

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

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against DAVID LAWRENCE McCORMICK,  
a Minnesota Attorney,  
Registration No. 259500.  
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**PETITION FOR REVOCATION OF  
PROBATION AND FOR FURTHER  
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 pursuant to Rule 12(a), Rules on Lawyers Professional Responsibility, and pursuant to this Court's June 11, 2009, order in the matter.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on October 27, 1995. Respondent currently practices law in Minneapolis, Minnesota.

By order dated June 11, 2009, this Court reinstated respondent to the practice of law after suspension and ordered respondent placed on probation for two years. A copy of the Court's order is attached as Exhibit 1.

INTRODUCTION AND DISCIPLINARY HISTORY

A. On March 7, 2006, this Court suspended respondent from the practice of law for a period of 90 days (effective 14 days from the date of the order) for neglecting client matters, failing to communicate with clients and failing to cooperate with the disciplinary investigation.

B. On April 5, 2006, respondent was issued an admonition for neglecting a client matter, failing to appear at two hearings, failing to communicate adequately with

the client, failing to refund any unearned portion of an advance fee payment and failing to cooperate with the disciplinary investigation.

C. On November 8, 2006, respondent was issued an admonition for neglecting a client matter, failing to communicate adequately with the client, failing to inform the client of his suspension and failing to cooperate with the disciplinary investigation.

D. On March 16, 2007, this Court extended respondent's suspension indefinitely for agreeing to file an appeal on behalf of a client and then failing to properly file the appeal, which caused the appeal to be dismissed; for advising the client that the client need not comply with the terms of the client's criminal probation while the appeal was pending, which caused the client, who relied on respondent's advice, to be sentenced to jail time and fined for not responding to the probation officer's attempts to contact the client; and for failing to cooperate with the disciplinary investigation.

E. On March 13, 2009, respondent stipulated to the issuance of an admonition for failing to inform a client of his suspension in the required manner, failing to communicate adequately with the client and identifying himself as a lawyer while suspended.

F. By order dated June 11, 2009, this Court reinstated respondent to the practice of law and placed him on probation for a period of two years. Among the conditions of respondent's probation was the following:

1. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation, and shall promptly respond to the Director's correspondence by the due date. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention.

2. Respondent shall abide by the Minnesota Rules of Professional Conduct.

Respondent has committed the following unprofessional conduct warranting revocation of probation and further public discipline:

FIRST COUNT

Improper Contact with Party Represented by Counsel –  
Sherman and Thompson Matters

1. Respondent represented Robert Sherman against criminal charges.

2. Also charged in the incident was Michael Sherman. In July 2009, the public defender's office began representation of Michael Sherman. Ultimately, Barbara Deneen represented Michael Sherman in the matter.

3. In February 2010, while represented by Deneen, Michael Sherman entered a plea agreement. Pursuant to the agreement, sentencing of Michael Sherman was deferred until after Michael Sherman testified at Robert Sherman's trial.

4. On or about September 15, 2010, respondent's investigator met with Michael Sherman. Although respondent knew at that time that the public defender's office represented Michael Sherman in the matter, respondent neither sought nor received Deneen's permission (or the permission of any other lawyer in the public defender's office) to communicate with Michael Sherman about the matter. Respondent's investigator took a statement from Michael Sherman about the facts in the matter which gave rise to the charges against both Michael Sherman and Robert Sherman.

5. Respondent's conduct violated Rules 4.2 and 8.4(d), Minnesota Rules of Professional Conduct, and the terms of the Court's June 11, 2009, order.

WHEREFORE, the Director respectfully prays for an order of this Court revoking respondent's probation, suspending respondent from the practice of law 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 2, 2011.



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