

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against CHAD MICHAEL ROGGEMAN,
a Minnesota Attorney,
Registration No. 28788X.

**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 30, 1998. Respondent most recently practiced law in St. Cloud, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Lack of Thoroughness and Preparation, Neglect, Non-Communication, Failure to Comply with Court Rules, Misrepresentations to Client - Ventura Matter

1. On or about July 13, 2006, Mary Ventura retained respondent to represent her in a probate proceeding arising out of the death of her aunt, Carmen Millard. Ventura retained respondent to challenge the will which had been filed. Ventura claimed that Millard, who was 92 years old when she died, was unduly influenced to execute that will three weeks before her death. That will excluded Ventura as a beneficiary, and she sought to have a prior will probated.

2. On or about July 18, 2006, respondent served and filed a petition to set aside the pending informal probate, for an order for a formal probate proceeding, to remove the personal representative, and to appoint an independent personal representative.

3. On or about July 27, 2006, respondent served and filed a notice of motion and motion and supporting affidavit of himself, requesting that the court conduct a scheduling conference and that discovery issues be considered at the hearing on respondent's motion previously filed (§ 2 above), which was scheduled for August 22, 2006.

4. On or about August 10, 2006, respondent filed a notice of *lis pendens* on real property the decedent owned.

5. On or about August 14, 2006, the court issued a notice advising counsel that the August 22 hearing was rescheduled to September 15, 2006.

6. On or about September 5, 2006, opposing counsel served on respondent notice that complainant's father had resigned as personal representative and that complainant's mother requested to be appointed successor personal representative.

7. On or about September 8, 2006, respondent spoke with counsel for the personal representative regarding proposed scheduling dates and deadlines.

8. On September 15, 2006, respondent attended (by telephone) the hearing. During that telephone conference, respondent and opposing counsel agreed on a series of dates and deadlines.

9. By e-mail dated September 18, 2006, respondent summarized for Ventura the results of the September 15 hearing and set forth the scheduling dates and deadlines. Respondent stated, "Although I do not have the written order from the court yet, it appears that discovery (i.e., depositions, production of documents) will not really begin until March with a July trial date."

10. On or about September 21, 2006, the court sent to counsel an order memorializing the following deadlines and dates to which respondent and counsel for the personal representative had agreed during the September 15 hearing.

- May 16, 2007: Service of interrogatories.
- June 16, 2007: Depositions noticed.
- June 16, 2007: Witness disclosures.
- July 16, 2007: Depositions to be completed.
- August 7, 2007: All motions filed.
- August 7, 2007: Joint statement of the case to be filed.
- August 7, 2007: Final pre-trial conference/settlement conference; proposed findings of fact, witness list and exhibit list to be filed.
- August 22, 2007: Trial.

11. Respondent stated to the Director that he failed to calendar any of the dates or deadlines.

12. By letter dated September 28, 2006, counsel for the personal representative requested respondent to remove the notice of *lis pendens*, which respondent had filed previously (§ 4 above). Respondent failed to respond, failed to forward the letter to Ventura and failed to discuss the issue with Ventura.

13. On or about October 19, 2006, counsel for the personal representative served on respondent and filed a petition to remove the notice of *lis pendens*. The notice stated that the hearing on the petition would be conducted on December 5, 2006. Respondent failed to respond to the motion, failed to send the motion papers to Ventura and failed to discuss the motion with Ventura.

14. On or about December 5, 2006, a hearing was conducted on the motion to remove *lis pendens*. Respondent failed to attend.

15. Respondent stated to the Director that although he received the September 28 letter and October 19 motion papers timely, he did not open the

envelopes containing those documents until a few days before the hearing date; that at that time he realized the time in which to respond had elapsed and there may be no viable defense to the motion; and he then decided not to attend the hearing, and not to inform opposing counsel or the court of that decision. Respondent failed to inform Ventura of any of this.

16. On or about December 11, 2006, the court issued an order discharging the notice of *lis pendens*. Respondent failed to send a copy of the order to Ventura, failed to discuss the order with Ventura and failed to inform Ventura that the order had been issued.

17. Ventura did not learn about the September 28 letter, the petition to discharge the notice of *lis pendens*, the hearing or the order granting the petition until after respondent's representation terminated and Ventura had received a copy of her file.

18. Beginning in March 2007, Ventura placed multiple telephone calls to respondent and left messages for respondent to return the call. Respondent failed to do so.

19. On or about April 23, 2007, respondent was served with interrogatories. Respondent failed to tell Ventura about the interrogatories, failed to forward the interrogatories to Ventura, and failed to respond to the interrogatories as the Minnesota Rules of Civil Procedure require.

20. By letter dated June 7, 2007, counsel for the personal representative asked respondent whether he would respond to the interrogatories. Respondent failed to inform Ventura of the letter, failed to forward the letter to Ventura, failed to respond to the letter and failed to respond to the interrogatories.

21. On or about June 12, 2007, counsel for the personal representative served on respondent and filed a motion to compel discovery and supporting papers. The motion was based on respondent's failure to respond to the interrogatories.

Respondent failed to inform Ventura of the motion, failed to forward any of the motion papers to Ventura and failed to respond to the motion.

22. On or about June 15, 2007, opposing counsel served on respondent a witness list. Respondent failed to send a copy of the witness list to Ventura, failed to discuss the witness list with Ventura and failed to inform Ventura of the witness list.

23. On July 3, 2007, a hearing was conducted on the motion to compel. Respondent failed to attend the hearing and failed to advise the court or counsel for the personal representative that he would not attend.

24. On July 18, 2007, the court issued an order granting the motion to compel and dismissing Ventura's claim because of the failure to respond to the interrogatories, coupled with the failure to respond to the petition to discharge the notice of *lis pendens* and the failure to respond to the motion to compel. Respondent failed to inform Ventura of the order, failed to forward the order to Ventura and failed to advise Ventura of her appeal rights.

25. On or about July 24, 2007, Ventura sent an e-mail to respondent, informing respondent that her father had passed away and requesting respondent's assistance. Respondent failed to respond.

26. In mid-September 2007, Ventura sent documents to respondent. The documents were received by respondent's firm on September 18, 2007. The documents included a check in the amount of \$2,500 for attorneys' fees.

27. On September 27, 2007, Ventura's husband sent an e-mail to respondent's assistant confirming that respondent's firm had received the documents and check on September 18, 2007.

28. Later that day, respondent's assistant replied, "We do have the package here. Chad [respondent] indicated that there is no 'real deadline' imposed by the otherside [sic], but he does have a letter drafted that he will be sending in the next few days, which includes another demand for the accounting. Mary will be receiving a

copy of that letter.” Respondent’s statement (through his assistant) was false and misleading. It implied the matter was pending, when it had been dismissed more than two months previously.

29. During a telephone conversation in or about October 2007, respondent for the first time told Ventura that the matter had been dismissed. During that conversation, respondent stated that the matter was dismissed because the prior will, which Ventura wanted to be probated, was not filed. This statement was false. The matter was dismissed because of respondent’s neglect.

30. During that conversation, respondent also told Ventura that she should stop payment on the \$2,500 check toward fees that she had sent to respondent (*see* ¶ 26, above) because he had lost the check. This statement was false. Respondent did not lose the check. Instead, respondent chose not to forward the check to the firm to be negotiated because of his handling of the Ventura matter.

31. On or about January 5, 2008, Ventura’s husband sent an e-mail to respondent containing questions about dismissal of the case.

1. When did [counsel for the personal representative] file a motion to dismiss? What date?
2. Who was notified of the filing of the pending motion (Mary never received notice)?
3. On what grounds was the motion for dismissal filed?
4. When did the judge dismiss the original order (what date?).
5. What was the reason the judge gave for the dismissal?
6. When was the plaintiff (Mary) notified of the final judgment and how?

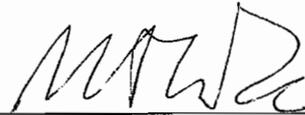
32. During a telephone conversation with Ventura on or about January 14, 2008, respondent admitted that he had lied to Ventura previously about the matter, and

stated that the case was dismissed because he had incorrectly entered a hearing date on his calendar, which caused him to miss a hearing. This statement was false.

33. Respondent's conduct violated Rules 1.1, 1.3, 1.4, 3.2, 3.4(c), 4.1, and 8.4(c) and (d), Minnesota Rules of Professional Conduct.

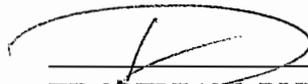
WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: January 13, 2009.



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