**FILE NO. _____**

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action
against TIMOTHY THOMAS NIPPER,
a Minnesota Attorney,
Registration No. 221387.

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**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 25, 1991. Respondent was placed on involuntary restricted status on January 13, 2011, for failing to comply with the Rules of the Minnesota Board of Continuing Legal Education. Respondent was suspended on July 7, 2011, for nonpayment of attorney registration fees.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Criminal Convictions and Probation and No-Contact Order Violations

1. In May 2006, respondent was charged in Hennepin County with interfering with an emergency phone call, a gross misdemeanor, and disorderly conduct, a misdemeanor. The charges arose from an incident on May 23, 2006, involving respondent's girlfriend, H.O.

2. On June 30, 2006, respondent pled guilty to disorderly conduct, and the charge of interfering with an emergency phone call was continued for dismissal. Respondent's sentence included a 90-day jail sentence (with all but three days stayed), and unsupervised probation for one year. Conditions of probation included no alcohol use, no interference with emergency phone calls, no domestic abuse and no violations of an order for protection.

3. On June 23, 2009, respondent was charged in Hennepin County with disorderly conduct, a misdemeanor, arising out of an incident involving H.O. Respondent was released from jail with several conditions, including a "domestic no contact" order (DANCO).

4. On October 5, 2009, respondent was charged in Hennepin County with disorderly conduct and criminal damage to property arising out of an incident that occurred on August 21, 2009.

5. On October 14, 2009, respondent pled guilty to the June 23, 2009, disorderly conduct charges and was sentenced a week later. Respondent was placed on supervised probation for one year. Conditions of probation included no alcohol use and no interference with emergency phone calls, but the temporary no-contact order was lifted.

6. On November 9, 2009, respondent tested positive for alcohol. Respondent was arrested but denied violating his probation. At a probation violation hearing held on November 10, 2009, a DANCO was issued to respondent, along with numerous other interim conditions. Respondent remained in custody.

7. On November 18, 2009, the court held a probation violation hearing. Respondent denied violating his probation.

8. On December 2, 2009, respondent was arraigned on the disorderly conduct/criminal damage to property charges that arose from the incident on August 21, 2009. The charges were dropped, but the court also considered whether

respondent's probation should be revoked. Respondent admitted the November 9, 2009, probation violation. The court released respondent from custody and amended his previously-imposed October 2009-October 2010 probation to include a DANCO (including no contact with H.O.'s family) and alcohol monitoring by means of a "SCRAM bracelet."

9. On January 22, 2010, Hennepin County reported that respondent had violated his probation by contacting H.O. Respondent appeared in court on February 24, 2010. The probation violation allegation was dismissed, but respondent's October 2009-October 2010 probation was continued.

10. On March 31, 2010, respondent was arrested and charged in Dakota County District Court with violating a DANCO, a misdemeanor. After a hearing on April 1, 2010, the court released respondent on bail subject to numerous conditions, including a DANCO.

11. On April 2, 2010, Hennepin County alleged that respondent violated the probation that was imposed in that county in October 2009. Respondent was arrested and appeared in Hennepin County District Court on April 6, 2010. Respondent appeared for a probation violation hearing on April 6 and a "Morrissey" (probation revocation) hearing on April 7, 2010. Respondent admitted the probation violation and was required to serve 15 days in jail.

12. On July 3, 2010, respondent was charged in Hennepin County with domestic assault, a misdemeanor, based on phone contact with H.O. The court released respondent on bail following a July 6, 2010, hearing with numerous interim conditions, including a DANCO. Respondent was required to have no contact with H.O. or her children.

13. On August 3, 2010, respondent "got together" with H.O. in violation of respondent's July 5, 2010, conditions of release, including the DANCO. Respondent was arrested and taken into custody. Respondent appeared in Hennepin County

District Court on August 11, 2010. The court released respondent on bond and set conditions of release, including staying at least four blocks away from H.O. and having no contact with her children.

14. On August 17, 2010, respondent was charged in Hennepin County with violating the DANCO, a misdemeanor. Respondent pled guilty on August 18, 2010. Sentencing was scheduled for September 9, 2010.

15. At a hearing on September 9, 2010, the domestic assault charges were dismissed. Respondent was sentenced to 90 days in jail for the violation of the DANCO, which was stayed for one year subject to numerous conditions. The conditions included an order to participate in domestic abuse and anger management counseling, and to stay at least two blocks away from H.O.'s home and work locations.

16. On December 8, 2010, respondent was arrested for drunk driving in Hibbing, Minnesota. Respondent was charged in St. Louis County with two DUI counts, failing to provide proof of insurance, and failing to stop for an accident to property.

17. On January 31, 2011, respondent pled guilty to one count of DUI and failing to provide proof of insurance. Respondent was sentenced to 90 days in jail, with all but two days stayed. Respondent was placed on supervised probation until January 2013 subject to numerous conditions, including no alcohol use and required random alcohol testing.

18. On March 1, 2011, respondent got into a car accident while driving with H.O., who had driven to Hibbing to see respondent. Respondent was arrested, jailed, and charged in Carlton County with violating a DANCO, a misdemeanor.

19. On March 7, 2011, respondent pled guilty to violating a DANCO and was sentenced to 90 days in jail, with all but seven days stayed (which respondent had already served). A new DANCO was issued until March 7, 2013.

20. On March 10, 2011, respondent was arrested and charged in St. Louis County with violating a DANCO, a gross misdemeanor. Respondent pled guilty to the charge on March 21, 2011. On April 25, 2011, respondent was sentenced to nine months in jail.

21. Respondent completed his sentence and was released from jail on or about September 7, 2011. Since that time, respondent has lived in a "sober house" and has participated in Alcoholics Anonymous.

22. Respondent's pattern of criminal conduct and violations of probation and no-contact orders between May 2006 and March 2011, as described above, violated Rule 8.4(b) and (d), Minnesota Rules of Professional Conduct (MRPC).

SECOND COUNT

Brandon M. Heem Matter

23. In November 2010, Brandon M. Heem, who lives in Chisholm, Minnesota, met with and retained respondent to represent him in a paternity and child support matter. Heem signed a retainer agreement and gave respondent a "nonrefundable" retainer of $1,000, along with copies of his tax returns for three years.

24. Respondent prepared a notice of motion and motion and affidavit. Respondent contacted Heem to inform him that the documents were ready for review, but also told Heem he would be travelling to the Twin Cities and would not be available for two weeks. Respondent did not send the documents to Heem for his review in the meantime.

25. Thereafter, respondent did no further work on Heem's case. After his arrest in December 2010, respondent attempted to contact Heem once, through a third person, without success. Respondent made no further attempts to contact Heem and did not return Heem's phone calls.

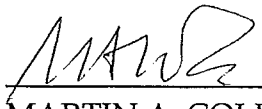
26. Respondent did not refund any portion of Heem's $1,000 retainer and did not return Heem's papers to him. After respondent was incarcerated in April 2011, the

landlord of his law office in Hibbing evicted him and denied him further access. Respondent does not presently know whether or not Heem's file is still contained in his former law office or has been discarded. Respondent states he intends to refund Heem's retainer to him.

27. Respondent's conduct in failing to diligently handle Heem's case and failing to communicate with Heem violated Rules 1.3, 1.4(a)(3) and (4), 1.15(c)(4), and 1.16(d), MRPC.

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: March 29, 2012.



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