

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against MARK DAVID HOLT,
a Minnesota Attorney,
Registration No. 277083.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of the Chair of the Lawyers Professional Responsibility Board, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(c) and (d), and 12(a), Rules on Lawyers Professional Responsibility (RLPR). The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 24, 1997. Respondent currently practices law in North Oaks, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Criminal Matter

1. On March 7, 2014, respondent was criminally charged in United States District Court with wire fraud in violation of 18 U.S.C. § 1343 (Exhibit 1).
2. The factual basis for the criminal charge against respondent was that, during the period September 2005 to January 2014, respondent (a) operated an

investment advisory business, (b) induced clients to invest their funds in respondent's business by stating that the funds would be placed in legitimate investment vehicles, (c) instead, diverted the majority of the funds invested to his own personal and business use, and (d) to conceal his scheme, made false statements to clients, made periodic payments to clients that he falsely represented to be interest or annuity payments, provided fraudulent and fabricated documents to clients and created a website for his clients' use that reflected fraudulent client account balances.

3. Among the clients who invested funds with respondent were the following:

a. In 2001, P.I. met respondent at a retirement seminar at which respondent was a speaker. Later in 2001, P.I. remitted to respondent the sum of \$96,000, which was the entire proceeds of his IRA account, for investment purposes. In approximately 2004, respondent provided legal services to P.I. in the drafting of a power of attorney and healthcare directive. P.I. remitted additional sums to respondent for investment purposes in 2006 (\$210,000), 2007 (\$100,000) and 2009 (\$73,000). In 2012, respondent provided additional legal services to P.I. in the drafting of an amended power of attorney and healthcare directive. During the period 2007 to 2013, P.I. received from respondent monthly payments totaling \$327,500 as returns on his investment. Respondent also provided P.I. with fabricated investment statements, the most recent of which purported to reflect a total investment value of more than \$635,000. P.I. has received no investment returns from respondent since November 2013, and has been unable to recover from respondent any portion of his investment principal.

On information and belief, respondent has misappropriated P.I.'s investment principal.

b. In 2008, R.P. and S.P. remitted to respondent the sum of \$227,000 for investment purposes. In 2009, respondent prepared wills and at least one other estate planning document for R.P. and S.P. In the summer of 2013, respondent suggested to R.P. and S.P. that they move their funds into a trust for the benefit of their daughter. At that time, R.P. and S.P. liquidated their investment accounts and issued to respondent a check for approximately \$245,000 for placement into a trust. On August 26, 2013, R.P. and S.P. received from respondent a check in the amount of \$30,000 as a return on their investment. R.P. and S.P. have received no additional investment returns and have been unable to recover from respondent any portion of their investment principal. On information and belief, respondent has misappropriated R.P. and S.P.'s investment principal.

c. In 2008, S.I. met with respondent regarding preparation of a will. Respondent thereafter provided legal services to S.I. in the drafting and execution of her will. During 2008, S.I. also remitted to respondent the total sum of \$186,733 for investment purposes. In 2009, S.I. remitted to respondent an additional \$21,673 for investment purposes. During the period 2009 to 2013, S.I. received from respondent monthly payments totaling \$106,000 as returns on her investment. Respondent also provided S.I. with fabricated investment statements, the most recent of which purported to reflect a total investment value of more than \$248,000. S.I. has received no investment returns from respondent since November 2013, and has been unable to recover from respondent any

portion of her investment principal. On information and belief, respondent has misappropriated S.I.'s investment principal.

d. Respondent represented G.B. and A.H. in estate planning matters. During the period 2004 to 2009, G.B., A.H. and the S.B. trust and/or estate, of which A.H. was trustee and personal representative, provided a total of \$925,000 to respondent for investment purposes. A.H. received some monthly payments from respondent as returns on her investment. Neither G.B. nor the S.B. trust or estate has received any investment returns. On information and belief, respondent has misappropriated the investment principal of G.B., A.H. and the S.B. trust and estate.

4. On April 1, 2014, respondent entered into a plea agreement by which he admitted the facts as described in paragraph 2 above, and pled guilty to the wire fraud charge (Exhibit 2).

5. Rule 19(a), RLPR, makes a criminal conviction conclusive evidence that the respondent committed the conduct for which he was convicted.

6. Respondent's conduct in the R.P., P.I., G.B. and A.H., and S.I. matters, and with regard to the related criminal matter, violated Rule 8.4(b), (c) and (d), Minnesota Rules of Professional Conduct (MRPC).

B. Failure to Cooperate with Investigation

7. On January 8, 2014, the Director received R.P.'s complaint against respondent. On January 16, 2014, the Director issued a notice of investigation that both referred R.P.'s complaint for investigation by the Second District Ethics Committee (DEC) and requested respondent to provide a written response to R.P.'s complaint within 14 days. Respondent failed to provide the requested written response.

8. On March 18, 2014, the Director received P.I.'s complaint against respondent. On March 31, 2014, the Director issued a notice of investigation that requested respondent to provide a written response to P.I.'s complaint within 14 days. Respondent failed to respond.

9. On March 28, 2014, the Director received a complaint against respondent on behalf of G.B. and A.H. On March 31, 2014, the Director issued a notice of investigation that requested respondent to provide a written response to the complaint submitted on behalf of G.B. and A.H. within 14 days. Respondent failed to respond.

10. On March 31, 2014, the Director withdrew R.P.'s complaint from further consideration by the DEC and took over responsibility for the further investigation of that complaint.

11. On April 7, 2014, the Director received S.I.'s complaint against respondent. On April 14, 2014, the Director issued to respondent a notice of investigation that requested respondent to provide a written response to S.I.'s complaint within 14 days. Respondent failed to respond.

12. By letter dated April 16, 2014, the Director informed respondent of the withdrawal of R.P.'s complaint from the DEC and again requested his complete written response to that complaint. Respondent failed to respond.

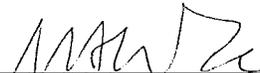
13. On April 17, 2014, attorney Paul Applebaum informed the Director that he was representing respondent with regard to the Director's investigation.

14. On May 1, 2014, the Director wrote to Applebaum and requested respondent's written responses to the R.P., P.I., G.B. and A.H., and S.I. complaints. Neither respondent nor Applebaum has responded.

15. Respondent's conduct violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

WHEREFORE, the Director respectfully prays for an order of this Court disbarring respondent or imposing otherwise 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 29, 2014.

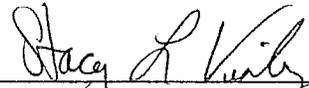

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and


CASSIE HANSON
SENIOR ASSISTANT DIRECTOR
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Pursuant to Rules 10(c) and (d), and 12(a), RLPR, this petition for disciplinary action is hereby approved.

Dated: June 3, 2014.


PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD