

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against GREGORY ALLEN CARPENTER,
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 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 May 10, 1996. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

A. Grigorov Matter

1. On November 20, 1997, Anguel Grigorov retained respondent to represent him to change his visa status from F-1 to H-1B, a student visa to a working visa. Grigorov, a recent graduate of Vanderbilt University Business School, had accepted a job at US BanCorps N.A. as a credit analyst.
2. Respondent informed Grigorov that the visa process required a salary survey and a labor conditions application (LCA) signed by Grigorov's employer. By

late December 1997 the salary survey was completed. On January 21, 1998, respondent sent the LCA to US BanCorps N.A. for their signature.

Neglect, Lack of Communication and Misrepresentation

3. On January 26, 1998, respondent informed Grigorov that he was taking a vacation from February 12 until March 4, 1998. Respondent stated that another attorney in his building would be checking his phone calls and other pending matters.

4. Between January 26, 1998, and February 12, 1998, Grigorov called respondent regarding respondent's vacation plans and the effect it could have on the completed LCA. Respondent informed Grigorov that if the completed LCA arrived prior to respondent's vacation, respondent would send it to the Department of Labor (DOL). If the completed LCA arrived while respondent was vacationing, respondent represented that his backup attorney would send it to the DOL in respondent's absence.

5. On February 9, 1998, US BanCorps N.A. returned the completed LCA. On February 20, 1998, while respondent was vacationing, he obtained information that the annual quota of 65,000 H-1B visas was quickly being depleted.

6. On or about March 4, 1998, respondent returned from vacation. On March 5 and 6, 1998, Grigorov called respondent regarding the LCA. Respondent failed to return his phone calls.

7. On March 12, 1998, Grigorov contacted respondent and asked for the date he mailed the LCA to the DOL, proof of mailing, and a copy of the LCA. Respondent did not provide the requested information.

8. On March 16, 1998, Grigorov met with respondent about the LCA. Respondent misrepresented to Grigorov that some time between March 4 and March 16, 1998, he had mailed the LCA to the DOL. Respondent in fact had not mailed the LCA to the DOL. Grigorov again requested a copy of the LCA and proof of mailing. Respondent failed to comply with Grigorov's request.

9. On March 19, 1998, Grigorov faxed a letter to respondent regarding the LCA. Grigorov noted that respondent had refused to respond to his letters and calls during the week of March 5 and March 12, to supply proof of mailing and to supply a copy of the LCA.

10. On March 20, 1998, Grigorov again visited respondent's office to discuss the LCA. Respondent refused to meet with Grigorov because he had not scheduled an appointment.

11. On March 23, 1998, Grigorov faxed respondent a letter. Grigorov discharged respondent because he refused to provide Grigorov with the completed LCA and proof of mailing. Grigorov directed respondent to send his client file to the Dorsey & Whitney (Dorsey) law firm as soon as possible.

12. After sending the March 23 fax to respondent, Grigorov called respondent to inform him that he was discharged but Grigorov could not reach respondent. Grigorov left a message for respondent also informing respondent that he was discharged.

13. On March 25, 1998, Grigorov determined that respondent had not sent the client file to Grigorov's new counsel as requested. Grigorov called and visited respondent's office three times to request that respondent immediately transfer Grigorov's client file to the Dorsey law firm. Respondent was unavailable, so he did not transfer Grigorov's client file to the Dorsey law firm.

14. On March 26, 1998, Grigorov obtained his client file from respondent. The original LCA was in the client file. Respondent refused to confirm whether he had sent the LCA to the DOL.

15. On March 26, 1998, Saiko McIvor of the Dorsey law firm, Grigorov's new counsel, advised Grigorov that the LCA prepared by respondent was insufficient as drafted. Moreover, the allotment of 65,000 H-1B visas was quickly being depleted.

Respondent had never informed Grigorov about the ongoing depletion of working visas.

16. Between March 26 and April 6, 1998, McIvor twice called respondent to determine if respondent had sent any documents to the DOL, but respondent refused to return McIvor's calls. McIvor needed to withdraw the insufficient LCA if respondent had submitted it to the DOL. On April 6, 1998, McIvor sent respondent a certified letter. Respondent did not respond to McIvor's April 6 certified letter.

17. On April 23 and 30, 1998, Grigorov requested respondent to return his \$1,500 retainer. Respondent failed to respond to Grigorov's requests.

18. On May 11, 1998, McIvor informed Grigorov that the allotment of H-1B visas had been depleted and Grigorov could not obtain such a visa until October 1998.

19. Because Grigorov could not obtain a H-1B visa, he stopped working on May 31, 1998.

20. Grigorov's student visa expired on July 31, 1998, but he was able to remain in the United States. Grigorov's wife obtained a student F-1 visa and Grigorov was able to obtain a student spouse visa. Until Grigorov obtains an H-1B visa, neither he nor his spouse are permitted to work in the United States. Due to respondent's conduct, Grigorov suffered significant financial losses and psychological stress.

21. Respondent's conduct in failing to respond to his client's telephone calls, faxes, and requests for documents and in failing to advise his client about the depletion of the annual allotment of H-1B visas violated Rule 1.4, Minnesota Rules of Professional Conduct (MRPC).

22. Respondent's conduct in failing to submit the LCA to the DOL, especially when he knew that the annual allotment of working visas was being depleted, violated Rule 1.3, MRPC.

23. Respondent's conduct in misrepresenting to his client that he had mailed the LCA to the DOL when he had not, violated Rules 4.1 and 8.4(c), MRPC.

B. Non-Cooperation

24. As a part of the Director's investigation of Grigorov's complaint, on June 3, 1998, the Director's Office requested respondent to answer several questions and submit his trust account records from November 1997 until the date he refunded any of the unused portion of his client's retainer fee.

25. Respondent was requested to reply to the June 3 letter within ten days. Respondent failed to respond to the June 3 letter.

26. On June 18, 1998, the Director's Office requested respondent reply to the June 3 letter within seven days of June 18.

27. On July 1, 1998, the Director's Office received a letter from respondent. Respondent stated that he was working on processing the records for his trust account.

28. On July 23, 1998, the Director's Office requested respondent to attend a meeting on July 30, 1998. Respondent did not attend the July 30 meeting and did not contact the Director's Office.

29. On July 31, 1998, the Director's Office requested respondent to attend a meeting on August 6, 1998. The July 31 letter was sent via certified and regular mail. Someone from respondent's law office signed for the certified letter receipt on August 3, 1998. Respondent failed to attend the August 6 meeting. Respondent has not contacted the Director's Office regarding the August 6 meeting.

30. On September 15, 1998, the Director wrote to respondent noting that Grigorov had obtained a judgment against him and asking respondent to set forth his efforts, if any, to satisfy the judgment. The letter requested a response within ten days.

31. On November 6, 1998, the Director wrote to respondent noting that there had been no response to the September 15 letter and requested a response within seven days.

32. Respondent did not respond to the September 15 letter until November 16, 1998.

33. On February 19, 1999, the Director wrote to respondent's counsel requesting that the previously requested trust account records be provided by March 1, 1999.

34. On February 26, 1999, respondent's counsel wrote to the Director stating that the trust account records would be delivered shortly after March 4, 1999.

35. Respondent's failure to cooperate with the Director's Office in investigating the ethics complaint against him violated Rule 8.1(a)(3), MRPC, and Rule 25, RLPR.

36. Respondent's conduct in failing to maintain proper trust account books and records violated Rule 1.15(b) and (g), MRPC, and LPRB Opinion No. 9.

37. On March 12, 1999, having received no trust account records, the Director wrote to respondent's counsel again requesting that, by March 17, either the trust account records or a clear statement that no records were maintained be provided.

38. On March 22, 1999, respondent's counsel wrote to the Director stating that "Mr. Carpenter has advised me that the records have not been maintained in proper format on a contemporaneous basis. He has been attempting to put the records into the proper format but the depression and anxiety have been factors in accomplishing this task."

39. Respondent, to date, has not produced any trust account records.

C. Failure to Maintain Proper Trust Account Books and Records

40. As noted above, respondent has failed to maintain the trust account books and records as required by Rule 1.15, MRPC, and LPRB Opinion No. 9.

WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the

Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: April 21, 1999.



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