FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against CHARLES MAYER GOLDSTEIN,
a Minnesota Attorney,
Registration No. 0187768.

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 October 30, 1987. Respondent formerly practiced law in Golden Valley, Minnesota. Respondent is currently licensed to practice law, but is not presently engaged in the practice of law.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

Respondent's history of prior discipline is as follows:

A. On December 8, 1993, respondent was issued an admonition for failing to advise a potential client of the share that each lawyer was to receive pursuant to a division of fee between respondent and another lawyer not in his law firm, in violation of Rule 1.5(e), Minnesota Rules of Professional Conduct (MRPC).

B. On January 31, 2012, respondent was issued an admonition for failing to promptly provide a client with her file upon termination of the representation and conditioning the return of the client file on the payment of related copying costs, in violation of Rule 1.16(d) and (g), MRPC.

FIRST COUNT

Trust Account Matter

1. On January 17, 2014, respondent's client trust account number ending in 9085 at U.S. Bank became overdrawn. Pursuant to Rule 1.15(j) though (o), MRPC, the bank reported the overdraft to the Director.

2. On January 21, 2014, respondent deposited a total of $2,500 into his trust account to cover the overdraft.

3. On January 29, 2014, the Director wrote to respondent requesting information and documents in connection with the overdraft.

4. On February 16, 2014, respondent wrote to the Director. Respondent stated that he had closed his law practice on September 30, 2013, and that the transaction that triggered the insufficient funds in his trust account was a $4,972.50 draft to refund a client's retainer fee. Respondent and the bookkeeper reviewed his records but were unable to determine why the account balance was insufficient to cover the transaction. Respondent further stated that there was a current balance of $961.38 that would cover the return of unearned client funds to two separate clients, K.T. (in the amount of $528.13), and T.G. (in the amount of $395.17), and that all other client funds had been returned to the respective clients. Respondent also provided certain trust account books and records to the Director.

5. Based upon respondent's February 16, 2014, letter and the trust account books and records provided, the Director initiated a disciplinary investigation against respondent. On March 3, 2014, the Director sent respondent notice of investigation which requested additional documents and information from respondent.

Respondent's failure to accurately perform monthly reconciliations of his trust account books and records and the existence of shortages in respondent's trust account were identified as concerns in the notice of investigation. The Director also noted that there appeared to be uncleared, outstanding checks for six additional clients: B.T., E.G.W., B.P., B.H., J.K., and M.H. The Director asked respondent to explain the discrepancy between his trust account records and the information he provided in his February 16, 2014, letter. As further stated below, the six uncleared checks dated as far back as January 2003 and as recent as 2012.

6. On March 28, 2014, respondent wrote to the Director, indicating the bookkeepers who have worked on respondent's trust account records informed him that they had not been properly reconciling the monthly bank statements with the balance of the trust account records. Respondent further indicated that he had not been able to determine the cause of the shortage in his trust account.

7. On May 23, 2014, respondent's counsel wrote the Director, stating that respondent hired a professional bookkeeper, L.L., to review respondent's trust account books and records. In her review and reconstruction of respondent's trust account, L.L. discovered that a December 17, 2010, deposit on behalf of respondent's client, M.K., in the amount of $2,500, was inadvertently deposited into respondent's business account rather than his trust account, creating a shortage beginning January 5, 2011, when respondent withdrew $883.36 from his trust account as fees earned in the M.K. matter. The shortage continued to grow as respondent paid himself fees earned in the M.K. matter up to the original amount of $2,500 that had been deposited into respondent's business account. Due to the former bookkeepers' failure to properly reconcile respondent's trust account and respondent's lack of supervision over his trust account, the shortage remained in respondent's trust account until January 21, 2014, when respondent deposited funds into his trust account to remedy the January 16, 2014, overdraft.

8. On or about June 20, 2014, respondent paid client T.G. $395.17 from his trust account.

9. According to respondent's trust account book and records, he owes the following clients the following amounts:

CLIENT	DATE OF CHECK	AMOUNT
B.T.	01/24/03	$160.17
E.G.W.	06/02/03	$197.62
B.P.	09/21/04	$40.73
B.H.	11/22/04	$7.10
J.K.	10/31/06	$133.84
M.H.	10/03/12	$3.04
K.T.	08/22/13	$528.13
	TOTAL:	**$1,070.63**

10. As of July 31, 2014, the balance in respondent's trust account was $566.21. The balance in respondent's trust account was $504.42 short of $1,070.63, the outstanding funds owed to clients. Respondent is unable to determine how this continuing shortage occurred. Respondent has since deposited sufficient funds into his trust account to remedy the continuing shortage.

11. Respondent's failure to maintain the required trust account books and records, resulting in shortages in his trust account violated Rule 1.15(a) and (c)(3), MRPC.

SECOND COUNT

Non-Lawyer Use of Signature Stamp

12. On April 4, 2014, during the Director's investigation regarding the overdraft in his trust account, the Director inquired whether respondent signed all trust account checks personally or used a signature stamp.

13. In response, respondent stated that he permitted non-lawyer staff to use his signature stamp on trust account checks, which were sent out only after being

presented for his review. There is no indication that non-lawyer staff's use of respondent's signature stamp directly resulted in the mishandling of client funds.

14. Respondent's conduct in allowing non-lawyer staff to use his signature stamp on trust account checks violated Rule 1.15(j), MRPC.

THIRD COUNT

C.S. Matter

15. Respondent represented a client, C.S., in marital dissolution proceedings she initiated against her then-husband, J.S. At some point during the process, C.S. developed a fear of J.S. and expressed her extreme reluctance to ever be in J.S.'s presence. According to respondent, C.S. seemed emotional and paranoid and exhibited varying levels of confusion throughout the dissolution and post-dissolution proceedings.

16. When the marital home was ultimately sold (pursuant to the judgment and decree), C.S. relocated to a hotel without providing to respondent a forwarding address.

17. In October 2012, J.S. was terminated from his primary employment and thereby lost a significant source of his total income.

18. A mediation was held between J.S. and C.S. on December 6, 2012. C.S. refused to attend the mediation in person and participated only partially by telephone. In a December 21, 2012, court filing by opposing counsel, it was indicated that issues relating to J.S.'s employment status and decreased income were discussed at the mediation. No agreements were reached between the parties at the mediation.

19. Respondent subsequently met with C.S. on or about December 12, 2012, at a restaurant adjacent to a hotel in order to discuss her claims and to discuss generally how best to proceed with the dissolution process. The meeting was ultimately unproductive.

20. On or about December 27, 2012, counsel for J.S. served upon respondent a motion to temporarily suspend J.S.'s spousal maintenance payments to C.S. in light of J.S.'s recent decrease in income.

21. A hearing on J.S.'s motion was scheduled for January 8, 2013, meaning that C.S.'s responsive paperwork was required to be filed by January 3, 2013. This effectively left respondent with four business days to contact C.S. and complete a responsive affidavit.

22. Unable to secure C.S.'s signature on a responsive affidavit prior to the submission deadline, respondent filed with the court an affidavit dated January 3, 2013, which he signed over a signature block reading: "Charles M. Goldstein, on behalf of [C.S.]."

23. In his January 3, 2013, affidavit (by which he requested on C.S.'s behalf that J.S.'s motion be denied), respondent attested to the facts: that C.S.'s financial situation had not changed; that she was unemployed with no income with which to meet her monthly expenses; that her monthly expenses remained unchanged; and that, while she was no longer making mortgage payments, she was making rental payments.

24. At the hearing on January 8, 2013, respondent made a series of statements to the court which led the court to reasonably believe that C.S. had no knowledge of the motion; that respondent had been unable to reach C.S. since their December 12, 2012, meeting; and that C.S. had not explicitly approved respondent's submission of a response to J.S.'s motion.

25. The court, therefore, refused to accept respondent's affidavit in lieu of an affidavit from C.S. and granted respondent ten days to secure from C.S. her response to the motion. Respondent was unable to secure from C.S. the requested affidavit and, on January 28, 2013, respondent withdrew from the representation.

26. In submissions during the course of the disciplinary investigation, respondent clarified that, while C.S. had indeed not been provided with physical copies

of J.S.'s motion papers, he and members of his staff had, in fact, communicated with her between December 12, 2012, and the January 8, 2013, hearing. Respondent stated that he and his staff attempted to contact C.S. numerous times during this time period, connecting with her on various occasions only briefly. Respondent stated that, during these brief contacts, C.S. was made generally aware of J.S.'s motion and that, on one occasion, C.S. generally confirmed the information which was contained within respondent's January 3, 2013, affidavit. Respondent noted in his responses during the disciplinary investigation that, due to the fact that C.S. had exhibited difficulties with retaining information, he could not be sure that she fully processed the information unless she reviewed the motion papers in person, which she did not do.

27. According to a subsequent affidavit signed by C.S. on December 23, 2013, and submitted in support of her motion to modify spousal maintenance, C.S.'s claimed monthly expenses had actually increased to $5,100 (from her original maintenance award of $2,650 per month). C.S. further confirmed in her December 23, 2013, affidavit that she was still unemployed, still derived no income from other sources, and was living in a hotel. The content of C.S.'s December 23, 2013, affidavit generally confirms the accuracy of the statements contained within respondent's January 3, 2013, affidavit submitted on C.S.'s behalf.

28. Respondent stated to the Director that the confusion as to the precise status of C.S.'s knowledge of the motion and her approval of the information contained within his January 3, 2013, affidavit was largely attributable to his attempt to balance the appropriateness of disclosure of all details of C.S.'s erratic behavior with his obligations both to the court and to the best interests of C.S.

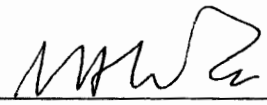
29. Respondent's lack of specificity and the seemingly unintentional ambiguity in his statements to the court at the January 8, 2013, hearing led the court to reasonably believe that he had no basis for the statements contained within his January 3, 2013, affidavit relative to C.S.'s then-present financial and employment

situation. As a result, the court spent time, energy, and effort questioning respondent about the matter in open court and ultimately extended the deadline for the submission of C.S.'s response to J.S.'s motion, thereby unnecessarily delaying the timely resolution of the motion.

30. Respondent's conduct as set forth above was prejudicial to the administration of justice in violation of Rule 8.4(d), MRPC.

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: Sept. 15, 2015.



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