

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against ROLAND JAMES THEILER,
a Minnesota Attorney,
Registration No. 196101.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of a Lawyers Professional Responsibility Board Panel Chair, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(d) 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 28, 1998. Respondent currently practices law in St. Paul, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

A. Abdullahi Matter

1. Respondent represented Mabruka and Farhan Abdullahi (wife and husband) and other family members in a personal injury matter arising out of an automobile accident.

2. A no-fault arbitration award resulted in payments to respondent's clients for economic loss in a total amount of \$13,736.90.

3. On or about October 30, 2007, respondent advised Farhan that respondent would no longer represent him.

4. On or about August 10, 2011, respondent advised Mabruka and his other clients in the matter that respondent would no longer represent them.

5. In or about early 2013, Farhan and Mabruka found documents on the Internet showing a payment from the City of Minneapolis to the Yost & Baill law firm regarding their matter.

6. Farhan and Mabruka attempted on multiple occasions thereafter to communicate with respondent. The Abdullahis were only able to speak with respondent's paralegal, who stated that she would investigate the matter further. Respondent's paralegal is his daughter. She is not a lawyer.

7. Based on their dealings with respondent's law firm, Farhan and Mabruka believed that respondent's paralegal was, in fact, a lawyer. Respondent's law firm website identified his paralegal as a lawyer. The Abdullahis ultimately filed a disciplinary complaint in the name of respondent's paralegal, and not respondent. Respondent's paralegal is not licensed to practice law in the State of Minnesota.

8. Lawyer M.H. of the Yost & Baill law firm confirmed to the district ethics committee (DEC) investigator that the \$13,736.90 award (*see* ¶ 2, above) was paid by Country Insurance and Financial Services, and that each check (one for each of respondent's clients) was made payable to the particular client and respondent. Respondent stated to the DEC investigator that all money received was paid to medical providers. As set forth more fully below, however, respondent has failed to provide to the Director the requested documents confirming payment to the medical providers (*see* ¶¶ 19, 23, 25, 30, 31, below).

9. Respondent's failure to communicate with his clients violated Rule 1.4(a)(3) and (4), Minnesota Rules of Professional Conduct (MRPC), and his conduct in holding out his paralegal as a lawyer violated Rules 5.3(a), (b), and (c)(2), and 5.5(b), MRPC.

SECOND COUNT

B. Davis Matter

10. In March 2010 Cassie Davis retained respondent for representation in a personal injury matter.

11. During 2013 respondent failed to communicate with Davis and failed to respond to requests from Davis for communication. Because of respondent's failure to respond to Davis's complaint (*see* ¶¶ 22, 25, 27-29, 32-35), the Director has been unable to make any further determination regarding respondent's handling of the Davis matter.

12. Respondent's conducted violated Rule 1.4(a)(3) and (4), MRPC.

THIRD COUNT

C. Failure to Cooperate and Misleading Law Firm Name

13. On June 21, 2013, the Director mailed to respondent notice of investigation of a complaint against him by Farhan and Mabruka Abdullahi. The notice requested respondent to provide his complete written response within 14 days of the date of the notice. Respondent failed to respond.

14. By letter dated July 19, 2013, the DEC investigator assigned to investigate the Abdullahis' complaint informed respondent that his response was overdue and requested respondent to provide his response.

15. By letter dated July 25, 2013, respondent provided his response to the Abdullahis' complaint.

16. On August 5, 2013, the Director mailed to respondent notice of investigation of a complaint by Gerald and Ramona Flaschenriem against respondent. The notice requested respondent to provide his complete written response within 14 days of the date of the notice. Respondent failed to respond.

17. By letter dated September 3, 2013, the DEC investigator assigned to investigate the Flaschenriems' complaint informed respondent that his response to the Flaschenriems' complaint was overdue and sent another copy of the notice of investigation to respondent. Respondent failed to respond to the Flaschenriems'

complaint until his letter dated September 5, 2013, which was not received by the DEC investigator until September 17, 2013.

18. The letterhead respondent used for his July 25 letter regarding the Abdullahis' complaint and September 5 letter regarding the Flaschenriems' complaint identified his law firm as "Theiler & Associates LLC" and stated "Attorneys At Law." The letters also identified two other lawyers as "of counsel" to respondent's firm. These statements about respondent's firm were false. Respondent is a sole practitioner. There are no associates or other lawyers practicing in his firm. The two lawyers identified on respondent's letterhead as of counsel had been of counsel to respondent's firm, but that relationship ended multiple years before respondent's July 25 letter.

19. During the time the DEC investigator was handling investigation of the Abdullahis' complaint, respondent failed on multiple occasions to respond to telephone calls from the investigator.

20. After the DEC completed its investigation and made its report and recommendation regarding the Abdullahis' complaint, the Director conducted additional investigation.

21. By letter dated September 30, 2013, the Director requested respondent to provide within 14 days documents regarding, among other things, his handling of the funds he received in connection with the Abdullahi matter. Respondent failed to respond.

22. By letter dated October 15, 2013, the Director informed respondent that the Director had received no response to that September 30 letter regarding the Abdullahis' complaint and requested respondent to provide at that time the documents requested in that September 30 letter.

23. On October 16, 2013, respondent spoke by telephone with an Assistant Director. Respondent agreed to provide the documents requested in that September 30 letter regarding the Abdullahis' complaint no later than October 31, 2013.

24. On October 25, 2013, the Director mailed to respondent notice of investigation of a complaint by Davis against respondent. The notice requested

respondent to provide his complete written response within 14 days of the date of the notice. Respondent failed to respond.

25. By letter dated October 30, 2013, respondent provided some but not all of the documents requested in that September 30 letter regarding the Abdullahis' complaint. Specially, respondent failed to provide documents related to his handling of the Abdullahis' funds (*see* ¶ 8, above).

26. Accordingly, by letter dated November 8, 2013, the Director requested respondent to provide at that time the documents requested in the Director's September 30 letter regarding the Abdullahis' complaint which respondent had not yet provided. Respondent failed to respond.

27. By letter dated November 12, 2013, the Director informed respondent that the Director had received no response to Davis's complaint and requested respondent to provide at that time his complete written response as requested in the notice of investigation. Respondent failed to respond.

28. By letter dated November 19, 2013, the Director informed respondent that the Director had received no response to that November 8 letter regarding the Abdullahis' complaint and requested respondent to provide at that time the documents requested in that November 8 letter. Respondent failed to respond.

29. By letter dated November 20, 2013, the Director informed respondent that the Director still had received no response to Davis's complaint and requested respondent to provide at that time his complete written response as requested in the notice of investigation.

30. On December 3, 2013, respondent telephoned the Director's Office and left a message in which he stated that he had received the Director's November 20 letter regarding Davis's complaint, stated that he never received Davis's complaint, and requested the Director to again send Davis's complaint to respondent. Later that day, an Assistant Director returned respondent's call but received an answering machine which stated that respondent's voice mail box was full. Therefore, the Assistant Director was unable to leave a message.

31. By letter dated December 3, 2013, the Director sent to respondent copies of Davis's complaint and the notice of investigation of that complaint and requested respondent to provide at that time his complete written response as requested in the notice of investigation. Respondent failed to respond.

32. By separate letter dated December 3, 2013, the Director informed respondent that the Director still had received none of the documents requested in the Director's November 8 letter regarding the Abdullahis' complaint, requested respondent to provide the requested documents at that time, and advised respondent that the failure to cooperate with the investigation of a complaint can constitute a separate ground for disciplinary action. Respondent failed to respond.

33. To date, respondent has failed to provide all of the documents requested in the Director's September 30 letter regarding the Abdullahis' complaint and has failed to provide any of the requested documents regarding his handling of the funds he received in that matter.

34. By letter dated December 11, 2013, the Director informed respondent that the Director had received no response to Davis's complaint and requested respondent to provide at that time his complete written response as requested in the notice of investigation. Respondent failed to respond.

35. By letter dated December 19, 2013, the Director informed respondent that the Director had received no response to Davis's complaint and again requested respondent to provide at that time his complete written response as requested in the notice of investigation. Respondent failed to respond.

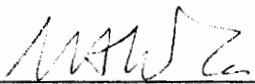
36. By letter dated January 3, 2014, the Director informed respondent that the Director still had received no response to Davis's complaint, requested respondent to provide at that time his complete written response as requested in the notice of investigation, and advised respondent that the failure to cooperate with the investigation of a complaint, including the failure to respond to the complaint, can constitute a separate ground for disciplinary action. Respondent failed to respond.

37. To date, respondent has provided no response to Davis's complaint.

38. Respondent's failure to cooperate violated Rule 8.1(b), MRPC, and Rule 25, RLPR, and his use of letterhead which contained false statements about his firm violated Rules 7.1(a) and 7.5, MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court 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: February 4, 2014.



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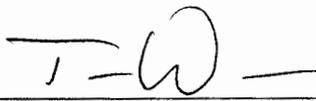
and



TIMOTHY M. BURKE
SENIOR ASSISTANT DIRECTOR
Attorney No. 19248x

This petition is approved for filing pursuant to Rules 10(d) and 12(a), RLPR, by the undersigned Panel Chair.

Dated: February 6, 2014.



TODD A. WIND
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD