

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against VINCENT FRANCIS WATERS,
a Minnesota Attorney,
Registration No. 225964.

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 (RLPR). The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on May 8, 1992. As set forth more fully below, by order filed July 27, 2012, respondent was suspended from the practice of law, effective 14 days from the date of that order. Respondent has remained suspended thereafter.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

In considering whether public discipline is warranted it is appropriate, pursuant to Rule 19(b)(4), RLPR, to consider respondent's prior discipline. Respondent's history of prior discipline, including admonitions, is as follows:

A. In 2003 respondent filed a lawsuit on behalf of his clients claiming \$196,500 in damages on a new home construction with serious defects.

Respondent failed to inform the court of a material change in damages when the

home sold for a loss to his clients of only \$2,500. The insurance company for the builder filed a complaint against respondent. Respondent told the Director he did not normally do civil litigation and was not aware of his duty to inform the court of the material change in damages. The Director found respondent violated Rule 1.1, Minnesota Rules of Professional Conduct (MRPC), and issued an admonition to respondent in June 2005.

B. In December 2010, respondent received an admonition for failing to communicate with his client, J. C., in violation of Rule 1.4, MRPC.

C. On July 27, 2012, the Court suspended respondent from the practice of law, effective 14 days from the date of that order, for failing to keep his clients reasonably informed regarding the status of their matter, negotiating a settlement without the clients' knowledge or consent, and failing to comply with the clients' reasonable requests for information; failing to notify his clients of receipt of settlement funds and failing to promptly pay the clients the funds to which the clients were entitled; using trust account funds without the clients' knowledge or consent in order to refund monies due to another client; making false statements and material omissions to his clients and providing to his clients an invoice containing false statements; and failing to place another client's funds in trust and misrepresenting the source of the refund he made to that client.

FIRST COUNT

Poissant Matter

1. On or about January 2, 2012, respondent filed a certificate of representation of the defendant in *State v. Stephen Christ Poissant*. Respondent continued representation of Poissant until he was suspended.

2. On July 16, 2012, the court issued an order resolving all pre-trial matters. Upon the filing of that order, the 60-day speedy trial demand respondent had filed previously became effective on July 30, 2012.

3. Effective August 6, 2012, respondent was suspended from practice.

4. Rule 26(a) through (c), RLPR, requires a suspended lawyer to notify clients, opposing counsel and tribunals by certified mail, return receipt requested, of the lawyer's suspension within 10 days of the date of the suspension order.

5. Respondent failed to provide the notice that Rule 26(a) through (c), RLPR, requires to any person within 10 days of the date of the suspension order.

6. Respondent failed to timely notify Poissant, the court or the prosecutor of his suspension. Respondent notified opposing counsel by telephone, but did not do so until after the 10-day period to give notice had expired. Respondent did not provide to the prosecutor notice by certified mail, return receipt requested. Respondent failed to inform Poissant or the court.

7. During the week of August 13, 2012, the court discovered that respondent was suspended from the practice of law.

8. The matter was put on for hearing for a status hearing. Poissant appeared *pro se* and informed the court that he was not aware that his lawyer, respondent, was suspended from the practice of law.

9. On or about August 20, 2012, the judge in the matter filed a complaint with the Director's Office. Respondent thereafter provided the written notice to clients, counsel and tribunals that Rule 26(a) through (c), RLPR, requires.

10. Respondent's conduct violated Rules 1.3, 1.4(a)(3) and (5), 3.2, 3.4(c), and 8.4(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.

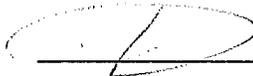
Dated: October 4, 2012.



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