

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against CHRISTOPHER THOMAS KALLA,
a Minnesota Attorney,
Registration No. 325818.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

After an evidentiary hearing and 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 May 9, 2003. Respondent currently practices law in St. Louis Park, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

1. Kari Driste (Driste) purchased a home in 2006. Michael Kirscht (Kirscht), who is not a licensed lender, financed the down payment on the home at a fixed rate of 12 percent. Future Mortgage, LLC (FM) was the mortgage broker for the loan. Kerry Anderson (Anderson) is part owner of FM. Independent of the Driste-Kirscht loan, Kirscht also loaned \$50,000 to Anderson.

2. During the course of the representation of Driste, respondent learned of Anderson's loan from Kirscht with the same usury issues. Respondent advised Anderson about the issue and Anderson retained respondent to represent her.

3. On or about October 19, 2007, respondent, on behalf of Driste, commenced a lawsuit against Kirscht seeking to avoid her loans pursuant to the usury statutes.

4. On December 21, 2007, respondent, on behalf of Anderson, commenced a separate lawsuit against Kirscht seeking to avoid her loans under the usury statutes. Respondent also represented Anderson and FM in other matters.

5. On February 29, 2008, Kirscht commenced a third-party complaint in the Driste-Kirscht lawsuit naming FM and Anderson as third party defendants.

6. Respondent drafted a conflict of interest waiver and requested Driste and Anderson to sign it. Driste signed the waiver but Anderson did not. Respondent proceeded with the representation of both Anderson and Driste without a signed conflict of interest waiver from Anderson.

7. On March 28, 2008, respondent filed a notice of withdrawal of counsel with the court in Anderson's lawsuit, *Anderson v. Kirscht et al.* Respondent also notified Anderson of his withdrawal from representation by letter that same day and advised Anderson that he would continue to represent Driste.

8. On June 11, 2008, Kirscht moved the court to disqualify respondent based upon a conflict of interest. Respondent, on Driste's behalf, opposed the disqualification motion and moved to dismiss the third party complaint.

9. The district court's June 27, 2008, order disqualified respondent as Driste's counsel.

10. On July 13, 2008, pursuant to a motion for summary judgment, the district court issued an order denying the request for summary judgment, and among other things, stayed its order of June 27, 2008, disqualifying respondent as Driste's counsel in order to provide an orderly transition of counsel for Driste, but otherwise disqualified respondent from taking any further action in the underlying case.

11. Respondent, on Driste's behalf, appealed the district court's order disqualifying respondent from representing her and denying her motion to dismiss the

third-party complaint. While the appeal was pending, Kirscht and Driste settled their lawsuit, dismissing all claims against each other with prejudice.

12. On June 16, 2009, the Minnesota Court of Appeals affirmed the district court's order disqualifying respondent from representing Driste.

13. Respondent's conduct violated Rule 1.7(a) and 1.9(a), Minnesota Rules of Professional Conduct.

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: September 29, 2010.



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