

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against CHRISTOPHER STEPHEN PETROS,
a Minnesota Attorney,
Registration No. 32131X.

**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, 2002. Respondent currently practices law in Shakopee, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

A.A. Matter

1. In or about June 2010, A.A. retained respondent for representation in a dissolution and custody matter. The judgment and decree was filed on May 2, 2011.
2. In a letter to respondent dated May 20, 2011, opposing counsel scheduled a motion hearing for July 15, 2011, at 10:30 a.m. to modify A.A.'s parenting time and notified respondent of the hearing date. Opposing counsel, however, did not serve the motion upon respondent until July 1, 2011.

3. In a letter dated May 27, 2011, respondent purportedly sent opposing counsel's May 20, 2011, letter to A.A. A.A. denies receiving a May 27, 2011, letter from respondent. As more fully set forth below, respondent fabricated the May 27, 2011, letter.

4. On or about June 30, 2011, respondent called A.A. and informed her that her ex-husband intended to file a motion to adjust parenting time. Respondent also informed A.A. that he had not yet been served with the motion and that the opposing party had until July 1 to file it.

5. On July 1, 2011, A.A. attempted to contact respondent to inquire whether the motion had been served; however, A.A. was unable to reach respondent.

6. On July 1, 2011, opposing counsel served the motion upon respondent. Respondent did not provide A.A. with a copy of the motion papers, or any written notification of the hearing date.

7. In a letter dated July 5, 2011, respondent purportedly notified A.A. of the upcoming hearing by enclosing the motion and asked A.A. to contact him immediately. A.A. denies receiving a July 5, 2011, letter from respondent. As more fully set forth below, respondent fabricated the July 5, 2011, letter.

8. As the hearing date approached, respondent made no efforts to communicate with A.A., other than to send her a text message on July 11. A.A.'s mobile telephone was disconnected at this time and she could not receive or send text messages. Respondent did not attempt to reach A.A. at her work telephone number, by email or in writing.

9. Respondent did not submit a response to the motion, did not formally request a continuance and did not withdraw from the representation.

10. On July 15, 2011, the opposing party's motion was heard. Neither A.A. nor respondent appeared for the hearing. Instead, respondent sent an associate from his firm to attend the hearing.

11. During the hearing, the court inquired of respondent's associate as to the efforts made to notify A.A. of the hearing. Respondent's associate called respondent to obtain that information for the court. Respondent informed his associate that he had mailed the motion to A.A. This statement was false.

12. Respondent's associate then relayed this false information to the court.

13. After the hearing, the court issued an order which was unfavorable to A.A. Prior to the hearing, the parties had joint legal and physical custody of their three minor children and alternated custody weekly. After the hearing, the court ordered that A.A.'s ex-husband was permitted to retain the children in his custody until the parties agreed otherwise in writing and obtained a court order, or after further court order. A.A. was awarded parenting time with the children, which was to be supervised at her ex-husband's discretion.

14. The order stated, "Unfortunately, [A.A.] did not appear at the hearing and did not serve or file any responsive evidence." The order further stated, "[Respondent's associate] advised the undersigned at the hearing that [respondent], [A.A.'s] attorney of record, mailed the Petitioner's motion and affidavit evidence to her and that it was not returned."

15. Respondent failed to correct the misrepresentation made to the court.

16. A.A. learned of the hearing for the first time when her ex-husband contacted her after the hearing and notified her that she had missed a court appearance that day.

17. Respondent's conduct in the A.A. matter violated Rules 1.3, 1.4, 3.3(a)(1), and 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC).

SECOND COUNT

N.H. and R.H. Matter

18. On or about May 26, 2010, N.H. and R.H. retained respondent for representation in a child in need of protection or services (CHIPS) matter.

19. On October 6, 2010, N.H. and R.H. lost their CHIPS case and their parental rights were terminated. Thereafter, respondent appealed to the Court of Appeals. On April 12, 2011, the Court of Appeals affirmed the district court. N.H. and R.H. had 30 days from April 12, 2011, within which to petition the Minnesota Supreme Court for review. *See* Minn. R. App. P. 117.

20. In a letter dated April 12, 2011, respondent purportedly provided N.H. and R.H. with a copy of the Court of Appeals' decision. N.H. and R.H. deny receiving an April 12, 2011, letter from respondent. As more fully set forth below, respondent fabricated the April 12, 2011, letter.

21. Respondent did not actually notify N.H. and R.H. of the Court of Appeals' decision until he sent them a letter dated May 5, 2011 (which was not postmarked until May 6, 2011). Respondent's May 5, 2011, letter did not inform N.H. and R.H. of the deadline to petition for review and did not inform them that he would not file the petition for review on their behalf. As of May 6, 2011, N.H. and R.H. had approximately five business days remaining to timely petition for review.

22. In a separate letter dated May 6, 2011, respondent purportedly advised N.H. and R.H. that they had 30 days from April 12 to petition the Minnesota Supreme Court for review, which he would not be filing on their behalf due to their inability to obtain financing. N.H. and R.H. deny receiving a letter dated May 6, 2011, from respondent. As more fully set forth below, respondent fabricated the May 6, 2011, letter.

23. Respondent's conduct in the N.H. and R.H. matter violated Rules 1.3, 1.4, and 1.16(d), MRPC.

THIRD COUNT

Submitting False Evidence and Making False Statements

A.A. Matter

24. On July 21, 2011, the Director received the complaint of A.A. On August 3, 2011, the Director issued a notice of investigation of A.A.'s complaint. The matter was assigned to the district ethics committee (DEC) for investigation.

25. In response to A.A.'s complaint, respondent stated that he sent opposing counsel's May 20, 2011, letter to A.A. on May 27, 2011. This statement was false.

26. The metadata associated with the electronic version of respondent's May 27, 2011, letter to A.A. indicates that respondent created the letter on November 2, 2011, at 9:14 a.m. Respondent fabricated the May 27, 2011, letter and submitted this false evidence to the DEC investigator on or about November 2, 2011.

27. In his response to A.A.'s complaint, respondent stated that his firm provided A.A. with two letters that informed her of the date and time of the hearing. This statement was false.

28. The metadata associated with the electronic version of respondent's July 5, 2011, letter to A.A. (the second of the two letters respondent claims to have sent to A.A. regarding the hearing) indicates that respondent created the letter on July 15, 2011, at 11:08 a.m. The hearing was underway at the time respondent fabricated the July 5, 2011, letter. Respondent submitted this false evidence to the DEC investigator on or about November 2, 2011.

29. Additional indicators that respondent fabricated the May 27 and July 5, 2011, letters are that A.A. denies receiving the letters and the letters do not appear on respondent's billing statements.

30. In a February 6, 2012, letter to the Director, respondent repeated his false statement that he sent a May 27, 2011, letter to A.A. with which he provided her with

opposing counsel's letter. With his February 6, 2012, letter to the Director, respondent resubmitted his fabricated May 27, 2011, letter.

31. In his February 6, 2012, letter to the Director, respondent falsely stated that he sent A.A. "numerous letters . . . in regards to the time and date of the hearing." Respondent also repeated his false statement that he sent a letter with the motion paperwork to A.A. With his February 6, 2012, letter to the Director, respondent resubmitted his fabricated July 5, 2011, letter.

32. On October 30, 2012, the Director received a letter from respondent. In the letter, respondent repeated his false statements that he informed A.A. of the hearing in letters dated May 27 and July 5, 2011.

N.H. and R.H. Matter

33. On July 25, 2011, the Director received the complaint of N.H. and R.H. On August 15, 2011, the Director issued a notice of investigation concerning their complaint. The matter was investigated by the Director's Office without referral to a DEC.

34. In response to the complaint of N.H. and R.H., respondent stated to the Director's Office that the Court of Appeals' decision was mailed to N.H. and R.H. on April 12, 2011. This statement was false.

35. The metadata associated with the electronic version of respondent's April 12, 2011, letter indicates that respondent created the letter on July 17, 2011, at 8:41 a.m. Respondent fabricated the April 12, 2011, letter and submitted this false evidence to the Director on September 14, 2011.

36. In his response, respondent further stated that in a May 6, 2011, letter he advised N.H. and R.H. of his inability to proceed with their petition for review to the Minnesota Supreme Court due to their inability to obtain financing and that he advised them of the short time remaining to petition for review. This statement was false.

37. The metadata associated with the electronic version of respondent's May 6, 2011, letter indicates that respondent created the letter on July 17, 2011, at 9:19 a.m. Respondent submitted this false evidence to the Director on September 14, 2011.

38. Additional indicators that respondent fabricated the April 12 and May 6, 2011, letters are that N.H. and R.H. deny receiving the letters, the letters do not appear on respondent's billing statements and the letters are printed on "Tuttle Bergeson Petros, P.A. Law Office" letterhead, which had not been proofed for printing until May 9, 2011.¹

39. In a November 1, 2011, letter to the Director respondent stated that he sent the Court of Appeals' decision to N.H. and R.H. twice. This statement was false as respondent had only sent the decision to N.H. and R.H. on May 5, 2011.

40. In his December 21, 2011, letter to the Director, respondent repeated his false statement the he sent a letter to N.H. and R.H. dated April 12, 2011.

41. In a December 21, 2011, letter to the Director, respondent repeated his false statement that he sent a letter to N.H. and R.H. dated May 6, 2011.

42. In a March 21, 2013, letter to the Director, respondent repeated his false statement that he sent N.H. and R.H. a letter advising them of his inability to move forward with their case due to their inability to obtain financing.

43. Respondent's conduct in submitting false evidence and making false statements to the Director's Office and the DEC investigator violated Rules 8.1(a) and 8.4(c) and (d), MRPC.

¹ In early 2011, the firm began the process of changing its name from "Tuttle Bergeson Law Office" to "Tuttle Bergeson Petros, P.A. Law Office."

FOURTH COUNT

J.L. Matter

44. In or about June 2010, J.L. was concerned that he had overpaid child support and contacted respondent who agreed to look into the matter at no cost. No retainer agreement was signed or drafted.

45. In late March or early April 2011, respondent reviewed the matter, but did not believe J.L. had a case. Respondent claims he left J.L. a message to that effect in late March or early April 2011; J.L. denies receiving a message from respondent. Respondent did not write to J.L. to inform him of his opinion.

46. Respondent's file consisted only of the documents J.L. supplied to respondent and a January 26, 2011, email string. In the email string, someone from respondent's office emailed respondent and informed him that J.L. "[s]aid he has been trying to reach [respondent] for 3 months now." Respondent replied to the email and stated, "He's not a client don't worry about him" Even after receiving notice on January 26, 2011, that J.L. was trying to contact him, respondent waited approximately two months (or longer) before he claims to have left a message for J.L.

47. On December 1, 2011, J.L. filed a complaint with the Director's Office. J.L. in his complaint stated, "[I]f he is not going to represent me, [I] need all my original documents returned immediately." Despite this very clear request, respondent did not return J.L.'s documents until March 2, 2012, when specifically asked to do so by the DEC investigator. This was nearly one year after respondent says he reviewed the matter and determined that he did not think J.L. had a case and nearly three months after J.L.'s complaint was mailed to respondent.

48. Respondent's conduct in the J.L. matter violated Rules 1.3, 1.4, and 1.16(d), MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent 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.

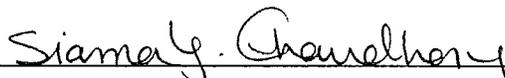
Dated: June 6, 2013.



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