$125 to cover the cost of service of contempt papers on her ex-husband, Terrence Dalton. During January 2000, respondent effected service upon Mr. Dalton in Arizona.

20. On January 20, 2000, respondent wrote to Mr. Dalton requesting a response to the contempt papers. Respondent did not thereafter file the contempt papers or the affidavit of service, request a hearing date or otherwise proceed with a contempt hearing.

21. By letter dated March 17, 2000, Dalton told respondent's secretary that respondent had not returned her prior telephone calls to him and requested respondent to call her. Respondent failed to call. Dalton left telephone messages for respondent on March 20 and 22, 2000. Respondent failed to call.

22. By letter dated March 21, 2000, respondent requested Mr. Dalton to respond by April 1, 2000, to respondent's January 20, 2000, letter.

23. On March 23, 2000, Dalton appeared at respondent's office, met with respondent and asked respondent to proceed with a contempt of court hearing. Respondent failed to do so.

24. By letter dated April 12, 2000, Dalton made a \$100 payment toward her bill, inquired if Mr. Dalton had responded to the March 21 letter and again requested respondent to proceed with a hearing and also pursue an increase in her maintenance. Respondent failed to do so.

25. On May 1, 2000, Dalton called and left a message for respondent. Respondent failed to call.

26. By letter dated June 6, 2000, Dalton told respondent that she had received no response to her recent calls and instructed respondent to proceed promptly with her

matter. Respondent failed to call Dalton, schedule a court date or otherwise proceed on Dalton's matter.

27. In July 2000 Dalton retained other counsel.
28. Respondent's conduct violated Rules 1.3 and 1.4(a), MRPC.

#### COUNT FOUR

##### Neglect, Non-Communication, Failure to Return Client File - Teal Matter

29. On or about April 20, 2000, Viretta Teal retained respondent to pursue a marital dissolution. Teal paid respondent a \$600 non-refundable retainer when she hired respondent and made six more \$100 payments over the next 12 weeks, for a total of \$1,200.

30. Respondent did not speak with Teal after she hired him even though she left messages at least monthly for him to return her calls.

31. In late April 2000 respondent drafted a petition for dissolution and sent it to Teal's husband, David Teal, who resided in Florida. On or about May 4, 2000, Mr. Teal signed an admission of service and sent it to respondent.

32. After respondent received this executed admission of service, respondent filed the summons and petition for dissolution. The court returned the papers to respondent because he had failed to pay the appropriate filing fee.

33. By letter to respondent dated May 16, 2000, Mr. Teal informed respondent that Mr. Teal would not contest the dissolution, the petition contained an error in the date of the Teals' marriage, and Mr. Teal wanted respondent to correct this error and forward copies of the amended petition for dissolution and the judgment and decree.

34. Sometime thereafter, respondent prepared and sent to Mr. Teal an amended petition for dissolution. On or about June 8, 2000, Mr. Teal signed an admission of service for the amended petition for dissolution and returned the admission of service to respondent.

35. Respondent performed no further work on the matter until November 15, 2000.

36. On November 14, 2000, Teal spoke by telephone with respondent's secretary and stated that Teal was seeking help from the Director's Office to have respondent handle the matter more expeditiously.

37. The next day, respondent filed the amended petition for dissolution. On or about December 29, 2000, respondent filed a default dissolution scheduling request.

38. On January 4, 2001, respondent was suspended. Teal thereafter requested respondent to return her file. Respondent failed to do so. Teal ultimately obtained documents relating to her dissolution not from respondent but from the court.

39. Respondent's conduct violated Rules 1.3, 1.4(a), 1.16(d), 3.2, and 8.4(d), MRPC.

#### COUNT FIVE

##### Unreasonable Fee, Failure to Refund Unearned Fee, Failure to Provide Accounting, Non-Communication - Ngo Matter

40. On or about December 29, 2000, Julie Ngo retained respondent to contest her landlord's planned eviction of Ngo's business or to further extend the tenancy of her business. Ngo paid to respondent a \$1,500 retainer. There was no written retainer agreement.

41. Six days later, respondent was suspended. On multiple occasions after Ngo learned of respondent's suspension she requested respondent to refund the retainer. Respondent did not respond to Ngo's requests and has not refunded any of the retainer.

42. Respondent failed to provide to Ngo an accounting of his services or a bill.

43. Respondent's conduct violated Rules 1.4(a), 1.5(a), 1.15(c)(4), and 1.16(d), MRPC.

## COUNT SIX

### Failure to Refund Unearned Fee Promptly, Failure to Provide Accounting, Neglect, Non-Communication, Failure to Inform Client of Suspension - Erickson Matter

44. On or about August 4, 2000, Elsie Erickson retained respondent to represent her regarding the sale of a house arising out of a marital dissolution. When she hired respondent, Erickson paid a \$500 retainer.

45. Respondent performed no substantial services on the matter.

46. On or about November 10, 2000, Erickson's daughter on Erickson's behalf informed respondent that his representation was terminated and requested respondent to refund the retainer. This conversation was the only communication between respondent and Erickson or anyone on her behalf after she retained respondent.

47. On multiple occasions after January 1, 2001, Erickson called or wrote to respondent requesting respondent to contact Erickson and refund the retainer. Respondent failed to do so.

48. On January 4, 2001, respondent was suspended. Respondent failed to notify Erickson of his suspension. Erickson did not learn of respondent's suspension until April 2001, when the Director's Office informed Erickson after she had filed a complaint against respondent.

49. Respondent failed to refund the \$500 retainer until late April 2001, after Erickson had filed a complaint with the Director's Office.

50. Respondent failed to give Erickson a bill or an accounting of the retainer.

51. Respondent's conduct violated Rules 1.3, 1.4, 1.15(c)(4), and 1.16(d), MRPC, and Rule 26, RLPR.

COUNT SEVEN

Unreasonable Fee, Failure to Refund Unearned Fee, Failure to Send Written Notice of Suspension, Neglect, Non-Communication - Kipka Matter

52. On December 14, 2000, Lori Kipka and Eric Bohn retained respondent to represent them in a child protection matter. That same day, respondent received a \$1,000 retainer. Respondent advised Kipka and Bohn to obtain records from the child's pediatrician to demonstrate the child was adequately cared for.

53. Respondent performed no other work on the matter and failed to respond to multiple calls from Kipka, Bohn, and Kipka's father.

54. On January 4, 2001, respondent was suspended.

55. During a telephone conversation in early January 2001, respondent's secretary stated that respondent had been suspended and that respondent would send written notice of his suspension to Kipka and Bohn. Respondent failed to do so.

56. Respondent failed to refund any of the \$1,000 retainer.

57. Respondent's conduct violated Rules 1.3, 1.4(a), 1.5(a), and 1.16(d), MRPC, and Rule 26, RLPR.

COUNT EIGHT

Unreasonable Fee, Failure to Refund Unearned Fee,  
Neglect - Christianson Matter

58. On or about September 18, 2000, Donnie Christianson retained respondent to represent Christianson in a bankruptcy proceeding and paid respondent a \$500 retainer.

59. Respondent did not file a bankruptcy petition or perform any other services for Christianson.

60. On January 4, 2001, respondent was suspended. Respondent failed to refund any of Christianson's retainer.

61. Respondent's conduct violated Rules 1.3, 1.5(a), and 1.16(d), MRPC.

COUNT NINE

Neglect, Non-Communication, Failure to Provide Accounting - Simons Matter

62. On or about August 17, 2000, Marci Simons retained respondent to represent her in a marital dissolution proceeding. When she retained respondent, Simons paid a \$1,000 retainer.

63. Respondent drafted and served on Simons' husband a petition for dissolution of marriage.

64. During a November 2000 settlement conference, respondent agreed to draft a marital termination agreement. Respondent then failed to do so. Respondent also failed thereafter to respond to multiple requests from Simons that respondent call her.

65. In January 2001 respondent's secretary informed Simons that respondent had been suspended from the practice of law.

66. Respondent has not provided to Simons an accounting of his services.

67. Respondent's conduct violated Rules 1.3, 1.4(a), and 1.15(c), MRPC.

COUNT TEN

Failure to Pay Malpractice Judgment - Mattingly Matter

68. Respondent represented Mark and Diane Mattingly in a real estate matter in Wisconsin. Among other things, respondent engaged in the unauthorized practice of law in Wisconsin, failed to commence the action properly, failed to serve multiple defendants properly, failed to respond timely to at least five sets of written discovery, engaged in improper notarization practice and failed to attend scheduled depositions. Ultimately, the Mattinglys' case was dismissed because of respondent's repeated and continued misconduct. *See In re Brehmer*, 620 N.W.2d at 557-58.

69. The Mattinglys commenced a malpractice action against respondent. After a jury verdict and post-trial motions, the Mattinglys received an award against respondent and his malpractice insurance carrier.

70. Respondent's insurance carrier then paid all but \$12,500 of the award, pursuant to a settlement with the Mattinglys. Respondent remained obligated to repay the remaining \$12,500. Respondent failed to do so.

71. On April 30, 2001, judgment in the amount of \$12,500 was entered against respondent and in favor of the Mattinglys (Exhibit 10).

72. To date, respondent has paid none of the award and judgment entered against him.

73. Respondent's conduct violated Rule 8.4(d), MRPC.

#### COUNT ELEVEN

##### Failure to Respond to Criminal Summons - State v. Brehmer Matter

74. On February 16, 2001, a criminal summons and complaint were issued in the matter of *State of Wisconsin v. Brehmer*. The complaint alleged that respondent's practice of law during his representation of the Mattinglys violated Wis. Stat. § 757.30. The summons required respondent to appear on March 19, 2001, and advised respondent that "in case of your failure to appear, a warrant for your arrest may be issued."

75. Respondent failed to appear on March 19. As a result, on March 23, 2001, a warrant was issued for the arrest of respondent (Exhibit 11).

76. Respondent's conduct violated Rules 3.4(c) and 8.4(d), MRPC.

#### COUNT TWELVE

##### Neglect, Non-Communication - Nelson Matter

77. On or about August 9, 2000, Kenneth Allen Nelson retained respondent to expunge a matter and to defend Nelson against a fifth degree assault criminal charge. When Nelson retained respondent, Nelson paid a \$750 retainer. The retainer agreement Nelson signed provided that the retainer was non-refundable.

78. Respondent performed no services regarding the expunction.

79. The criminal defense matter arose out of an allegation of abuse by Nelson against his child. Respondent was to arrange for a meeting between the county child protection agency, Nelson and Nelson's child. Respondent failed to do so. As a result, an order to show cause was issued for Nelson to appear and explain his actions. Respondent also failed to attend a meeting and failed to return all but one of multiple calls Nelson made to respondent's office requesting respondent to return the call. After the meeting which respondent failed to attend, the criminal charges against Nelson were dismissed.

80. Respondent failed to provide to Nelson a bill, an accounting or an invoice.

81. Respondent's conduct violated Rules 1.3 and 1.4(a), MRPC.

#### COUNT THIRTEEN

##### Failure to Pay Judgment to Former Client - Chapchay Matter

82. In July 2000 Larisa Chapchay retained respondent to represent her in a marital dissolution proceeding. When she hired respondent, Chapchay paid a \$2,000 retainer.

83. After respondent was suspended in January 2001, Chapchay commenced a conciliation court action against respondent. Respondent failed to attend the conciliation court hearing.

84. On March 8, 2001, the conciliation court entered a notice of judgment (Exhibit 12). The conciliation court ruled that Chapchay was entitled for judgment against respondent in the amount of \$2,030. Respondent neither sought *de novo* review by the district court nor paid any of the judgment.

85. Respondent's conduct violated Rule 8.4(d), MRPC.

COUNT FOURTEEN

Neglect, Unreasonable Fee - Ngaima Matter

86. On or about November 28, 2000, Moses Ngaima retained respondent to represent him in a child support modification matter. Ngaima agreed to pay respondent \$1,000. Ngaima paid \$500 on or about the day he hired respondent.

87. Respondent failed to perform any services on Ngaima's matter.

88. On January 4, 2001, respondent was suspended from the practice of law. That day, respondent telephoned Ngaima and requested Ngaima to pay the \$500 balance of the retainer. Ngaima paid on January 5, 2001.

89. By letter dated January 9, 2001, respondent informed Ngaima that respondent had been suspended. Respondent thereafter failed to respond to multiple calls and a letter from Ngaima requesting respondent to contact Ngaima and refund the \$500 paid on January 5. Respondent also failed to refund any of the funds.

90. Respondent's conduct violated Rules 1.3, 1.4(a), 1.15(c)(4) and 1.16(d), MRPC.

COUNT FIFTEEN

Failure to Provide Accounting or Billing - Haines Matter

91. In January 2000 Jay Edwin Haines retained respondent to represent him in a marital dissolution matter. When Haines retained respondent, Haines paid a \$2,000 retainer. The retainer agreement that Haines signed provided that \$1,650 of the retainer would be held in a trust account and \$350 of the retainer was non-refundable.

92. On January 4, 2001, respondent's representation of Haines ended when respondent was suspended.

93. At no time has respondent provided to Haines a bill, an accounting of the retainer, or an invoice of respondent's services.

94. Respondent's conduct violated Rule 1.15(b) and (c)(3), MRPC.

## COUNT SIXTEEN

### Improper Trust Account Practices and Record Keeping

95. From January 2000 through at least January 2001, respondent failed to properly maintain all required trust account books and records. Respondent failed to maintain or to properly maintain client subsidiary ledgers, a monthly trial balance of the subsidiary ledgers, and a monthly reconciliation of the checkbook balance, the subsidiary ledger trial balance total, and the adjusted bank statement balance.

96. During this period respondent paid office expenses or money to himself from client funds in the trust account without first determining whether the withdrawal was properly attributable to the client to whom respondent attributed the withdrawal.

97. Respondent's conduct violated Rule 1.15(h), MRPC, as further interpreted by Lawyers Professional Responsibility Board Opinion No. 9.

## COUNT SEVENTEEN

### Failure to File Employer's Withholding Tax Returns and Failure to Pay Employer's Withholding Taxes

98. From January 2000 until sometime after respondent was suspended in January 2001, respondent had at least one employee working for him. Accordingly, respondent was obligated to file federal and Minnesota employer's withholding tax returns and pay federal and Minnesota employer's withholding taxes.

99. Between January 2000 and April 2001, respondent failed to file federal employer's withholding tax returns and Minnesota employer's withholding tax returns for the tax periods from January 1, 2000, through March 31, 2001. Respondent also failed to pay federal employer's withholding taxes and Minnesota employer's withholding taxes during these tax periods.

100. Respondent's conduct violated Rule 8.4(b) and (d), MRPC, and the Minnesota Supreme Court's holding in *In re Bunker*, 199 N.W.2d 628 (Minn. 1972).

COUNT EIGHTEEN

Failure to Notify or to Properly Notify Clients of Suspension

101. Rule 26(a) - (c), RLPR, requires a suspended lawyer to notify his clients in writing of his suspension and to include with that notice a copy of the Supreme Court's suspension order. As set forth more fully above (¶¶ 48 and 55), respondent failed to send multiple clients written notice of his suspension. Respondent provided to the clients to whom he did send written notice of his suspension only the first page of the Supreme Court's 16-page suspension order.

102. Respondent's conduct violated Rule 26, RLPR.

COUNT NINETEEN

Failure to Cooperate

103. On October 24, 2000, notice of investigation of a complaint regarding respondent's conduct in the Sauter matter was sent to respondent's attorney (Exhibit 13). The notice requested respondent to provide within 14 days of the notice the information and documents requested in the notice. Respondent failed to respond.

104. On November 3, 2000, notice of investigation of a complaint filed by Gunderson was sent to respondent's attorney (Exhibit 14). The notice requested respondent to provide within 14 days his complete written response. Respondent failed to respond.

105. By letter dated November 8, 2000, the Director informed respondent's attorney that the Director had received no response from respondent to the notice of investigation regarding the Sauter matter and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond.

106. By letter dated November 15, 2000, the Director informed respondent's attorney that the Director had received no response from respondent to the notice of investigation regarding the Sauter matter and requested respondent to provide at that

time the information and documents requested in the notice. Respondent failed to respond.

107. By letter dated November 21, 2000, the Director informed respondent's attorney that the Director had received no response from respondent to the notice of investigation of Gunderson's complaint and requested respondent to provide at that time his complete written response as requested in the notice. Respondent failed to respond.

108. By letter dated November 22, 2000, the Director informed respondent's attorney that the Director had received no response from respondent to the notice of investigation regarding the Sauter matter and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond.

109. To date, respondent has provided none of the information or documents requested in the notice of investigation regarding the Sauter matter.

110. By letter dated November 29, 2000, the Director informed respondent's attorney that the Director had received no response from respondent to the notice of investigation of Gunderson's complaint and requested respondent to provide at that time his complete written response as requested in the notice. Respondent failed to respond.

111. By letter dated November 30, 2000, respondent's attorney informed the Director that he did not represent respondent regarding any complaints not included in the then-pending public disciplinary proceeding and requested the Director to send all communications about those complaints to respondent.

112. By letter dated December 6, 2000, the Director informed respondent that the Director had received no response to the notice of investigation of Gunderson's complaint and requested respondent to provide at that time his complete written

response as requested in the notice. Respondent failed to respond until January 13, 2001.

113. By letter dated January 9, 2001, and postmarked January 13, 2001, respondent provided a written response to the Gunderson complaint.

114. On January 29, 2001, notice of investigation of a complaint filed by Teal was sent to respondent (Exhibit 15). The notice requested respondent to provide within 14 days his complete written response. Respondent failed to respond.

115. On January 30, 2001, notice of investigation of a complaint filed by Ngo was sent to respondent (Exhibit 16). The notice requested respondent to provide within 14 days his complete written response. Respondent failed to respond.

116. On February 12, 2001, notice of investigation of a complaint filed by Kenneth Kipka was sent to respondent (Exhibit 16). The notice requested respondent to provide within 14 days his complete written response to the complaint and certain documents. Respondent failed to respond.

117. By letter dated February 12, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Teal's complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond.

118. By letter dated February 14, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Ngo's complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond.

119. On February 15, 2001, notice of investigation of a complaint filed by Laurie Arbic was sent to respondent (Exhibit 17). The notice requested respondent to provide within 14 days his complete written response and certain documents. Respondent failed to respond.

120. By letter dated February 20, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Teal's complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond.

121. By letter dated February 22, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Ngo's complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond.

122. By letter dated February 27, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Kenneth Kipka's complaint and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond.

123. By letter dated February 28, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Teal's complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond until March 8, 2001.

124. By letter dated March 2, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Arbic's complaint and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond.

125. By letter dated March 2, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Ngo's complaint and requested respondent to provide at that time his complete written response.

126. By letter dated March 7, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Kenneth Kipka's complaint and requested respondent to provide at that time the information and documents requested in the notice.

127. By letter dated March 8, 2001, respondent provided his response to Ngo's complaint. By letters dated February 22, 2001, but postmarked March 8, 2001, respondent provided his responses to Kenneth Kipka's and Teal's complaints.

128. On March 9, 2001, notice of investigation of a complaint filed by Christianson was sent to respondent (Exhibit 18). The notice requested respondent to provide within 14 days his complete written response. Respondent failed to respond.

129. By letter dated March 12, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Arbic's complaint and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond.

130. By letter dated March 12, 2001, the Director requested respondent to provide no later than March 26, 2001, the information and documents requested in that letter regarding Chapchay's complaint. Respondent failed to respond.

131. By letter dated March 12, 2001, the Director requested respondent to provide no later than March 26, 2001, respondent's entire client file from his representation of Teal. Respondent failed to respond.

132. By letter dated March 13, 2001, the Director requested respondent to provide the information requested in that letter regarding Ngo's complaint. Respondent failed to respond until July 2, 2001.

133. By letter dated March 13, 2001, the Director informed respondent that respondent had not enclosed with his response all the documents respondent identified in his response to Kenneth Kipka's complaint and requested respondent to provide no later than March 27, 2001, those documents plus the additional information and documents requested in that letter. Respondent failed to respond.

134. On March 15, 2001, notice of investigation of a complaint filed by Simons was sent to respondent (Exhibit 19). The notice requested respondent to provide within 14 days his complete written response. Respondent failed to respond.

135. On March 19, 2001, notice of investigation of a complaint filed by Moses Nqaima was sent to respondent (Exhibit 20). The notice requested respondent to provide within 14 days the information and documents requested in the notice. Respondent failed to respond.

136. By letter dated March 20, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Arbic's complaint and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond until July 2, 2001.

137. On March 22, 2001, notice of investigation of a complaint filed by Kenneth Nelson was sent to respondent (Exhibit 21). The notice requested respondent to provide within 14 days his complete written response. Respondent failed to respond.

138. On March 23, 2001, notice of investigation of a complaint filed by Erickson was sent to respondent (Exhibit 22). The notice requested respondent to provide within 14 days his complete written response. Respondent failed to respond.

139. By letter dated March 26, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Christianson's complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond.

140. By letter dated March 28, 2001, the Director informed respondent that the Director had received no response to the Director's March 12 letter regarding Chapchay's complaint and requested respondent to provide at that time the information and documents requested in that March 12 letter. Respondent failed to respond.

141. By letter dated March 28, 2001, the Director informed respondent that the Director had received no response to the Director's March 13 letter regarding Kenneth Kipka's complaint and requested respondent to provide at that time the information and documents requested in the March 13 letter. Respondent failed to respond.

142. By letter dated March 28, 2001, the Director informed respondent that the Director had received no response to the Director's March 12 letter regarding Teal's complaint and requested respondent to provide at that time the documents requested in that March 12 letter. Respondent failed to respond.

143. By letter dated March 30, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Simon's complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond.

144. By letters dated April 3, 2001, the Director informed respondent that the Director had received no response to the notices of investigation of Christianson's and Nqaima's complaints and requested respondent to provide at that time his complete written responses. Respondent failed to respond.

145. By letters dated April 5, 2001, the Director informed respondent that the Director had received no response to the Director's March 12 letters regarding Chapchay's and Teal's complaints and requested respondent to provide at that time the information and documents requested in the March 12 letters. Respondent failed to respond.

146. By letter dated April 5, 2001, the Director informed respondent that the Director had received no response to the Director's March 13 letter regarding Kenneth Kipka's complaint and requested respondent to provide at that time the information and documents requested in the March 13 letter. Respondent failed to respond.

147. By letter dated April 6, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Nelson's complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond.

148. By letters dated April 9, 2001, the Director informed respondent that the Director had received no response to the notices of investigation of Erickson's and

Simons' complaints and requested respondent to provide at that time his complete written responses. Respondent failed to respond.

149. By letter dated April 11, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Christianson's complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond until July 2, 2001.

150. By letter dated April 11, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Nqaima's complaint and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond.

151. By letter dated April 13, 2001, the Director informed respondent that the Director had received no response to the Director's March 12 letter regarding Chapchay's complaint and requested respondent to provide at that time the information and documents requested in the March 12 letter. Respondent failed to respond.

152. By letter dated April 13, 2001, the Director informed respondent that the Director had received no response to the Director's March 12 letter requesting respondent to provide his file from his representation of Teal and requested respondent to provide at that time his entire Teal client file. Respondent failed to respond until July 2, 2001.

153. To date, respondent has provided none of the information and documents requested in the Director's March 12 letters regarding Teal's and Chapchay's complaints.

154. By letter dated April 13, 2001, the Director informed respondent that the Director had received no response to the Director's March 13 letter regarding Kenneth Kipka's complaint and requested respondent to provide at that time the information

and documents requested in the March 13 letter. Respondent failed to respond until July 2, 2001.

155. By letter dated April 16, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Nelson's complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond.

156. By letters dated April 17, 2001, the Director informed respondent that the Director had received no response to the notices of investigation of Erickson's and Simons' complaints and requested respondent to provide at that time his complete written responses. Respondent failed to respond to the notice of investigation of Simons' complaint until July 2, 2001.

157. By letter dated April 18, 2001, the Director informed respondent that Chapchay had notified the Director's Office that respondent had failed to pay a \$2,030 judgment she had obtained against him, informed respondent that failure to pay a professionally incurred debt can constitute professional misconduct, and requested respondent to provide within 14 days his written explanation regarding that issue and all documents concerning his response. Respondent failed to respond.

158. By letter dated April 18, 2001, the Director informed respondent that Erickson stated that she learned of respondent's suspension not from respondent but from the Director's Office and requested respondent to state in writing no later than May 2, 2001, if he had notified Erickson of his suspension and if not, why not, and to provide any supporting documents. Respondent failed to respond.

159. By letter dated April 23, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Nqaima's complaint and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond until July 2, 2001.

160. By letter dated April 25, 2001, the Director informed respondent that the Director had received no response to the notices of investigation of Erickson's and Nelson's complaints and requested respondent to provide at that time his complete written responses. Respondent failed to respond to the notice of investigation of Nelson's complaint until July 2, 2001.

161. By letter dated April 25, 2001, the Director requested respondent to provide no later than May 11, 2001, the information and documents requested in that letter regarding the Ngo complaint. Respondent failed to respond.

162. On April 30, 2001, notice of investigation of a complaint filed by Jay Edwin Haines was sent to respondent (Exhibit 23). The notice requested respondent to provide his complete written response within 14 days. Respondent failed to respond.

163. By letter dated May 3, 2001, the Director informed respondent that the Director had received no response to the Director's April 18 letters regarding Erickson's and Chapchay's complaints and requested respondent to provide at that time the information and documents requested in the April 18 letters. Respondent failed to respond.

164. By letters dated May 11, 2001, the Director informed respondent that the Director had received no response to the Director's April 18 letter regarding Erickson's and Chapchay's complaint and requested respondent to provide at that time the information and documents requested in the April 18 letters. Respondent failed to respond.

165. By letter dated May 14, 2001, the Director informed respondent that the Director had received no response to the Director's April 25 letter regarding Ngo's complaint. Respondent failed to respond.

166. On May 14, 2001, the Director mailed to respondent notice of investigation of a complaint filed by Jason Rose (Exhibit 24). The notice requested respondent to

provide within 14 days the information and documents requested in the notice.

Respondent failed to respond.

167. By letter dated May 15, 2001, the Director informed respondent that the Director had received no response to Haines' complaint and requested respondent to provide at that time his complete written response. Respondent failed to respond.

168. By letter dated May 24, 2001, the Director informed respondent that the Director had received no response to the notice of investigation of Haines' complaint and requested respondent to provide at that time his complete written response as requested in the notice. Respondent failed to respond.

169. By letter dated May 24, 2001, the Director informed respondent that the Director had received no response to the Director's April 25 letter regarding Ngo's complaint and requested respondent to provide at that time the information and documents requested in the April 25 letter. Respondent failed to respond.

170. By letters dated May 24, 2001, the Director informed respondent that the Director had received no response to the Director's April 18 letters regarding Erickson's and Chapchay's complaints and requested respondent to provide at that time the information and documents requested in the April 18 letters. Respondent failed to respond.

171. To date, respondent has provided none of the information or documents requested in the notice of investigation of Erickson's complaint or in the Director's April 18 letters regarding Erickson's and Chapchay's complaints.

172. By letter dated May 29, 2001, the Director informed respondent that the Director had received none of the information or documents requested in the notice of investigation of Rose's complaint and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to respond until July 2, 2001.

173. On May 17, 2001, respondent was served by mail with charges of unprofessional conduct and notice of pre-hearing meeting. The notice of pre-hearing meeting informed respondent that the pre-hearing meeting regarding the charges would be held on June 7, 2001, at 9:00 a.m. at the Director's Office. Respondent neither appeared for the pre-hearing meeting nor contacted the Director's Office to request the meeting be rescheduled.

174. On June 21, 2001, respondent spoke by telephone with an Assistant Director. Among other things, respondent stated that he knew he had reverted to his prior behavioral pattern of not responding to the Director's requests and stated that by the end of the next week (*i.e.*, by June 29, 2001), he would provide information that the Director's Office had requested previously.

175. On July 2, 2001, respondent faxed a series of letters to the Director. In those letters respondent provided:

- His response to Simons', Nelson's and Christianson's complaints;
- The information, but none of the documents, requested in the notices of investigation of Arbic's, Ngaima's and Rose's complaints;
- The information requested in the Director's March 12 letter regarding Ngo's complaint;
- Some of the information and documents requested in the Director's April 25 letter regarding Ngo's complaint; and
- A partial response to Haines' complaint;
- A statement that by August 1, 2001, he would provide the information and documents requested in the Director's March 12 letter regarding Teal's complaint; and
- A statement suggesting that respondent possessed none of the documents requested in the notice of investigation and Director's March 13 letter regarding Kenneth Kipka's complaint.

176. By letters dated July 5, 2001, the Director requested respondent to provide no later than July 19, 2001:

- The documents requested in the notice of investigation and the Director's March 13 letter regarding Kenneth Kipka's complaint, the notice of investigation of Arbic's complaint, the Director's March 12 letter regarding Teal's complaint, the notice of investigation regarding Rose's complaint, and the Director's July 5 letters regarding Christianson's, Nelson's and Simons' complaints;
- The information and documents requested in the notice of investigation and Director's July 5 letter regarding Ngaima's complaint, the Director's April 25 and July 5 letters regarding Ngo's complaint, and the Director's July 5 letter regarding Arbic's complaint; and
- The information requested in the Director's July 5 letter regarding Haines' complaint.

Respondent failed to respond.

177. By letter dated July 6, 2001, the Director requested respondent to provide no later than July 20, 2001, the information and documents requested in that letter regarding respondent's failure to respond timely to the Director's prior requests for information and documents. Respondent failed to respond.

178. By letters dated July 20, 2001, the Director informed respondent that the Director had received no response to the Director's July 5 letters regarding Arbic's, Haines', Ngo's, Ngaima's, Kenneth Kipka's, Christianson's, Rose's, Teal's and Nelson's complaints and no response to the Director's July 6 letter regarding respondent's failure to respond timely to the Director's prior requests for information and documents. The July 20 letters requested respondent to provide at that time the information and documents requested in those July 5 and 6 letters. Respondent failed to respond.

179. To date, respondent has not provided:

- The documents requested in the notices of investigation of Arbic's, Ngaima's, Kenneth Kipka's and Rose's complaints, the Director's March 13 letter regarding Kenneth Kipka's complaint, the Director's April 25 letter regarding Ngo's complaint, and the Director's July 5 letter regarding Simons' and Christianson's complaints;
- The information or documents requested in the Director's July 5 letters regarding Arbic's, Ngo's Ngaima's and Nelson's complaints, and the

Director's July 6 letter regarding respondent's failure to respond timely to the Director's requests for information and documents; and

- The information requested in the Director's July 5 letter regarding Haines' complaint.

180. Respondent's conduct violated Rule 8.1(a)(3), MRPC, and Rule 25, RLPR.

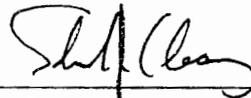
#### EXHIBITS

1. September 14, 1995, admonition.
2. February 23, 1996, admonition.
3. February 23, 1996, admonition.
4. September 24, 1997, stipulation for private probation.
5. May 14, 1999, admonition.
6. May 24, 1999, stipulation for extension of private probation.
7. January 4, 2001, Supreme Court suspension opinion, *In re Brehmer*, 620 N.W.2d 554 (Minn. 2001).
8. June 14, 2000, order, *Sauter v. Illinois Farmers Ins. Co.*
9. June 30, 2000, order and judgment, *Sauter v. Illinois Farmers Ins. Co.*
10. April 30, 2001, judgment, *Mark and Diane Mattingly v. David L. Brehmer*.
11. March 23, 2001, warrant, *State of Wisconsin v. David L. Brehmer*.
12. March 8, 2001, judgment, *Larisa Chapchay v. David L. Brehmer*.
13. October 24, 2000, notice of investigation and E. Curtis Roeder complaint (Sauter matter).
14. November 3, 2000, notice of investigation and Gunderson complaint.
15. January 29, 2001, notice of investigation and Teal complaint.
16. January 30, 2001, notice of investigation and Ngo complaint.
17. February 12, 2001, notice of investigation and Kenneth Kipka complaint.
18. February 15, 2001, notice of investigation and Arbic complaint.

19. March 9, 2001, notice of investigation and Christianson complaint.
20. March 15, 2001, notice of investigation and Simons complaint.
21. March 19, 2001, notice of investigation and Nqaima complaint.
22. March 22, 2001, notice of investigation and Nelson complaint.
23. March 23, 2001, notice of investigation and Erickson complaint.
24. April 30, 2001, notice of investigation and Haines complaint.
25. May 14, 2001 notice of investigation and Rose complaint.

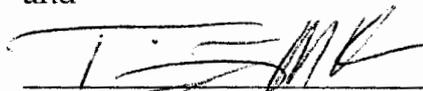
WHEREFORE, the Director respectfully prays for an order of this Court disbarring or further suspending respondent or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief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

Dated: July 30, 2001.



EDWARD J. CLEARY  
 DIRECTOR OF THE OFFICE OF LAWYERS  
 PROFESSIONAL RESPONSIBILITY  
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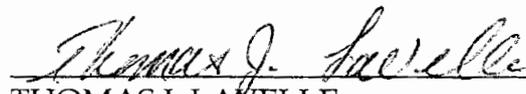
and



TIMOTHY M. BURKE  
 SENIOR ASSISTANT DIRECTOR  
 Attorney No. 19248x

This petition is approved for filing pursuant to Rules 10(d) and 10(e) and 12(a), RLPR, by the undersigned Panel Chair.

Dated: August 9, 2001.



THOMAS J. LAVELLE  
 PANEL CHAIR, LAWYERS PROFESSIONAL  
 RESPONSIBILITY BOARD