FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against JOHN AUGUST KRUEGER,
a Minnesota Attorney,
Registration No. 211503.

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 26, 1990. Respondent currently practices law in St. Paul, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Failure to Supervise Non-Lawyer Employee Resulting in Fraud

Neng Thao State Farm Uninsured Motorist Claim.

1. On November 29, 1995, Neng Thao (Thao) was a passenger in a vehicle that was involved in an automobile accident. The driver of the vehicle involved in the accident was a named insured with State Farm Insurance. Thao retained respondent to represent him on a personal injury claim arising from the auto accident. On December 1, 1995, Thao signed a written contingency fee agreement and agreed to pay respondent attorney's fees in the amount of 33.3 percent of any recovery.

2. On July 11, 1996, Thao died from a work-related injury, which was unrelated to the automobile accident.

3. On October 21, 1996, respondent sent State Farm Insurance a demand letter offering to settle Thao's uninsured motorist claim for $30,000. This demand letter did not reflect the fact that Thao was deceased.

4. Chung Yang (Yang), a legal assistant in respondent's law firm, continued to negotiate settlement of Thao's uninsured motorist claim for the next three months despite the fact that the client was deceased.

5. In late January 1997, respondent and State Farm Insurance reached a settlement agreement to settle Thao's uninsured motorist claim for $7,500. Respondent is unable to produce a written statement for the uninsured motorist claim, as required by Rule 1.5(c), Minnesota Rules of Professional Conduct (MRPC).

6. On January 29, 1997, State Farm Insurance sent Yang a settlement draft in the amount of $7,500 and a release form to be signed by Thao. The settlement draft was made out to "Neng Thao and his attorney Chung N. Yang."

7. On January 30, 1997, Yang returned the $7,500 settlement draft to State Farm Insurance and requested that the check be made payable to the Krueger Law Office. State Farm Insurance sent a new settlement draft addressed to "Neng Thao and the Krueger Law Firm" to Yang shortly thereafter.

8. On February 17, 1997, Yang witnessed a release, which contained a forged signature in the name of the deceased Thao. Yang also obtained a false signature in Thao's name for endorsement of the settlement check from State Farm Insurance. Krueger was not present and did not supervise Yang when the release was signed or the settlement check was endorsed.

9. On February 21, 1997, Yang sent the release to State Farm Insurance and misrepresented that Thao had signed it.

10. On February 17, 1997, respondent endorsed and cashed the settlement check that had allegedly been endorsed by Thao. Respondent deposited the proceeds in his client trust account.

11. On March 6, 1997, Yang signed check no. 8187 from respondent's client trust account disbursing settlement proceeds in the amount of $4,387 to Thao's widow, Va Moua. Respondent did not sign trust account check no. 8187. Respondent did not supervise the distribution of the settlement proceeds by Yang.

12. On June 1, 2000, State Farm Insurance received an anonymous letter informing them that Thao had died from a work-related injury in June 1996.

13. Sandra Drendel (Drendel), a special claims investigator with State Farm Insurance, brought the matter to the attention of Meagher & Geer, counsel for State Farm Insurance. On August 10, 2000, Leatha Wolter (Wolter), an attorney at Meagher & Geer, sent respondent a letter inquiring whether he was aware that Thao was deceased and why he had settled a claim on behalf of a deceased client.

14. On August 24, 2000, Wolter spoke with respondent by telephone. During this conversation, respondent admitted that his client file reflected the fact that Thao was deceased at the time the settlement agreement was reached. Respondent also admitted that Thao's widow had received less than she would have been entitled to under the contingency fee agreement. After this conversation, respondent took no action to reimburse State Farm Insurance for the $7,500.

15. On November 17, 2000, Wolter sent respondent a letter demanding return of the $7,500 settlement payment.

16. On December 11, 2000, respondent and State Farm Insurance executed a release and settlement agreement in which respondent reimbursed State Farm Insurance $7,500 for the money that had been paid out on the settlement agreement for Thao's claim.

17. Respondent failed to make reasonable efforts to ensure that the Krueger law firm had in effect measures giving reasonable assurance that non-lawyer assistants' conduct is compatible with the professional obligations of the lawyer.

18. Respondent's failure to supervise a non-lawyer assistant was reckless and enabled a non-lawyer employee to fraudulently settle a claim and commit a criminal act.

Neng Thao No-Fault Claim with American Family Insurance.

19. Respondent also settled a no-fault claim on behalf of Thao with American Family Insurance.

20. On January 8, 1996, Yang sent American Family Insurance an application for no-fault benefits, which included an automobile accident loss report, accident records and authorization.

21. On March 6, 1997, Yang called a representative at American Family Insurance in order to negotiate a settlement on the no-fault claim. Yang made an initial offer to settle for $1,500.

22. On March 11, 1997, a representative contacted Yang at respondent's law firm in order to discuss a settlement agreement. After some negotiation, a settlement agreement was reached between Yang and American Family Insurance to settle Thao's no-fault claim for $750.

23. Respondent was unable to produce a written statement for the no-fault claim, as required by Rule 1.5(c), MRPC.

24. On March 13, 1997, American Family Insurance sent Yang a settlement check in the amount of $750 and a release to be signed by Thao.

25. On March 17, 1997, respondent falsely notarized the release, which contained a forged signature in the name of Thao. Respondent also endorsed the settlement check, which also contained a forged signature in Thao's name.

26. On March 18, 1997, Yang sent the fraudulent release to American Family Insurance and misrepresented that Thao had signed the release.

27. On March 18, 1997, respondent endorsed the settlement check, which also contained a forged signature in Thao's name, and deposited the $750 settlement check on the no-fault claim into his client trust account.

28. On April 7, 1997, Yang signed check no. 8201 from respondent's client trust account disbursing settlement proceeds in the amount of $615 to Thao's widow, Va Moua. Respondent did not sign trust account check no. 8201. Respondent did not supervise the distribution of the settlement proceeds by Yang.

29. On April 7, 1997, Yang also signed check no. 8202 in the amount of $134 from respondent's client trust account for payment of Thao's outstanding medical bills with First Chiropractic. Respondent had signed a letter of protection with First Chiropractic on July 8, 1996.

30. Respondent has not disclosed the forged signatures on the settlement check or release to American Family Insurance. Respondent has not reimbursed American Family Insurance for the $750 settlement check on the no-fault claim.

Failure to Supervise in Placement of Firm Advertising.

31. In addition to instances of failure to supervise as outlined above, respondent failed to supervise Yang, a non-lawyer assistant, in the placement of firm advertising.

32. In 1997 and 1998, Yang solicited and paid for an advertisement in the legal services section of the Hmong American Business Directory. The advertisement read "Krueger Law Office, Chung N. Yang, Attorney and Counselor at Law." The advertisement also listed the address and telephone number for respondent's law firm. Respondent did not supervise Yang in placing the advertisements.

33. The advertisements were misleading and implied that Yang was licensed to practice law in Minnesota.

34. Respondent's conduct violated Rules 4.1, 5.3(a), (b) and (c), 5.5, and 8.4(c) and (d), MRPC.

SECOND COUNT

Failure to Timely File State and Federal Individual Income Taxes

State Individual Income Taxes.

35. Respondent had sufficient gross income in 1996, 1997 and 1998 to require him to file state individual income tax returns.

36. Respondent failed to timely file his state individual income tax return for 1996. Respondent filed his 1996 income tax return late on June 21, 1999. Respondent owed $240 to the Minnesota Department of Revenue (DOR) for his 1996 individual income tax. In addition, the DOR assessed $141.43 in penalties and interest against respondent. On June 21, 1999, respondent paid $240 to the DOR for his 1996 tax liability. On October 19, 1999, respondent paid $141.43 to the DOR in penalties and interest.

37. Respondent failed to timely file his state individual income tax return for 1997. Respondent filed his 1997 income tax return late on June 21, 1999. Respondent owed $1,425 to the DOR for his 1997 individual income tax. In addition, the DOR assessed $686.29 in penalties and interest against respondent. On June 21, 1999, respondent paid $1,425 to the DOR for his 1997 tax liability. On October 19, 1999, respondent paid $686.29 to the DOR in penalties and interest.

38. Respondent failed to timely file his state individual income tax return for 1998. Respondent filed his 1998 income tax return late on December 21, 2000. Respondent owed $2,387 to the DOR for his 1998 individual income tax. In addition, the DOR assessed $619.02 in penalties and interest against respondent. On October 18,

1999, respondent paid $2,387 to the DOR for his 1998 tax liability. On October 19, 1999, respondent paid $619.02 to the DOR in penalties and interest.

Federal Individual Income Taxes.

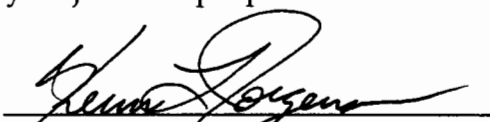
39. Respondent had sufficient gross income in 1996, 1997 and 1998 to require him to file federal individual income tax returns.

40. Respondent failed to timely file his federal individual income tax returns for 1996, 1997 and 1998. Respondent filed his 1996 income tax return on June 22, 1999. Respondent filed his 1997 income tax return late on June 21, 1999. Respondent filed his 1998 income tax return late on June 25, 2000.

41. Respondent's conduct violated Rules 8.4(b) and (d), MRPC. *See e.g., In re Tyler*, 495 N.W.2d 184 (Minn. 1992).

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent 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: February 25, 2004.



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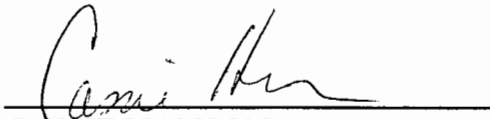

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