FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against JANA HARVIEUX EFFERTZ,
a Minnesota Attorney,
Registration No. 31707x.

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, 2002. Respondent currently practices law in Owatonna, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Improper Notarization

1. Respondent represented G.N.M. in child custody proceedings. A hearing in the matter was scheduled for October 21, 2008.

2. At respondent's direction, G.N.M. obtained statements from friends and family members regarding his relationship with his child and his parenting abilities. During the period September 29 to October 6, 2008, G.N.M. forwarded 17 such statements to respondent by e-mail. Respondent converted each of these e-mail

statements into affidavits and forwarded them to G.N.M., with a standing instruction to obtain "notarized signatures" on the affidavits.

3. On October 6, 2008, G.N.M. brought the 17 affidavits to respondent's home. The affidavits had all been signed, but none had been notarized. Although respondent had not witnessed any of the signatures, she notarized all 17 affidavits.

4. On October 7, 2008, respondent filed the 17 original affidavits, bearing her notarization, with the court and served copies on opposing counsel.

5. By letter dated October 15, 2008, opposing counsel wrote to respondent and asked her to confirm that she was "personally present when each of the affiants signed their affidavit."

6. Respondent responded to opposing counsel on October 16, 2008. Respondent stated that she had known G.N.M. and his family for many years and described their relationship. Respondent did not respond to counsel's question regarding the notarizations.

7. On October 17, 2008, opposing counsel again asked respondent whether she had been personally present when the affidavits were signed. Opposing counsel stated, "This is a very serious issue. . . . I intend to ask the Court to strike from the record any affidavits which you notarized that were not signed in your physical presence."

8. On October 20, 2008, respondent served and filed her own affidavit in which she indicated that she had not personally witnessed the signatures on the affidavits. Respondent noted that the affidavits were verbatim recitations of the affiants' own statements and that her client had "personally collected the signatures."

9. At the October 21, 2008, hearing, respondent again acknowledged that she had not witnessed the signatures on the affidavits. The court continued the matter until such time as corrected affidavits could be obtained and filed.

10. Following the hearing, respondent advised G.N.M. that he may wish to consider retaining a new attorney. G.N.M. determined to allow respondent to continue as his attorney.

11. Properly signed and notarized replacement affidavits were thereafter obtained from the affiants.

12. Respondent's conduct violated Rule 8.4(c) and (d), Minnesota Rules of Professional Conduct.

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

Dated: August 25, 2009.

MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

and

MEGAN D. PREBELICH
ASSISTANT DIRECTOR
Attorney No. 329642