

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against KRISTINE KATHERINE TRUDEAU,
a Minnesota Attorney,
Registration No. 310372.

**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 October 23, 2001. Respondent currently practices law in St. Paul, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Interference with a 911 Call

1. On April 17, 2003, Officers Antaya and Palmer responded to a phone call at 4549 Grand Avenue South, Minneapolis, Minnesota, on a report of a possible domestic assault. Upon arrival, Officers Antaya and Palmer met with Patrick Acciani, respondent's ex-boyfriend, who had called 911. Acciani stated that he and respondent had formerly lived together at the residence, but that he had obtained an eviction order, which was posted on the outside of the home.

2. Acciani informed Officers Antaya and Palmer that upon coming home he noticed that the blinds covering one of the bedroom windows were out of place and

that one of the boards he had previously hammered to the window had been partially pried off. Acciani stated that he immediately suspected respondent had broken into the home and began searching the house for her. During his search, Acciani discovered that a set of car keys was missing from the bedroom.

3. Acciani eventually found respondent hiding in a basement closet with a knife sitting at her feet. Acciani told respondent to leave and attempted to take his cell phone out of his pocket to call 911. Respondent kicked the phone out of Acciani's hand. Acciani retrieved the phone and attempted to call 911 again. Respondent wrestled with Acciani and furniture was kicked over. Acciani later ran upstairs and successfully dialed 911.

4. Upon arrival at the scene, Officer Antaya found the eviction notice on respondent's person and Officer Palmer found the set of missing car keys along with a screwdriver, knife and two bottles containing various prescription medicines in respondent's purse. Officer Antaya observed that the furniture in the basement was knocked over. Officer Palmer also observed a hammer lying outside the window that had been broken into and fingerprints on the outside of the window where someone had pushed it open.

5. Officers Antaya and Palmer took respondent into custody, and found Acciani's cancelled checks and other financial documents, along with a baggie and film case containing various prescription medications while inventorying respondent's car. Officer Antaya asked Acciani whether he was aware that respondent was in possession of his cancelled checks and Acciani stated he was not. Officer Antaya also asked respondent if she was currently taking any prescription medications and respondent said she was not on any medications.

6. Respondent was subsequently charged with interference with a 911 call, disorderly conduct, refusal to depart on demand, burglary in the fourth-degree and possession or sale of stolen checks.

7. On February 26, 2004, respondent pled guilty to interference with a 911 call, a gross misdemeanor, in violation of Minn. Stat. § 609.78, subd. 2. Respondent was placed on supervised probation for two years. Respondent's probation included no contact with the victim, no similar violations, and restitution.

8. Respondent's conduct violated Rule 8.4(b) and (d), Minnesota Rules of Professional Conduct (MRPC).

SECOND COUNT

Unauthorized Computer Access

9. In March 2003 Deneen Young filed a report with the Carver County sheriff's department stating that she had discovered that a software program called "E-Blaster" had been installed into her computer without her knowledge. Young made the discovery after she hired the Geek Squad, a computer company, to check her computer. Young is an acquaintance of Acciani.

10. Young was informed that "E-Blaster" software is used by computer companies to monitor computers and can be remotely installed via e-mail. The remote install requirements state that the individual must own the computer or have permission to monitor the computer before installing the software. Young told the sheriff's department that the program had been installed to her computer after Acciani used her computer to open an e-mail sent by respondent.

11. Detective Roger Roatch of the Carver County Sheriff's Department obtained a search warrant and seized respondent's computer from her residence on May 20, 2003. Respondent was present when the sheriff's department seized her computer. Respondent told Detective Roatch that she had sent the "E-Blaster" to Acciani but did not realize that it would be installed on Young's computer.

12. On June 22, 2003, respondent consented to a voluntary interview with Detective Roatch. Respondent admitted that she purchased the "E-Blaster" software program, set up an e-mail address under her brother's name, and remotely sent the

software to Acciani. Respondent admitted that she received reports regarding Acciani's e-mail activity.

13. Acciani did not give respondent permission to install the software or monitor his e-mail accounts. Acciani subsequently filed a police report and respondent was issued a citation.

14. On August 4, 2003, respondent pled guilty to unauthorized computer access - penetrate security system, a misdemeanor, in violation of Minn. Stat. § 609.891, subd. 1. Respondent was placed on supervised probation for a period of one year. Respondent's probation included no contact with the victims and no similar violations.

15. Respondent's conduct violated Rule 8.4(b) and (d), MRPC.

THIRD COUNT

Violation of Harassment Restraining Order - Carver County

16. On or about January 27, 2003, the district court issued an emergency restraining order on behalf of Young against respondent. An admit/deny hearing was set and, by agreement of the parties, continued until April 1, 2003. Respondent failed to appear at the April 1, 2003, hearing. Respondent also failed to provide evidence of substantial completion of a chemical dependency treatment program as previously ordered by the court.

17. During the admit/deny hearing, Young informed the district court of various violations of the harassment restraining order by respondent, including phone calls and contact through a third party e-mail, which resulted in the installation of spyware on Young's computer as described in paragraphs 9-14, above. The district court granted Young a harassment restraining order against respondent.

18. On July 28, 2003, respondent subsequently filed motions to dismiss, vacate and/or expunge the April 1, 2003, harassment restraining order.

19. On August 27, 2003, the district court issued an order denying respondent's request to dismiss, vacate or expunge the court's April 1, 2003, harassment

restraining order. The court stated that respondent could renew her motions upon a showing of six-months sobriety, evidence of proper counseling for her mental health issues, and no further violations of the harassment restraining order issued on behalf of Young in Carver County or the order for protection issued on behalf of Acciani in Hennepin County. The court also made findings of fact that respondent had violated the harassment restraining order by contacting Young by phone and e-mail.

20. On October 3, 2003, Young reported a violation of the harassment restraining order by respondent to the sheriff's department. Deputy Ben Geurs of the Carver County Sheriff's Department reported to the scene. Young reported violations of the harassment restraining order by respondent on March 11 and 17, 2003, April 5, 2003, May 1, 2003, and August 6, 2003. Young reported that on September 9, 2003, she received an e-mail from an account belonging to Acciani requesting an address. Young asked Acciani if he sent the e-mail and Acciani did not send it. Young stated that respondent had previously used Acciani's e-mail address to contact her. Young provided Deputy Geurs with a printout of the e-mail. Respondent's conduct not only violated the harassment restraining order but also the district court's August 27, 2003, order.

21. Respondent also violated the court's August 27, 2003, order by contacting Acciani in September and October 2003, as outlined below in paragraphs 35-36.

22. On December 11, 2003, a criminal complaint was issued against respondent charging her with violation of a harassment restraining order and contempt of court. The matter was continued for dismissal to January 2005, upon the condition that respondent have no contact with the victims, no similar conduct, and no other harassment or contempt of court violations. The matter is currently pending with the district court.

23. Respondent's conduct violated Rules 3.4(c), and 8.4(b) and (d), MRPC.

FOURTH COUNT

Continuing Pattern of Harassment

Respondent engaged in a continuing pattern of harassment against Acciani as follows:

Making False Statements to Police

24. On January 6, 2003, respondent and Acciani had a domestic dispute. Respondent took Acciani's car keys and attempted to prevent him from leaving for a hockey game. Acciani called the police for assistance and respondent returned his car keys. When police arrived at the scene, however, Acciani had already left for the hockey game.

25. At approximately ten o'clock that evening, Acciani returned to his home and confronted respondent about money that she had removed from his wallet earlier that evening. Acciani asked respondent to return the money and respondent refused. Acciani left his house and told respondent that he would spend the night at a friend's apartment. Acciani was only at his home for several minutes.

26. On the way to his friend's house, Acciani called respondent from a pay phone and again asked her to return the money. Acciani arrived at his friend's home around eleven o'clock that night.

27. Shortly after midnight on January 7, 2003, respondent called the police department to report a sexual assault. Officer Deborah Hubert reported to Acciani's home. Respondent told police officers that Acciani had forced her to consume alcohol and then sexually assaulted her. Officer Hubert took respondent to the hospital for examination. While at the hospital, respondent refused to completely cooperate with the examining nurse. Respondent would not let the nurse draw blood to determine her blood alcohol level.

28. Respondent subsequently failed to cooperate with the police investigation, although she made several phone calls while intoxicated to the Hennepin County Sheriff's Department and Minneapolis Police Department in mid-to-late January 2003.

29. On January 29, 2003, respondent contacted Sergeant Bernard Martinson of the sex crimes division and stated that she wanted to change the information that she had originally given to police on January 7, 2003. Respondent stated that Acciani did not force her to drink wine. Respondent admitted that she was an alcoholic and had drunk the wine of her own accord. Respondent further admitted that she was extremely intoxicated at the time she made the report and that Acciani had not sexually assaulted her. The Minneapolis Police Department eventually dismissed respondent's case as unfounded and listed it as a false report by respondent.

30. While respondent was in custody on April 17, 2003, as outlined above in paragraphs 1- 7, respondent informed Officer Palmer that she had previously filed a false police report against Acciani accusing him of sexual assault. Respondent told Officer Palmer that she had been sexually assaulted but that she knew Acciani was not the perpetrator when she called the police. Respondent told Officer Palmer, "I should never have told the police that Patrick did that when I knew he hadn't."

31. Acciani was forced to seek legal counsel in response to respondent's allegations of sexual assault and to evict respondent from his home. Counsel also helped Acciani obtain an order for protection. Acciani incurred approximately \$8,500 in attorney's fees and costs in connection with these matters.

Violation of Restraining Orders

32. In response to respondent's break-in of his home on April 17, 2003, Acciani filed for an order for protection (OFP) against respondent on April 24, 2003. In response, respondent filed for an OFP against Acciani. On June 4 and 6, 2003, an evidentiary hearing was held and the district court granted Acciani's petition for an OFP against respondent and denied respondent's request for an OFP. In denying

respondent's request for an OFP the court concluded that her credibility was questionable and her testimony was inconsistent.

33. On August 13, 2003, Acciani reported to police that respondent violated the OFP by sending him an e-mail dated August 12, 2003. Officer Pat Bryan reported to the scene. Acciani informed Officer Bryan that he had received an e-mail concerning items inside his truck. Acciani stated that he did not know the sender of the e-mail but the items he retrieved from inside his locked truck belonged to respondent. Acciani stated that the items were not present earlier in his truck when he locked it and that he suspected respondent had placed the items in his truck then e-mailed him.

34. On August 26, 2003, Acciani reported to the police that respondent violated the OFP by sending him five e-mails between August 19 and 24, 2003.

35. On September 25, 2003, Acciani reported to police that respondent had again violated the OFP by sending him four e-mails between September 18 and 24, 2003. Officer John Murzyn responded to the call. Acciani stated he did not recognize the accounts from which the e-mails were sent but that he suspected respondent had e-mailed them because they contained information intercepted from e-mails that he had sent other individuals. Acciani stated that he had e-mailed a friend named "Patti" in Texas and that one of the e-mails he received referred to "Patti." Acciani told the police that he believed respondent had intercepted the e-mails using spyware and that she had previously been convicted of such an offense.

36. On October 8, 2003, at 12:30 a.m., police were dispatched to Acciani's home after receiving a report that respondent had made a threatening phone call to Acciani at 10:55 p.m. that evening. Officer Eric Bullen responded to the dispatch. Acciani informed Officer Bullen that respondent threatened to harm his parents if he left for a planned vacation. Acciani also stated that respondent had called several other times that day but had not left messages.

Frivolous Civil Litigation

37. Respondent served Acciani with a summons and complaint dated September 30, 2004, alleging that Acciani: (1) intentionally inflicted emotional distress upon her; (2) slandered her name and reputation in the business community; (3) engaged in fraud and that respondent and her business had been irreparably harmed; (4) made statements that were "defamatory per se"; and that respondent was (5) seeking attorney's fees and costs for bringing the action.

38. Respondent's complaint did not allege any factual basis for any of the counts in her complaint. Respondent's complaint was improperly pled and without basis in law. Respondent's complaint also sought relief that cannot be granted by law.

39. In response, Acciani was forced to retain legal counsel to represent him and incurred additional attorney's fees responding to respondent's continued harassment. On November 3, 2004, Acciani submitted an answer alleging, in part, that respondent's complaint was without basis in law, improperly pled and various other affirmative defenses.

40. On November 15, 2004, respondent served Acciani with a notice of amended complaint and amended complaint. Respondent amended the five counts of her original complaint as follows:

a. Count I was amended to allege that Acciani intentionally caused her emotional distress by subscribing to an internet porn site, forwarding e-mails containing pornographic materials to his friends and family, and later sending an e-mail to these individuals accusing respondent of improperly using his credit card to join the site and forward the e-mails. Respondent denied opening an account in Acciani's name or forwarding the pornographic materials to his friends and family.

b. Count II was amended to allege that Acciani slandered her name and reputation in the business community by sending the above-mentioned

e-mail. Respondent also alleged that Acciani slandered her by stating in the e-mail that she had pled guilty to a crime of unauthorized computer usage. Respondent has, in fact, pled guilty to such a crime as set forth in the Second Count of this petition.

c. Count III was amended to allege that Acciani committed fraud by alleging that respondent forwarded pornographic materials to his friends and family.

d. Count IV was amended to state that Acciani defamed respondent by accusing her of a crime and attacking her sexuality.

41. The matter is currently pending in district court.

Pattern of Prior Harassment Occurring in State of New Jersey

Bruce McCoy Matter

42. In the summer of 1996, respondent attended law school at Rutgers University in New Jersey. Respondent became romantically involved with another law student named Bruce McCoy. In September 1996 McCoy filed a complaint with Rutgers University Police Department against respondent alleging harassment. McCoy alleged that respondent harassed him by phone and also made harassing phone calls to his fiancé and her family.

43. Respondent subsequently met with McCoy and the dean of Rutgers University Law School. Respondent agreed to have no further contact with McCoy or his fiancé and her family.

Joseph Pica Matter

44. In the fall of 1996, respondent became romantically involved with Joseph Pica, a police officer at Rutgers University. On October 25, 1996, Pica reported to the local police department that respondent was harassing him at his residence. Pica requested that police remove respondent from his residence. Later that same evening,

respondent contacted the police department and reported harassing phone calls by Pica, however, respondent refused to sign a domestic violence rights form.

45. On October 26, 1996, Pica called the local police department again to report harassment by respondent. Police officers arrived at the scene and found respondent in Pica's driveway. Pica informed police officers that he feared respondent would cause him harm and asked to file for a restraining order against respondent.

46. Police escorted respondent and Pica to the police station where Pica signed two criminal complaints against respondent for harassment and criminal trespass. Mutual temporary restraining orders were issued on behalf of each party. The charge of harassment was subsequently dismissed and respondent was found not guilty on the charge of criminal trespass on August 18, 1997. Pica did not attend the hearings for either of the criminal matters.

Clinton J. Cusick Matter

47. Between April and November 1997, respondent was romantically involved with another law student named Clinton J. Cusick while attending Rutgers University in New Jersey.

48. On November 25, 1997, respondent called the Rutgers University Police Department to report an assault by Cusick. Police officers reported to the front of the law school where respondent alleged that Cusick hit her with a book bag containing a personal computer and books. Police officers escorted both parties to the police station and interviewed them. Cusick denied that he hit respondent with his book bag. Cusick stated that when he refused to talk to respondent, she grabbed his book bag and ripped the strap. The police asked Cusick and respondent if they wished to pursue the complaint or file for a temporary restraining order. Both respondent and Cusick stated they did not wish to pursue the matter.

49. The next day, respondent filed a second complaint with the Rutgers University Police Department alleging that Cusick had harassed and threatened her by

telephone. Respondent also stated that she wanted to file criminal charges for the November 25, 1997, assault. Respondent also sought an order for protection against Cusick and signed a criminal complaint against him.

50. On December 2, 1997, Cusick reported and signed a criminal complaint against respondent alleging assault. More specifically, Cusick stated that respondent lurked around the law school grounds, chased and assaulted him. Cusick stated that respondent continued to harass Cusick and his parents by phone and refused to accept that their relationship was over.

51. A hearing on respondent's request for a restraining order was scheduled for December 10, 1997. During the December 10 hearing, Cusick's counsel requested and was granted a continuance until February 16, 1998. The proceedings continued through the afternoons of February 16, 17, 18, 19 and 20, 1998. The judge requested summary briefs by April 22, 1998, in lieu of closing arguments.

52. On July 31, 1998, Judge Kenneth Levy granted final restraining orders against both parties. Judge Levy also presented findings with respect to the proceedings, indicating that respondent was guilty of repeatedly harassing Cusick in November 1997. More specifically, Judge Levy found that in mid-November 1997, after Cusick clearly informed respondent he was no longer interested in any relationship with her, respondent continued to call Cusick at his home and at his place of employment. Respondent continued her attempts to reach Cusick at work by contacting his superiors after Cusick had his telephone number changed.

53. Judge Levy also found as harassing respondent's November 21, 1997, call at 2:30 a.m. to the Woodbridge Police requesting they accompany her to Cusick's residence so she could retrieve personal school books. Respondent arrived at Cusick's before the police and approached Cusick alone. When the police arrived, respondent asked them to arrest Cusick for drinking and driving.

54. On September 18, 1998, respondent appealed the final restraining order placed against her. On September 30, 1998, Cusick appealed the final restraining order placed against him. Cusick later withdrew his appeal. On November 9, 1999, respondent appeared for oral argument regarding her appeal. Cusick did not file a brief or appear for oral argument. On December 15, 1999, the Superior Court of New Jersey upheld Judge Levy's July 31, 1998, letter opinion.

Pattern of Prior Harassment Occurring in the State of Minnesota

Michael Fasig Matter

55. On September 23, 1994, Michael Fasig filed a petition for a restraining order against respondent. In the petition, Fasig stated that he met respondent two weeks prior at his place of employment and that since that date she repeatedly harassed him at work by calling him several times per day. Fasig stated that respondent appeared at his workplace on the morning of September 16, 1994, and that he asked her to leave. Fasig then states that respondent proceeded to call him at work between 30 and 40 times that day.

56. Fasig's manager called the police, and St. Paul Park Chief Dwayne Rydberg came to Fasig's work and spoke to respondent three times on the phone, telling her not to call Fasig at work anymore. Fasig states that respondent returned to Fasig's workplace at 4:15 p.m. and sat in Fasig's car. The police were called again and came and removed respondent from Fasig's car. Later that night respondent appeared at Fasig's girlfriend's house and threatened her. The police were called to Fasig's girlfriend's house to escort respondent from the property.

57. A hearing on Fasig's petition for a restraining order was scheduled for October 3, 1994. Fasig failed to appear and the petition was dismissed.

Michael Leier Matter

58. Michael M. Leier and respondent began seeing each other romantically in the summer of 1990. On April 24, 1991, Leier filed a petition for a restraining order

against respondent for harassing phone calls and visits to Leier's parent's home, Leier's college dormitory, and Leier's friend's home.

59. Also on April 24, 1991, Leier's parents, Michael A. and Lois Leier, filed a petition for a restraining order against respondent for harassing phone calls and visits to their home.

60. On May 6, 1991, there was a hearing on both petitions and Judge Joanne Smith issued final restraining orders against respondent for both matters.

61. On April 6, 2000, respondent filed a motion with the Ramsey County court to have the restraining orders expunged. On May 4, 2000, Judge Roland Faricy, Jr. issued an order to seal and expunge the record in this matter.

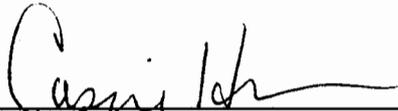
62. Respondent's conduct of ongoing harassment violated Rules 3.1, 3.4(c), and 8.4 (c) and (d), MRPC.

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: August 2, 2005.


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