

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against MATTHEW THOMPSON NIELSEN,
a Minnesota Attorney,
Registration No. 230698.

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 23, 1992. Respondent currently practices law in Fairmont, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

1. For several years, respondent represented Central States Wire Products, Inc. (CSWP) on an intermittent basis. One of the principals of CSWP is Patrick Haugh.
2. In 2009, CSWP retained respondent to represent it in an action to enforce a restrictive covenant. When respondent was retained, CSWP advised respondent of the great importance of the matter. Respondent commenced an action and filed a motion for a temporary restraining order (TRO).

3. In connection with the motion for a TRO, respondent served and filed a September 22, 2009, Affidavit of Patrick Haugh in support of the motion. Respondent attached to the affidavit an attorney-client privilege email from Haugh to respondent.

4. By letter to the court dated September 25, 2009, a copy of which was sent to respondent, opposing counsel noted the privileged document attached to Haugh's affidavit, offered respondent to withdraw the privileged document, and used the document to disparage CSWP and its case.

5. Respondent did not take any action to withdraw the document, retract the document, or mitigate the damage caused by the filing of the privileged document.

6. By order filed October 16, 2009, the court denied the TRO motion, determining that the parties should first arbitrate whether CSWP had cause to terminate the employment of the former employee at issue.

7. By letter dated October 22, 2009, opposing counsel served the order on respondent. Respondent received this correspondence on October 26, 2009.

8. Respondent failed to inform CSWP of the October 19 order until multiple weeks later.

9. On multiple occasions after the order was issued, CSWP asked respondent about the status of the TRO motion. On each occasion, respondent stated that he had not yet received an order. Respondent claims that, although the order had been received in his office, respondent was unaware of this fact at the time and did not see the order until multiple weeks later. Nevertheless, when respondent received these multiple inquiries from CSWP about the status of the TRO motion, respondent did not review his file or take other action to determine whether the order had, in fact, already been issued.

10. By email dated January 11, 2010, respondent told Patrick Haugh of CSWP:

The hearing went well. The judge has issued a contempt order on the attorney, not [the former employee]. The judge has also ordered that the

issue of good cause be arbitrated so that trial is not delayed by a motion on that issue. We have initiated scheduling of that. * * * The judge has ordered that the discovery be tied in to the arbitration so that [the former employee's] attorney, cannot evade discovery or the judge's order due to that. Finally, the judge ordered that [the former employee's attorney], not [the former employee], pay the costs of the motion to compel discovery.

These statements were false. The hearing referenced in the email was not conducted.

There was no contempt order issued, no order that discovery be tied to the arbitration, no motion to compel discovery, and no order regarding payment of costs of the motion to compel.

11. By email dated February 2, 2010, respondent told Patrick Haugh of CSWP:

[The former employee's] attorney has contacted the court in order to receive direction as to how to safely and securely convey the [former employee's] computer to us as part of the discovery.

* * *

I will let you know how we will be getting the stuff. The court will be issuing a statement as to the method.

These statements were false. The former employee's attorney had not contacted the court to receive such direction. In fact, respondent had previously agreed with opposing counsel to delay the necessity of discovery responses. There was no anticipation that the court would issue a statement as to the method of production.

12. In or about April 2010, respondent withdrew from representation.

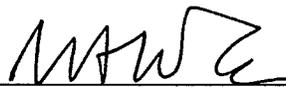
13. On multiple occasions thereafter, CSWP and/or successor counsel requested respondent to provide the file. Respondent failed to do so timely and completely.

14. Respondent's conduct violated Rules 1.4(a)(3) and (4), 1.6(a), 1.16(d), 4.1, and 8.4(c), 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

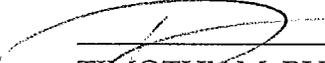
Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: June 11, 2012.



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