

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against RICHARD WILLIAM HECHTER,
a Minnesota Attorney,
Registration No. 193537.

**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 28, 1988. Respondent currently practices law in St. Louis Park, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Trust Account Violations

1. At all times relevant, respondent has maintained Associated Bank trust account no. xxxxxx4893 ("respondent's trust account").
2. The Director audited respondent's trust account for the period May 2, 2012, to January 4, 2015.
3. The Director's audit revealed that during the periods May 30, 2012, to November 27, 2013; December 3, 2013, to April 8, 2014; April 14 to September 22, 2014;

and September 23 to December 4, 2014; the balance in respondent's trust account was significantly greater than that required to cover aggregate client balances. This surplus balance ranged in amount from approximately \$689 to \$50,872 and was the result of respondent's repeated failure to promptly withdraw earned fees and costs from the account.

4. During the entire periods of time in which respondent maintained a surplus balance in his trust account, the account also contained some amount of client funds. Respondent's conduct in this regard constituted commingling.

5. The Director's audit further revealed that for the following periods, the balance in respondent's trust account was less than that required to cover aggregate client balances:

a. On November 27, 2013, respondent transferred \$32,000 from his trust account into his operating account as a disbursement of accrued earned fees and costs. At the time, however, respondent was entitled to only \$29,671.88 in earned fees and costs from his trust account. As a result, the transfer created a \$2,328.12 (\$29,671.88 minus \$32,000) shortage in the account. The shortage was eliminated on December 3, 2013, with respondent's retention of additional earned fees and costs in the account.

b. On April 8, 2014, respondent's trust account check no. 1689, in the amount of \$7,250 and payable to respondent's client J.S., cleared the account. At the time, however, J.S. was not entitled to any funds from respondent's trust account, although respondent was then maintaining a \$1,160.76 surplus balance in the account. Payment of check no. 1689 caused a \$6,089.24 shortage (\$1,160.76 minus \$7,250) in the account. The shortage was reduced to \$5,289.24 on April 9, 2014, with respondent's deposit of \$800 in J.S.'s funds. The shortage was eliminated on April 14, 2014, with respondent's retention of additional earned fees and costs in the account.

c. On September 22, 2014, respondent transferred \$29,263.80 from his trust account into his operating account as a disbursement of accrued earned fees and costs. At the time, however, respondent was entitled to only \$27,073.39 in earned fees and costs from his trust account. As a result, the transfer created a \$2,190.41 (\$27,073.39 minus \$29,263.80) shortage in the account. The shortage was eliminated on September 23, 2014, with respondent's retention of additional earned fees and costs in the account.

6. In August and September 2013, respondent issued a number of trust account checks in direct payment of his own personal and business expenses. The checks were covered by the surplus balance respondent maintained in his trust account at the time.

7. By August 15, 2014, the Director had completed an audit of respondent's trust account through December 3, 2013. On that date, the Director wrote to respondent to inform him of the results of the Director's audit. In the letter, the Director stated:

We note that your trust account books and records submission did not include any trial balance reports (which are a listing and totaling of the balances reflected by your client subsidiary ledgers as of the date of your bank statement) or reconciliation reports (of the trial, check register and adjusted bank statement balances). Please note that these reports are among the trust account books required by Rule 1.15, Minnesota Rules of Professional Conduct (MRPC), as interpreted by Appendix 1 thereto, and ensure that you prepare these reports in the future. We are enclosing for your information and possible future use a form trial balance/reconciliation report.

The Director requested respondent to provide, among other things, his complete December 3, 2013, to August 2014 trust account books and records, including the required monthly trial balance reports.

8. On September 22, 2014, the Director received respondent's December 3, 2013, to August 2014 trust account books and records. Respondent failed to include any monthly trial balance reports with his submission.

9. On November 17, 2014, the Director again wrote to respondent. In the letter, the Director stated:

In addition, despite our specific request, you have not provided any trust account trial balance reports, which indicates that you are not maintaining them. Monthly trial balance reports are required by Rule 1.15, Minnesota Rules of Professional Conduct, as interpreted by Appendix 1 thereto, and are a listing and totaling of the balances reflected by your client subsidiary ledgers as of the date of your monthly trust account bank statement. This trial balance total must be reconciled with your check register and adjusted bank statement balances.

The Director scheduled a December 9, 2014, meeting with respondent and requested respondent to bring with him to the meeting his complete August to November 2014 trust account books and records, including monthly trial balance reports.

10. Respondent appeared for the December 9, 2014, meeting, but failed to bring any monthly trial balance reports.

11. During the December 9, 2014, meeting, the Director again described to respondent the required trust account trial balance reports and requested him to provide such reports for the period August to December 2014.

12. On December 10, 2014, respondent, through his bookkeeper, responded to the Director's request for trial balance reports. The trial balance reports respondent provided at that time failed to comply with Rule 1.15, MRPC, as interpreted by Appendix 1.

13. On January 8, 2015, at the Director's request, respondent provided his January 2015 trust account books and records. Finally included with this submission was a compliant trial balance report.

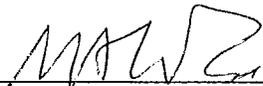
14. During the period from May 2012 to December 2014, respondent failed to maintain his trust account books and records in the manner required by Rule 1.15,

MRPC, as interpreted by Appendix 1. In particular, respondent failed to maintain monthly trial balance reports.

15. Respondent's conduct in failing to promptly withdraw earned fees and costs from his trust account, commingling earned fees and costs with client funds in his trust account, creating shortages in his trust account, issuing trust account checks in direct payment of his own personal and/or business expenses and failing to maintain proper trust account books and records violated Rule 1.15(a), (b), (c)(3) and (h), MRPC, as interpreted by Appendix 1 thereto.

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: January 22, 2015.



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