

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action against
ELIZABETH MEGAN CARROLL TRIMBLE,
a Minnesota Attorney,
Registration No. 387289.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

At the direction of a Lawyers Professional Responsibility Board Panel, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on February 15, 2007. Respondent last practiced law in St. Paul, Minnesota. Respondent was suspended on October 1, 2010, for nonpayment of attorney registration fees.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Wenzel Matter

1. On June 2, 2010, Lori Wenzel met with and retained respondent to represent her in a non-contested dissolution matter and to prepare and file the documents necessary to obtain a quit claim deed for her homestead. On that same date, Wenzel paid respondent \$500 to cover the \$400 filing fee in her dissolution and \$100 to file the quit claim deed.

2. On June 5, 2010, Wenzel met with respondent again to provide the documents and information to necessary to commence Wenzel's dissolution.
3. On or about July 1, 2010, respondent served a summons and petition for dissolution of marriage upon Wenzel's then husband.
4. On July 14, 2010, ARAG Group, a legal services insurance plan provided by Wenzel's employer, paid respondent \$217.
5. On July 27, 2010, respondent filed the summons and petition, among other documents, with the district court and paid the \$400 filing fee on Wenzel's behalf.
6. On August 12, 2010, the court scheduled an initial case management conference (ICMC) for October 7, 2010. Respondent notified Wenzel of the October 7, 2010, ICMC date by mailing her a copy of the court's notice, but did not otherwise communicate with Wenzel regarding the ICMC.
7. In a letter dated August 7, 2010, but not filed until September 20, 2010, respondent requested the October 7, 2010, ICMC be continued. By carbon copy of respondent's August 7, 2010, letter to the court, respondent notified Wenzel of the request for a continuance.
8. On October 12, 2010, the court rescheduled the ICMC to November 2, 2010. Respondent did not notify Wenzel of the November 2, 2010, court date.
9. On November 2, 2010, respondent failed to appear on Wenzel's behalf or contact the court to request a second continuance. Wenzel did not attend either as she had no notice of the November 2, 2010, court date.
10. On November 19, 2010, the court issued an order placing Wenzel's case on inactive status. The court sent respondent a copy of the order by mail. Respondent did not provide Wenzel with a copy of the order.

11. Over the course of many months, Wenzel left multiple telephone messages for respondent inquiring about the status of her dissolution. Respondent failed to return Wenzel's calls. After meeting with respondent on June 2 and June 5, 2010, Wenzel did not meet or speak with respondent about her dissolution again, despite leaving numerous messages for respondent.

12. On December 27, 2010, Wenzel called respondent's law office and was directed to call respondent's cell phone. Wenzel called respondent's cell phone, but when respondent answered the call and Wenzel identified herself, respondent abruptly terminated the call without speaking with Wenzel. Wenzel immediately called respondent back on her cell number, but Wenzel's calls all went directly into respondent's voice mail where Wenzel left a voice mail message requesting respondent call her back with the status of her matter. Respondent never returned Wenzel's calls.

13. Respondent did not communicate further with Wenzel, did not withdraw as attorney of record in Wenzel's dissolution, did not prepare and file a quit claim deed on Wenzel's behalf and did not refund any portion of Wenzel's money.

14. On December 30, 2010, Wenzel contacted the court regarding the status of her dissolution and her inability to contact respondent. Wenzel learned that her case was inactive due to the parties' failure to appear for the November 2, 2010, ICMC. On January 4, 2011, the court informed Wenzel that her case was reactivated, that another ICMC would be scheduled and that respondent's law license was suspended due to respondent's failure to pay her lawyer registration fee. The court referred Wenzel to the Director's Office.

15. Acting *pro se*, Wenzel completed and filed the documents necessary to conclude her dissolution. On May 11, 2011, the court issued its findings of fact, order

for judgment and judgment and decree. To date, Wenzel has not completed the quit claim deed.

16. Respondent's failure to appear at the November 2, 2010, ICMC, to inform her client of the hearing date and to otherwise reasonably communicate with her client to the extent necessary for the client to make informed decisions violated Rules 1.3, 1.4, 3.2, 3.4(c) and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

17. Respondent's failure to prepare and file documents related to Wenzel's quit claim deed violated Rule 1.3, MRPC.

18. Respondent's failure to refund unincurred expenses collected from Wenzel with regard to the quit claim deed violated Rules 1.16(d) and 8.4(c), MRPC.

SECOND COUNT

Noncooperation

19. On July 21, 2011, the Director mailed to respondent at the address maintained by the Lawyer Registration Office notice of investigation of the Wenzel complaint. The notice requested respondent provide her complete written response to the complaint within 14 days of the date of the notice.

20. By letter dated July 21, 2011, and mailed to the address maintained by the Lawyer Registration Office, the Director informed respondent that her license to practice law was suspended for nonpayment of the lawyer registration fee as of October 1, 2010; that practice while fee suspended was unauthorized practice of law and a violation of Rule 5.5(a), MRPC; and requested that respondent submit within 14 days proof of payment of the lawyer registration fee and penalty along with an affidavit attesting to respondent's practice of law since October 1, 2010.

21. On July 28, 2011, the U.S. Postal Service returned the July 21, 2011, notice of investigation and the Director's July 21, 2011, letter to the Director marked "rtn to sender not at this address."

22. By letter dated July 28, 2011, and mailed to the law office address on file for respondent with the Minnesota Secretary of State, the Director provided respondent with copies of the July 21, 2011, notice of investigation and the Director's July 21, 2011, letter regarding respondent's suspension for failure to pay her lawyer registration fee, requested respondent respond to each within the timeframe indicated in each document, and informed respondent that, pursuant to Rule 2(G), Rules of the Supreme Court on Lawyer Registration (RLR), respondent was required to immediately notify the Lawyer Registration Office of any changes of address.

23. On August 8, 2011, the U.S. Postal Service returned the Director's July 28, 2011, letter to the Director marked "return to sender [respondent] moved left no address unable to forward return to sender."

24. On August 10, 2011, the Director wrote to respondent at a St. Paul, Minnesota address located for respondent by the Director through CLEAR, a proprietary internet search engine. The Director: enclosed the July 21, 2011, notice of investigation and the Director's July 21, 2011, and July 28, 2011, letters to respondent; informed respondent that Rule 2(G), RLR, required respondent to immediately notify the Lawyer Registration Office of any changes of address; and requested respondent review and respond to the notice of investigation and the July 21, 2011, letter as directed in each document. The U.S. Postal Service did not return the Director's August 10, 2011, letter. Respondent did not respond.

25. On August 25 and September 1, 2011, the Director's Office called respondent and left voice mails for respondent to call back. Respondent did not return the Director's calls.

26. On September 19, 2011, the Director's Office called respondent at two different telephone numbers. A man answered at one of the numbers and took a

message for respondent. The Director's Office left a voice mail message at the second number. Respondent did not return either call.

27. On September 30, 2011, the Director called and left voice mail messages for respondent at two different telephone numbers. Respondent did not return either call.

28. On September 30, 2011, the Director wrote to respondent at her St. Paul, Minnesota address and a second Bay City, Wisconsin address and enclosed copies of the Director's July 21, 2011, notice of investigation and July 21, 2011, letter. The Director requested that respondent respond to each within two weeks as required by Rule 8.1(b), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility (RLPR), and informed respondent that failing to cooperate with the Director's investigation, even without additional misconduct, had been the subject of public discipline and that the Director would consider bringing charges for public discipline if respondent failed to respond on or before October 17, 2011.

29. On October 10, 2011, the U.S. Postal Service returned the Director's September 30, 2011, letter mailed to Bay City Wisconsin marked "return to sender attempted - not known unable to forward." The U.S. Postal Service did not return the Director's September 30, 2011, letter mailed to respondent's St. Paul, Minnesota address.

30. As of the date of the charges, respondent failed to respond to the July 21, 2011, notice of investigation and the Director's July 21, August 10, and September 30, 2011, letters.

31. Respondent's failure to cooperate with the Director's investigation of Wenzel's complaint and respond to the Director's written correspondence regarding nonpayment of the lawyer registration fee violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

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: March 6, 2012.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

and



SIAMA Y. CHAUDHARY
ASSISTANT DIRECTOR
Attorney No. 350291