

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against RANDALL EDWARD GOTTSCHALK,
a Minnesota Attorney,
Registration No. 285651.

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, 1998. Respondent currently practices law in Maple Grove, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

False and/or Fraudulent Billings Matter

1. In or about March 2010, respondent became employed as an attorney with the law firm of Cousineau McGuire Chartered ("the firm"). Respondent practiced principally in the area of insurance defense in liability matters. As set forth more fully below, beginning in November 2010, on multiple occasions across multiple matters respondent made false and/or fraudulent entries on his time records for matters he was handling. In some of these matters, bills were sent to the clients reflecting respondent's false and/or fraudulent entries.

2. *Thompson v. MetLife Matter*. Respondent represented MetLife against claims brought by Maria Thompson and Angela Thompson. Respondent entered time of 1.6 hours on May 24, 2011, to finalize the statement of the case in the Maria Thompson matter. Respondent entered time of 1.8 hours on May 25, 2011, to finalize the statement of the case in the Angela Thompson matter. These entries were false. Respondent did not read, or review or finalize, either statement of the case. The arrangement was an agreed (fixed) fee. As a result, no bills were sent to the client. After discovering the error, the client owed money to the firm. The firm provided a notice of attorney lien to the client for 90 percent of the agreed fee amount.

3. Respondent represented Horace Mann against claims brought by Elise Gaspar. Respondent entered time of 1.4 hours on May 13, 2011, to finalize the statement of the case. This entry was false. Respondent did not perform that work.

4. Also on the *Gaspar v. Mann* matter, at some point during 2011 respondent requested his paralegal, Jodi Fronek, to backdate an entry on work she performed, so that it would appear to the client that the work was performed two or three months earlier. Fronek refused to do so.

5. In a related matter, respondent represented Horace Mann in claims brought by Marit Gaspar. The firm's fee arrangement with the client in this matter was hourly. Respondent entered time for 2.1 hours, 2.1 hours, and 1.8 hours, for a total of 6 hours, on May 11, 2011, to review Minnesota decisions and finalize the statement of the case. This entry was false. Respondent performed no more than three hours of this work. After the firm discovered the false entries, the entries were reduced to a total of three hours.

6. Respondent represented Selective Insurance in a matter involving an examination under oath of Fawsiya Mohammed and Faisal Yussef. The firm's fee arrangement with the client in this matter was hourly. Respondent entered time of 1.9 hours and 2.2 hours, for a total of 4.1 hours, on May 23, 2011, to review the file and draft

a status report. This entry was false. Respondent performed no more than 2.5 hours of work on the matter on that day.

7. After the firm discovered respondent's false entries, the firm billed the client for 2.5 hours. Respondent performed no more than 2.5 hours of work on the matter on that day.

8. On or about July 6, 2011, respondent met with Peter Van Bergen, president of the firm, and Susan Thurmer, a shareholder who was on the firm's management committee. The meeting was called by Van Bergen and Thurmer to discuss likely false entries and/or likely false reporting of hours on respondent's time sheets.

9. During the meeting, respondent was asked about multiple questionable entries. Respondent stated that the concerns about improper billing were not true. This statement was false.

10. When confronted with evidence of his wrongdoing, respondent then acknowledged that he had entered time for work that he had not performed on multiple files for multiple clients.

11. Respondent stated that these false and/or fraudulent billing entries occurred only on matters which respondent was handling on a flat fee basis. This statement was false. As set forth above, some of the false and/or fraudulent billing was done on hourly fee matters.

12. Respondent admitted that he was adding hours to his time entries, so that it would appear to the firm that respondent was meeting the firm's billable hour expectation.

13. Respondent stated that he was entering false and/or fraudulent time entries for about two months. This statement was false. At least one entry was in November 2010.

14. During the meeting on July 6, respondent was instructed to make a list of all time entered for work that he did not actually perform, and that to do so by the

morning of Friday, July 8, 2011. After the meeting was provided with bills for the past three months to do so.

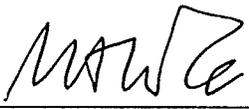
15. After the close of business on Thursday, July 7, 2011, respondent cleaned out his office and departed the firm.

16. When personnel at the firm arrived for work the next morning, Friday, July 8, 2011, they found a handwritten note left by respondent that stated, "I stand by my time entries. Notwithstanding, accept my resignation effective immediately."

17. Respondent's conduct violated Rules 1.5(a), 4.1 and 8.4(c), Minnesota Rules of Professional Conduct.

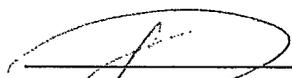
WHEREFORE, the Director respectfully prays for an order of this Court publicly reprimanding respondent and placing him on probation or imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different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

Dated: May 24, 2012.



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



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