

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against THOMAS G. HARRIGAN,  
a Minnesota Attorney,  
Registration No. 132378.  
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**PETITION FOR  
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

At the direction of a Lawyers Professional Responsibility Board Panel, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 30, 1981. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Misappropriation and Misrepresentations—Stamos Matter

1. Respondent represented Ludmila Stamos in her capacity as personal representative of the Rita Kotrba estate.
2. In December 2009, Stamos received a check from CNA Financial Corporation ("CNA") in the amount of \$125,857.35. This check was for the proceeds of Kotrba's IRA, on which Stamos was the beneficiary. Stamos gave this check to respondent who deposited the funds into his trust account. In March 2010 respondent paid \$25,000 of these funds to Stamos, leaving a balance of \$100,857.35. Stamos requested this check in order to pay the income taxes due on the CNA funds.

3. Over the next two years, respondent paid the entire balance of CNA funds to himself. Respondent had no entitlement to the funds, did not inform Stamos that he was paying the funds to himself and never provided Stamos with an accounting of the funds. Respondent's actions constituted misappropriation.

4. Beginning in approximately late-2011, respondent told Stamos that a claim or complaint had been made against her regarding distribution of Kotrba's assets and that respondent was attempting to arrange an arbitration session regarding the complaint. On multiple occasions respondent informed Stamos of a date or dates on which the arbitration session was purportedly scheduled to occur. Respondent also told Stamos that the arbitrator had ordered the CNA funds frozen and that he could not disburse them to her. Respondent's statements were false. No claim or complaint had been made, no arbitrator had been assigned, and no order or other directive precluding respondent from disbursing the funds was ever issued.

5. On at least one occasion, respondent stated to Stamos that the claimants against her were represented by a lawyer named Paul Williams of Yakima, Washington. Respondent's statement was false.

6. In or about August 2012, Stamos retained new counsel. On multiple occasions Stamos' new counsel attempted to contact respondent by telephone. Respondent failed to respond.

7. On August 23, 2012, Stamos' new counsel wrote to respondent and requested "any complaint, correspondence or other written documents that set forth the basis of the complaint and the rationale for why Mrs. Stamos should be responsible for any alleged damages arising under it" and distribution of the CNA funds. Although respondent subsequently provided a few documents to Stamos' new counsel, respondent failed to provide the documents that Stamos' new counsel had requested and failed to release the CNA funds.

8. On September 4, 2012, Stamos' new counsel wrote again to respondent, restating his requests for the purported complaint and related documents and for release of the CNA funds. Respondent failed to respond.

9. Respondent's conduct violated Rules 1.4(a)(3) and (4), 1.15(a), 1.15(c)(3) and (4), 4.1, and 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC).

### SECOND COUNT

#### Misrepresentations and Failure to Cooperate During Disciplinary Investigation

10. On October 1, 2012, the Director mailed to respondent notice of investigation of Stamos' complaint. The notice requested respondent to appear at the Director's Office on October 12, 2012, to meet with an Assistant Director, and to bring to that meeting his complete written response to Stamos' complaint, his entire Stamos file, and bank statements and other records relating to his receipt, retention, handling and/or distribution of the CNA funds. Respondent failed to appear for the meeting, failed to inform the Director that he would not appear, failed to provide a written response to the complaint, failed to provide any of the additional requested documents, and failed to otherwise communicate with the Director about the matter.

11. By letter dated October 12, 2012, the Director requested respondent to appear at the Director's Office on October 18, 2012, to meet with an Assistant Director, and to bring to the meeting his response to the complaint and the additional documents requested in the notice of investigation.

12. By letter dated October 15, 2012, respondent stated to the Director that he did not open the October 1 notice of investigation until October 15, stated that he would appear for the October 18 meeting, and provided his response to the complaint. Respondent's response did not include any of the documents requested in the notice of investigation.

13. Respondent met with an Assistant Director on October 18, 2012.

14. In his October 15, 2012, response to the complaint and during the October 18, 2012, meeting, respondent acknowledged that he had paid the entire

\$100,857.35 balance of CNA funds to himself. Respondent stated that these payments constituted attorneys' fees that he had earned during his representation of Stamos. Respondent further stated that Stamos had approved these payments of attorney's fees. Respondent's statements were false. Respondent did not pay the CNA funds to himself as fees, and Stamos did not approve payment of the funds to respondent as fees or for any other purpose.

15. Neither with his response nor during the October 18, 2012, meeting did respondent provide his entire Stamos file or the bank statements and other records relating to his receipt, retention, handling and/or distribution of the CNA funds, as requested in the notice of investigation. During the October 18 meeting, respondent stated that he had ordered his trust account bank statements and other records from his bank and signed an authorization allowing the Director to obtain trust account records from his bank.

16. During the October 18, 2012, meeting, the Director requested, and respondent agreed to provide within one week of the date of the meeting, certain additional documents regarding the matter, including respondent's trust account check register, any other trust account books he could locate for the period from December 2009, and his retainer agreement with Stamos. The Director confirmed these requests for documents in a letter to respondent dated October 19, 2012.

17. Respondent replied by letter dated October 24, 2012. Respondent failed to provide any of his trust account books and records or his retainer agreement with Stamos.

18. By letter dated November 20, 2012, after reviewing the trust account records that the Director obtained from respondent's bank, the Director requested respondent to provide information regarding an additional deposit of Kotrba funds and deposits of two other clients' funds. Respondent failed to respond.

19. By letter dated December 5, 2012, the Director advised respondent that the Director had received no response to that November 20 letter and requested respondent

to provide at that time the information requested in that November 20, 2012, letter.  
Respondent failed to respond.

20. On December 13, 2012, the Director wrote to respondent for a third time to request the information originally requested on November 20, 2012. Respondent failed to respond.

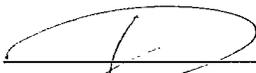
21. Respondent's conduct violated Rules 8.1(a) and (b), and 8.4(c), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility.

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: March 12, 2013.

  
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MARTIN A. COLE  
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and

  
\_\_\_\_\_  
TIMOTHY M. BURKE  
SENIOR ASSISTANT DIRECTOR  
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