

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**



F I L E D
Apr 22 2022

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

**IN THE MATTER OF
ALFONSO KENNARD, JR.,
STATE BAR CARD NO. 24036888**

§
§
§

CAUSE NO. 65861

PETITIONER'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS

TO THE BOARD OF DISCIPLINARY APPEALS:

COMES NOW Petitioner, the Chief Disciplinary Counsel of the State Bar of Texas (“CDC”), and files this Response to Respondent’s Motion to Dismiss. In support thereof, the Petitioner would show the Board the following:

I. INTRODUCTION

Petitioner filed its Petition for Reciprocal Discipline with the Board of Disciplinary Appeals (“BODA”) on September 7, 2021. BODA issued an Order to Show Cause on September 10, 2021, requiring Respondent to show cause within 30 days of the Order why identical discipline should not be imposed. Respondent was served with the Original Petition and Order to Show Cause by personal service on September 22, 2021. On October 19, 2021, BODA set the matter for hearing to occur on October 29, 2021. Thereafter, on October 27, 2021, Respondent filed his Unopposed Motion for Continuance, which was ultimately granted. The matter was reset for January 28, 2022. Kennard then filed his second motion for continuance which this Board granted on January 27, 2022.

Respondent filed his Amended Answer and Motion to Dismiss on April 21, 2022. Petitioner is in receipt of this Amended Answer and Motion to Dismiss. This case is currently set for hearing in front of BODA on April 29, 2022.

II. BACKGROUND

This is a Reciprocal Disciplinary matter arising out of discipline imposed against Respondent in Minnesota. On or about September 25, 2020, a Petition for Disciplinary Action was entered in the State of Minnesota Supreme Court finding that Alfonso Kennard, Jr., a Texas attorney, practiced law by representing himself in a lawsuit brought in Minnesota without admittance to practice in Minnesota. *Exhibit 1*. On November 13, 2020, a Motion for Summary Relief was entered in the State of Minnesota Supreme Court. *Exhibit 2*. On December 30, 2020, a Director's Memorandum of Law was filed in the State of Minnesota Supreme Court stating:

The Director of the Office of Lawyers Professional Responsibility (Director) recommends that the Court suspend respondent Alfonso Kennard for a minimum of 30 days for engaging in the unauthorized practice of law on numerous occasions and failing to cooperate with the Director's investigation into the matter, in violation of Rules 5.5(a) and 8.1(b), Minnesota Rules of Professional Conduct (MRPC). Respondent, a Texas attorney not licensed in Minnesota, represented his law firm in a legal action in Minnesota. Respondent appeared at telephonic hearings and submitted pleadings on behalf of his law firm without associating with a Minnesota attorney and seeking admission pro hac vice. Despite warnings from opposing counsel and the court, respondent continued to represent his law firm without a Minnesota law license. When asked to account for his misconduct, respondent failed to cooperate with the Director's investigation. Repeated engagement in the unauthorized practice of law and the failure to cooperate with the Director is considered serious misconduct warranting a suspension...

Exhibit 3

On March 9, 2021, the Supreme Court of the State of Minnesota Issued an Order which states in pertinent parts as follows:

In a November 30, 2020, order, we deemed the allegations in the petition admitted because respondent failed to file an answer to the petition, see Rule 13(b), RLPR, and directed the parties to file memoranda regarding the appropriate discipline to impose in this case. The Director recommends that the court suspend respondent for 30 days. Respondent did not make a recommendation as to the

appropriate discipline.

We permit lawyers not admitted to practice in Minnesota to provide legal services in Minnesota in certain circumstances. See Minn. R. Prof. Conduct 5.5(c)-(d). We also have the authority to discipline a lawyer who provides legal services in Minnesota even when that lawyer is not admitted to practice here. Minn. R. Prof. Conduct 8.5(a) ("A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides ... any legal services in this jurisdiction.")...IT IS HEREBY ORDERED THAT:

1. Respondent Alfonso Kennard, Jr., is suspended from the practice of law in Minnesota for a minimum of 30 days, effective 14 days from the date of this order.
2. Respondent shall comply with Rule 26, RLPR (requiring notice of suspension to clients, opposing counsel, and tribunals), and shall pay \$900 in costs pursuant to Rule 24, RLPR.
3. Respondent shall be eligible to have the suspension lifted following the expiration of the suspension period provided that, not less than 15 days before the end of the suspension period, respondent files with the Clerk of the Appellate Courts and serves upon the Director an affidavit establishing that he has complied with Rules 24 and 26, RLPR, and has complied with any other conditions for reinstatement imposed by the court. We expressly waive the reinstatement requirements in Rule 18(e)(4)(1), (f), RLPR, regarding satisfaction of continuing legal education obligations.
4. Within 1 year of the date of this order, respondent shall file with the Clerk of the Appellate Courts and serve upon the Director proof of successful completion of the written examination required for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility. See Rule 4.A.(5), Rules for Admission to the Bar (requiring evidence that an applicant has successfully completed the Multistate Professional Responsibility Examination). Failure to timely file the required documentation shall result in automatic suspension, as provided in Rule 18(e)(3), RLPR.

Exhibit 4

III. ARGUMENT AND AUTHORITY

A. Kennard has not proven a due process defense in this matter

Reciprocal Discipline is governed by Part IX of the Texas Rules of Disciplinary Procedure.

Tex. Rules Disciplinary P. R. 9.01, *reprinted in* Tex. Gov't Code Ann., tit. 2, subtit. G, app. A-1 (West 2013). Rule 9.01 states:

Upon receipt of information indicating that an attorney licensed to practice law in Texas has been disciplined in another jurisdiction... the Chief Disciplinary Counsel *shall* diligently seek to obtain a certified copy of the order or judgment of discipline from the other jurisdiction, and file it with the Board of Disciplinary Appeals along with a petition requesting that the attorney be disciplined in Texas. ***A certified copy of the order or judgment is prima facie evidence of the matters contained therein, and a final adjudication in another jurisdiction that an attorney licensed to practice law in Texas has committed Professional Misconduct is conclusive for the purposes of a Disciplinary Action under this Part, subject to the defenses set forth in Rule 9.04...***

(*Emphasis added*) *Id.*

Rule 9.04 requires that Respondent plead each defense in his Answer and prove each of his defenses by clear and convincing evidence. Tex. Rules Disciplinary P. R. 9.04. Rule 9.04(A) allows Respondent a defense in the event “that the procedure followed in the other jurisdiction on the disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process.” Tex. Rules Disciplinary P. R. 9.04(A). In his Answer / Motion to Dismiss Kennard argues that he was denied due process by the Minnesota Supreme Court. *Exhibit 5 at 3, 5-6*. Respondent argues that “during the peak of Covid-19,” Respondent “did not receive timely notice of the Minnesota Supreme Court proceedings,” and Respondent had “no access to the Minnesota filing system.” *Id.*

The Petition filed by the Director of the Office of Lawyers Professional Responsibility (“The Director”), at the direction of the Lawyer Professional Responsibility Board Panel (“The Board”), was personally served on Kennard on September 23, 2020. *Exhibit 2 at 4*. The petition

states that they sent notice of investigation into the underlying matter to Kennard on August 14, 2019, and requested Kennard's response in fourteen days. *Exhibit 1 at 5*. On October 4, 2019, the Director reminded Kennard of his overdue response and requested receipt of the response by October 11, 2019. *Id.* Thereafter, on October 14, 2019, Kennard called and spoke to the Director and stated he had not received the original communication involving the notice of investigation and complaint in the matter. *Id.* The Director updated Kennard's contact information and re-sent the information. *Id.* The Director then reached out four more times on November 30, 2019, January 15, 2020, February 28, 2020, and May 21, 2020, requesting a response to the complaint from Kennard. *Id. at 5-6*. All to no avail. *Id.*

Kennard's Answer to the Minnesota Petition was due October 13, 2020. *Exhibit 2 at 1*. The Director sent a letter to Kennard October 21, 2020, reminding Kennard of his Answer deadline. *Id.* A member of Kennard's firm contacted Director on October 30, 2020, asking for instructions to file a response to the petition as an attorney not licensed in Minnesota, however, no response or Answer was ever filed. *Id.* All the communication to Kennard from the Director was sent to the address confirmed by Kennard in the telephone conversation on October 14, 2019. This address is the same address at which Kennard was personally served with the Petition.

It is abundantly evident that Minnesota and the Director diligently attempted to contact Kennard to give Kennard every opportunity to participate in his own defense of the complaint filed against him in Minnesota. Accordingly, Kennard has failed to prove by clear and convincing evidence that the procedure followed in the Minnesota disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process.

B. Kennard cannot relitigate the underlying matter or original disciplinary matter

Kennard spends a significant amount of the Amended Answer / Motion to Dismiss laying out the procedural posture of the underlying lawsuit that became the subject of the grievance, citing how, when, and why Kennard chose to insert himself into the legal system in Minnesota. *See Generally Exhibit 5*. Kennard also argues that the finding of Minnesota is incorrect as there was an applicable Minnesota law that “allows the sole shareholder of a corporation to represent themselves in a Minnesota court...and Kennard was ultimately right all along.” *See Generally Exhibit 5*. Rule 9.04 does not offer a defense for the belief that the original disciplining jurisdiction got the law incorrect. These arguments are matters that needed to be litigated in the underlying disciplinary matter or an appeal of the underlying disciplinary matter, not in a Reciprocal Discipline matter.

As previously stated, Rule 9.01 states that a final judgment in another jurisdiction that an attorney licensed to practice law in Texas has committed Professional Misconduct is conclusive for the purposes of a Disciplinary Action. Tex. Rules Disciplinary P. R. 9.01. Here, Kennard does not argue that the finding from Minnesota is not final; therefore, the Order issued by the Supreme Court of the State of Minnesota on March 9, 2021, counts as such a final judgment and is therefore conclusive evidence that Kennard committed professional misconduct. *Exhibit 4*. In so much as BODA construes Kennard’s arguments to be an assertion of 9.04(b) defense that there was such an infirmity of proof establishing the misconduct in the other jurisdiction as to give rise to the clear conviction that BODA should not accept as final the conclusion on the evidence reached in the other jurisdiction, Kennard has not proven this defense by clear and convincing evidence, and it should therefore be denied.

C. Petitioner has met all legal requirements necessary to bring this Reciprocal Discipline Matter

Kennard alleges that this panel, presumably the Board of Disciplinary Appeals, “may lack jurisdiction to hear this matter given that no statute or ethical rule was violated.” *Exhibit 5 at 10*. As previously described, the March 9, 2021, Order is conclusive evidence of Kennard’s Professional Misconduct. In his Answer / Motion to Dismiss, Kennard also quotes from information regarding Reciprocal Discipline posted on the State Bar of Texas Website. Petitioner does not contest that this information is provided on the State Bar of Texas website; however, this information is not binding in this matter. The binding law can be found, as previously cited by Petitioner, in the Texas Rules of Disciplinary Procedure, Section IX. Tex. Rules Disciplinary P. R. 9.04. Rules 9.01 - 9.04. Though Kennard alleges that a matter for Reciprocal Discipline requires that an attorney be licensed in another jurisdiction for Reciprocal discipline to be allowed, there is no such requirement found in the Disciplinary rules. *Id.*

i. *Teater Case*

Kennard further alleges that “Petitioner relies heavily on the *Teater* matter.” *Exhibit 5 at 11*. While this is not an entirely truthful statement on the part of Kennard, Petitioner will argue that *In the Matter of Cassidy Ann Teater* is pertinent case law in this matter. *In the Matter of Cassidy Ann Teater*, State Bar Card No. 24080044, 2020 WL 6597651. The *Teater* matter involves a Respondent licensed in Kentucky and Texas, but not Tennessee. *Id.* at 1. The Reciprocal discipline pursued in Kentucky was based on discipline Teater received in Tennessee, a non-licensing jurisdiction. *Id.* Texas then pursued Reciprocal Discipline based on the Tennessee *and* Kentucky disciplinary final judgments. *Id.* In the Default Judgment of Disbarment filed by BODA on October 27, 2020, BODA found, “Reciprocal discipline identical, to the extent practicable, to that imposed by the Supreme Court of Tennessee *and* the Supreme Court of Kentucky is warranted in this case.” (*Emphasis added*) *In the Matter of Cassidy Ann Teater*, State Bar Card No. 24080044,

2020 WL 6597651, at 1. As BODA agrees that Reciprocal Discipline can be sought pursuant to discipline in a non-licensing jurisdiction, Petitioner has appropriately brought this case for Reciprocal Discipline against Kennard.

IV. CONCLUSION

For the above reasons, Respondent's Motion to Dismiss should be denied.

Respectfully submitted,

Seana Willing

Chief Disciplinary Counsel

Amanda M. Kates

Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
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Amanda M. Kates
State Bar Card No. 24075987

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that I am serving a copy of this document on Alfonso Kennard, Jr., 5120 Woodway Drive, Ste. 10010, Houston, Texas 77056, through his attorney of record Ellen Sprovach via electronic communication at ellen.sprovach@kennardlaw.com on this 22nd day of April 2022.



Amanda M. Kates

EXHIBIT 1

FILED

September 25, 2020

**OFFICE OF
APPELLATE COURTS**

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against ALFONSO KENNARD, JR.,
a Non-Minnesota Attorney.

**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 (Director) files this petition.

The above-named attorney (respondent) is a Texas attorney not admitted to practice law in Minnesota. Respondent currently practices law in Houston, Texas. Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Uptime Matter

1. Complainant Steven Cerny is an attorney who practices law in Minnesota. Respondent is an attorney who practices law in Houston, Texas, and is the managing shareholder of Kennard Law, P.C. Respondent is not currently and has never been licensed to practice law in Minnesota.

2. Rule 8.5(a), Minnesota Rules of Professional Conduct (MRPC), provides that:

A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the

disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

Rule 8.5(b)(1), MRPC, further provides that “for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits [applies], unless the rules of the tribunal provide otherwise.”

3. In early 2019, Cerny was retained by Uptime Systems, LLC (Uptime) to represent Uptime in a contract dispute with respondent. Uptime is a Minnesota company that specializes in technology services for law firms. Respondent’s law firm, Kennard Law, P.C., was a customer of Uptime and had been receiving services from Uptime since 2011.

4. On February 7, 2019, Cerny served respondent with a summons and complaint on behalf of Uptime. The case caption in the matter is *Uptime Systems, LLC v. Kennard Law, P.C.* The complaint alleged proper jurisdiction and venue in Hennepin County District Court in Minnesota “because Defendant caused an injury in Minnesota and transacted business in Minnesota” and “because the cause of action or some part thereof arose in Hennepin County, Minnesota.” The complaint also alleged breach of contract and unjust enrichment relating to respondent’s failure to pay for services rendered to Kennard Law, P.C. by Uptime. The relief requested by Uptime was \$17,400 in damages plus additional fees.

5. On February 28, 2019, respondent filed in Hennepin County District Court a motion to dismiss the case. Respondent signed the motion as “Alfonso Kennard, Jr., Pro Se” even though the lawsuit was not against respondent, but against Kennard Law, P.C., respondent’s law firm. Respondent did not associate with local counsel, nor did he seek *pro hac vice* admission before filing the motion to dismiss with the Minnesota court.

6. On March 30, 2019, Cerny emailed respondent stating in pertinent part:

See attached draft Joint Discovery Plan for the attention of the attorney representing Kennard Law, P.C. in the Minnesota lawsuit. Please forward this correspondence and attachment to that attorney and identify the attorney licensed in or temporarily admitted in Minnesota who is representing your entity and is authorized to sign documents to be filed in Minnesota court.

In response, on March 30, 2019, respondent emailed Cerny stating, "I am representing myself and my firm. Thanks."

7. On March 30, 2019, Cerny wrote respondent informing respondent that Cerny verified respondent is not authorized to practice law in Minnesota and had not obtained temporary admission before filing the motion to dismiss with the court in Minnesota. Cerny requested respondent to "provide the legal basis under Minnesota law for: (1) your purported representation of Kennard Law '*pro se*'; and (2) practicing law without a license or temporary admission." Respondent failed to respond.

8. On April 18 and 29, and May 22 and 23, 2019, Cerny emailed respondent requesting a response to Cerny's March 30 letter. Respondent failed to respond to Cerny's request.

9. On July 26, 2019, a telephone conference call was held in the matter with Cerny, respondent, and the presiding Judge Kristin Siegesmund in attendance. During the telephone conference, Judge Siegesmund informed respondent that a corporation involved in a lawsuit in Minnesota must be represented by counsel under Minnesota law. Respondent indicated he did not intend to retain a Minnesota attorney in the matter and would not be seeking admission to practice law in Minnesota. Respondent appeared at the telephone hearing as counsel for Kennard Law, P.C., without associating with local counsel or applying for *pro hac vice* admission.

10. On October 18, 2019, the court denied respondent's motion to dismiss and on October 31, 2019, respondent filed an answer and counterclaim in the matter.

11. On December 3, 2019, the court issued an amended scheduling order addressing several issues. Paragraph 15 on page 4 of the order states, “All corporate parties must be represented by an attorney.” Because respondent is not a licensed attorney in Minnesota, and has not been admitted temporarily in Minnesota, he is not an attorney in Minnesota and cannot represent a corporate entity in Minnesota pursuant to the court’s order.

12. On February 11, 2020, Cerny wrote the court requesting leave to serve and file a motion for summary judgment and for sanctions in the matter. The motion was based on respondent’s failure to cooperate with the selection of a mediator, failure to timely file pleadings, and for violations of the Minnesota Rules of Civil Procedure and the court’s order in the matter, including respondent’s failure to retain an attorney licensed in Minnesota to represent Kennard Law, P.C. On February 12, 2020, the court granted Cerny’s request and on February 28, 2020, Cerny filed a notice of motion and motion for summary judgment and sanctions.

13. On April 14, 2020, the court issued an order stating the matter “shall be taken under advisement based on written submissions of the parties without oral argument or a hearing, effective as of the day for which the hearing was originally scheduled.”¹

14. On April 20, 2020, respondent filed an answer to the complaint. Respondent’s signature block referred to him as “ATTORNEY IN CHARGE FOR DEFENDANT.” Respondent also filed a response to plaintiff’s motion for summary judgment/default judgment/sanctions. Respondent filed these pleadings on behalf of

¹ The court’s order was pursuant to the April 9, 2020, order issued by the Chief Justice of the Minnesota Supreme Court entitled, “Continuing Operations of the Courts of the State of Minnesota Under Emergency Executive Order No. 20-33, ADM-8001,” relating to social distancing requirements necessary to address Covid-19.

Kennard Law, P.C. without associating with local counsel and without being admitted *pro hac vice*.

15. Respondent's conduct of providing legal representation to Kennard Law, P.C. through numerous filings of pleadings and papers with the court in Minnesota and appearing before a Minnesota court through a telephone conference, violated Rule 5.5(a), MRPC.

16. Respondent's conduct in continuing to represent Kennard Law, P.C., despite a court order stating that, "All corporate parties must be represented by an attorney," which in Minnesota respondent is not, violated Rule 3.4(c), MRPC.

SECOND COUNT

Noncooperation

17. On August 2, 2019, the Director received Cerny's complaint against respondent.

18. On August 14, 2019, the Director issued a notice of investigation in the matter, and requested respondent's response to the complaint within fourteen days. Respondent did not submit a response to the complaint within fourteen days.

19. On October 4, 2019, the Director wrote respondent, reminding him of his obligation to cooperate with the Director's investigation, and requesting his response to the complaint by October 11, 2019.

20. On October 14, 2019, respondent called the Director, stating that he had not received the notice of investigation and complaint in this matter. The Director confirmed respondent's correct contact information and that same day, at respondent's request, the Director sent respondent a copy of the August 14, 2019, notice of investigation and the complaint. The Director requested respondent's response to the complaint within fourteen days. Respondent failed to timely respond to the Director's request.

21. On November 19, 2019, the Director wrote respondent reminding him that his response was long overdue and of his obligation to cooperate with the Director's investigation. The Director further informed respondent that failure to cooperate with a disciplinary investigation is itself unprofessional conduct and constitutes independent grounds for discipline. The Director requested respondent provide a response to the complaint by November 30, 2019. Respondent failed to respond to the Director's request.

22. On January 15, 2020, the Director wrote again to respondent, requesting a response to the notice of investigation and complaint by January 22, 2020. The Director indicated that if respondent failed to respond by January 22, 2020, the Director would proceed without benefit of respondent's cooperation. Respondent failed to respond to the Director's request.

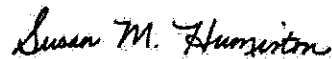
23. On February 28, 2020, the Director called respondent and left a voicemail message stating that the Director would proceed without respondent's cooperation if he does not respond to the complaint.

24. Having not heard from respondent, the Director wrote to respondent again on May 21, 2020, requesting a response to the notice of investigation and complaint issued on August 2, 2019. The Director indicated that if respondent failed to respond by May 30, 2020, the Director would proceed with disciplinary action, without benefit of respondent's cooperation. Respondent failed to respond to the Director's request.

25. As of July 29, 2020, the Director's Office has received no further communication from respondent with respect to this matter and none of the Director's correspondence to respondent has been returned as undelivered.

26. Respondent's noncooperation in the Director's investigation violated Rule 8.1(b), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

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.



Humiston, Susan
Sep 17 2020 3:30 PM

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Tuong, Binh
Sep 17 2020 9:51 AM

BINH T. TUONG
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EXHIBIT 2

FILED

November 13, 2020

**OFFICE OF
APPELLATE COURTS**

FILE NO. A20-1247
STATE OF MINNESOTA
IN SUPREME COURT

In Re Petition for Disciplinary Action
against ALFONSO KENNARD, JR.,
a Non-Minnesota Attorney.

**MOTION FOR
SUMMARY RELIEF**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility (Director) filed a petition for disciplinary action against the above-named attorney (respondent). On September 23, 2020, respondent was served with the petition for disciplinary action. *See* Exhibit 1. Respondent's answer was due by October 13, 2020. Respondent did not receive an extension of the time in which to answer.

By correspondence dated October 21, 2020, the Director notified respondent his answer was due on October 13, 2020 (Ex. 2). The letter also informed respondent that his failure to file an answer to the petition for disciplinary action within 10 days may result in the Director seeking summary relief pursuant to Rule 13(b), Rules on Lawyers Professional Responsibility (RLPR) (*id.*). On October 30, 2020, a person from respondent's office contacted the Director's Office asking for instructions to file a response to the petition as an attorney not licensed in Minnesota. The Director's Office instructed the person to contact the clerk of appellate court for instructions as to filing an answer with the court as an out-of-state attorney. As of the date of this motion, respondent has still failed to file or serve an answer to the petition.


More than twenty (20) days have elapsed since service. Respondent has failed to serve or file an answer to the petition for disciplinary action pursuant to Rule 13(a), RLPR.

WHEREFORE, the Director respectfully prays for an order of this Court pursuant to Rule 13(b), RLPR, deeming the allegations of the petition admitted, imposing the appropriate discipline, awarding costs and disbursements and for such other, further or different relief as may be just and proper.

 Humiston, Susan
Nov 12 2020 2:34 PM

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and

 Tuong, Binh
Nov 13 2020 8:36 AM

BINH T. TUONG
MANAGING ATTORNEY
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In Re Petition for Disciplinary Action against

Court File Number

Alfonso Kennard, Jr., a Non-Minnesota Attorney

AFFIDAVIT OF SERVICE

State of Texas }
County of Harris } SSI, Travis Turel, state that on
(Name of Server)9 / 23 / 2020 at 5:47 P M, I served the:
(Date of Service) (Time of Service)

Notice; Petition

upon: Alfonso Kennard, Jr.

therein named, personally at: 1600 Post Oak Boulevard
Unit 902
Houston, TX 77056

by handing to and leaving with:

- ☒ Alfonso Kennard, Jr.
☐ a person of suitable age and discretion then and there residing at the usual abode
of said, Alfonso Kennard, Jr.

Alfonso Kennard JR
(Name of the Person with whom the documents were left)Person / Individual
(Title or Relationship)

a true and correct copy thereof.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minnesota Statute § 358.116.

Dated: 9 / 24 / 2020Travis Turel

(Signature of Server)

Travis Turel
(Printed Name of Server)

* Service was completed by an independent contractor retained by Metro Legal Services, Inc.



Serial # LAWPRR 243666 3079

Re: OLPR


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TOLL-FREE 1-800-657-3601

FAX (651) 297-5801

October 21, 2020

Mr. Alfonso Kennard, Jr.
1600 Post Oak Boulevard, Unit 902
Houston, TX 77056

Re: In Re Petition for Disciplinary Action against
ALFONSO KENNARD, JR., a Non-Minnesota Attorney,
Supreme Court File No. A20-1247.

Dear Mr. Kennard:

On September 23, 2020, you were personally served with the notice and petition for disciplinary action (petition) in the above matter. Pursuant to Rule 13(a), Rules on Lawyers Professional Responsibility (RLPR), your answer to the petition was due to be filed and served within 20 days of that date, or by October 13, 2020. This Office has not received your answer, and in checking with the Court of Appeals clerk, you have not filed it with the Supreme Court.

Please serve and file your answer to the petition in this matter within ten days of the date of this letter. Please note that if you fail to do so, this Office will proceed pursuant to Rule 13(b), RLPR, and seek summary relief.

Thank you for your prompt attention to this matter.

Very truly yours,

Office of Lawyers Professional
Responsibility

By



Binh T. Tuong
Managing Attorney

Tuong, Binh
Oct 21 2020 8:44 AM

jmc

EXHIBIT 3

FILED

December 30, 2020

**OFFICE OF
APPELLATE COURTS**

FILE NO. A20-1247

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against ALFONSO KENNARD, JR.,
a Non-Minnesota Attorney.

**DIRECTOR'S
MEMORANDUM OF LAW**

INTRODUCTION

The Director of the Office of Lawyers Professional Responsibility (Director) recommends that the Court suspend respondent Alfonso Kennard for a minimum of 30 days for engaging in the unauthorized practice of law on numerous occasions and failing to cooperate with the Director's investigation into the matter, in violation of Rules 5.5(a) and 8.1(b), Minnesota Rules of Professional Conduct (MRPC). Respondent, a Texas attorney not licensed in Minnesota, represented his law firm in a legal action in Minnesota. Respondent appeared at telephonic hearings and submitted pleadings on behalf of his law firm without associating with a Minnesota attorney and seeking admission *pro hac vice*. Despite warnings from opposing counsel and the court, respondent continued to represent his law firm without a Minnesota law license. When asked to account for his misconduct, respondent failed to cooperate with the Director's investigation. Repeated engagement in the unauthorized practice of law and the failure to cooperate with the Director is considered serious misconduct warranting a suspension.

PROCEDURAL POSTURE

On September 23, 2020, respondent was served with the petition for disciplinary action. Respondent's answer was due by October 13, 2020. Respondent did not receive an extension of the time in which to answer. By correspondence dated October 21, 2020, the Director notified respondent his answer was overdue. The letter also informed respondent that his failure to file an answer to the petition for disciplinary action within 10 days may result in the Director seeking summary relief pursuant to Rule 13(b), Rules on Lawyers Professional Responsibility (RLPR).

On November 12, 2020, and pursuant to Rule 13(b), RLPR, the Director filed with the Court a motion for summary relief. By order dated November 30, 2020, the Court deemed the allegations of the petition admitted, and permitted the Director to submit by December 30, 2020, a written proposal regarding the discipline to be imposed. Respondent's submission is due within 30 days from the date of service of the Director's written proposal.

FACTS

Respondent's law firm, Kennard Law, P.C., was sued in Minnesota by Uptime Systems LLC in Hennepin County District Court (Pet. ¶ 4). In response, respondent filed a motion to dismiss the case in Hennepin County signing the motion as "Alfonso Kennard, Jr., Pro Se." (Pet. ¶ 5.) The lawsuit was not against respondent, but against Kennard Law, P.C., respondent's law firm (Pet. 4). Respondent is not a licensed attorney in Minnesota, and did not associate with local counsel, nor did he seek *pro hac vice* admission before filing the motion to dismiss with the Minnesota court (Pet. ¶ 5). It is well-settled in Minnesota that a corporation, as a separate entity, must be represented by legal counsel in legal proceedings. See *301 Clifton Place L.L.C. v. 301 Clifton Place Condo. Ass'n*, 783 N.W.2d 551, 560–61 (Minn. Ct. App. 2010) (quoting *Save Our Creeks v. City of*

Brooklyn Park, 699 N.W.2d 307, 309 (Minn. 2005)). To represent a corporation in Minnesota, an attorney must be licensed in Minnesota or otherwise authorized to appear before the court. See Minn. Stat. § 481.02, subdivs. 1-24 and *Nicollet Restoration, Inc. v. Darcy Turnham*, 486 N.W.2d 753 (Minn. 1992).

Respondent is not licensed in Minnesota and does not fall under any of the exceptions of Rule 5.5(c), MRPC, for temporary practice in Minnesota. Respondent did not associate with local counsel (Rule 5.5(c)(1)), and the matter was before a tribunal wherein he failed to obtain permission by law or order (Rule 5.5(c)(2), (3) and (4)). Nonetheless, respondent represented the law firm by filing a motion to dismiss on behalf of the law firm.

Despite being warned that respondent needed to be licensed in Minnesota in order to represent his law firm, respondent continued to engage in the unauthorized practice of law on a number of subsequent occasions. First, on July 26, 2019, there was a telephone conference call in the matter with Uptime's counsel, respondent, and the presiding Judge Kristin Siegesmund (Pet. ¶ 9). Respondent appeared at the telephone call on behalf of his law firm (*id.*).

Second, on October 31, 2019, respondent filed an answer and counterclaim in the matter, again filing pleadings on behalf of his law firm without a Minnesota license and without *pro hac vice* admissions (Pet. ¶ 10). Third, on April 20, 2020, respondent filed an answer to the complaint (Pet. ¶ 14). Respondent also filed a response to Uptime's motion for summary judgment/default judgment/sanctions (*id.*).

In addition to the unauthorized practice of law, respondent failed to cooperate with the Director's investigation. The Director received a complaint regarding respondent's conduct and issued a notice of investigation in the matter on August 14, 2019, requesting a response to the complaint within 14 days (Pet. ¶ 18). Respondent did not submit a response to the complaint within 14 days

(Pet. ¶ 18). On October 4, 2019, the Director wrote respondent reminding him of his obligation to cooperate with the Director's investigation, and requesting his response to the complaint by October 11, 2019 (Pet. ¶ 19). On October 14, 2019, respondent called the Director, stating that he had not received the notice of investigation and complaint in this matter (Pet. ¶ 20). That same day, at respondent's request, the Director sent respondent a copy of the August 14, 2019, notice of investigation and the complaint (*id.*). The Director requested respondent's response to the complaint within 14 days (*id.*). Respondent failed to respond to the Director's request (*id.*).

On November 19, 2019, and January 15, 2020, the Director wrote respondent, reminding him that his response was long overdue and of his obligation to cooperate with the Director's investigation (Pet. ¶¶ 21 & 22). The Director further informed respondent that failure to cooperate with a disciplinary investigation is, itself, unprofessional conduct and constitutes independent grounds for discipline (Pet. ¶ 21). The Director requested respondent provide a response to the complaint by a specific deadline (Pet. ¶¶ 21 & 22). Respondent failed to respond to the Director's request (*id.*). On February 28, 2020, the Director called respondent and left a voicemail message stating that the Director would proceed without respondent's cooperation if he did not respond to the complaint (Pet. ¶ 23). Having not heard from respondent, the Director wrote to respondent one last time on May 21, 2020, requesting a response to the notice of investigation and complaint (Pet. ¶ 24). Respondent failed to respond to the Director's request (*id.*).

ARGUMENT

Respondent's Misconduct Warrants A Suspension.

The allegations of the petition have been deemed admitted by the Court. The only issue is the appropriate discipline to be imposed. *See In re Swensen*, 743 N.W.2d 243, 247 (Minn. 2007). The Court has stated that “[t]he purpose of discipline for professional misconduct is not to punish the attorney but rather to protect the public, to protect the judicial system, and to deter future misconduct by the disciplined attorney as well as by other attorneys.” *In re Rebeau*, 787 N.W.2d 168, 173 (Minn. 2010). In determining the appropriate discipline, the Court considers: “(1) the nature of the misconduct; (2) the cumulative weight of the disciplinary violations; (3) the harm to the public; and (4) the harm to the legal profession.” *In re Ulanowski*, 800 N.W.2d 785, 799 (Minn. 2011) (citations omitted). The Court “also consider[s] aggravating and mitigating circumstances.” *In re O’Brien*, 894 N.W.2d 162, 166 (2017) (citing *In re Rebeau*, 787 N.W.2d 168, 176 (Minn. 2010)). The Court “look[s] to similar cases in seeking to impose consistent discipline.” *In re Matson*, 889 N.W.2d 17, 23 (Minn. 2017) (citing *In re Albrecht*, 779 N.W.2d 530, 540); *see also O’Brien*, 894 N.W.2d at 166 (citation omitted). Although prior decisions guide and aid the Court in enforcing consistent discipline, the Court ultimately determines sanctions on a case-by-case basis after examining the unique facts and circumstances of each case. *Rebeau*, 787 N.W.2d at 174; *In re Mayrand*, 723 N.W.2d 261, 268 (Minn. 2006).

1. Nature of the Misconduct.

Respondent engaged in the unauthorized practice of law on numerous occasions despite the court and opposing counsel warning respondent that his law firm needed to be represented by legal counsel. This Court has found such conduct to be serious misconduct warranting discipline. *See In re Mollin*, 940 N.W.2d 470 (2020) (attorney suspended for 30 days for engaging in unauthorized

practice of law while suspended); *In re Kennedy*, 873 N.W.2d 133 (Minn. 2016) (same); *In re Ruffing*, 883 N.W.2d 222 (Minn. 2016) (order) (same); *In re Jaeger*, 834 N.W.2d 705 (Minn. 2013) (disbarment warranted for an attorney who continued to engage in unauthorized practice of law after disciplinary suspension); *In re Grigsby*, 815 N.W.2d 836, 845 (Minn. 2012) (60-day suspension for an attorney who, among other misconduct, engaged in unauthorized practice of law while suspended); *In re Ray*, 610 N.W.2d 342 (Minn. 2000) (continued suspension warranted for an attorney who engaged in unauthorized practice of law during suspension).

This Court has also imposed severe discipline on lawyers who practice law while administratively suspended for noncompliance with CLE requirements and/or failure to pay attorney registration fees. See *In re Beman*, 451 N.W.2d 647, 648 (Minn. 1990) (three months' suspension for attorney who continued to actively practice law while on restricted status); *In re Neill*, 486 N.W.2d 150, 151 (Minn. 1992) (three-year suspension for attorney who practiced while on restricted status for noncompliance with CLE and failing to pay attorney registration fees, combined with neglecting a client). In *In re Small*, 889 N.W.2d 291 (Minn. 2016) (order), this Court issued a public reprimand to an out-of-state attorney who engaged in the unauthorized practice of law in Minnesota. Small's license in his home state, which allowed him to practice in Minnesota, expired for failure to complete CLEs. Respondent's continuing engagement in the practice of law in Minnesota while not licensed here, despite warnings from opposing counsel and the court and the opportunity to correct course, is serious misconduct warranting public discipline.

Moreover, the Court has held noncooperation to be serious misconduct warranting public discipline. "We have repeatedly stated that 'noncooperation with the disciplinary process, by itself, may warrant indefinite suspension and,

when it exists in connection with other misconduct, noncooperation increases the severity of the disciplinary sanction.” *In re Pitera*, 827 N.W.2d 207, 211 (Minn. 2013) (quoting *In re Nelson*, 733 N.W.2d 458, 464 (Minn. 2007)). The Court has also found lawyers who failed to fully cooperate violated the Rules of Professional Conduct. See *In re Hulstrand*, 910 N.W.2d 436, 441 (Minn. 2018) (finding lawyer violated Rule 8.1(b), MRPC, and Rule 25, RLPR, when he repeatedly “failed to respond or timely respond to several complaints filed against him and when he did reply, he failed to provide substantive responses to the complaints”). See also *In re Pearson*, 888 N.W.2d 319, 321 (holding that failure to cooperate violates Rule 8.1(b), MRPC, and Rule 25, RLPR); *In re Schulte*, 869 N.W.2d 674, 676-77 (Minn. 2015) (same); *In re Stanbury*, 614 N.W.2d 209, 212-13 (Minn. 2000) (same). Respondent’s failure to cooperate, despite numerous warnings and notices, is serious misconduct warranting a suspension.

2. The Cumulative Weight of the Violations.

When assessing the cumulative weight of violations, the Supreme Court distinguishes a “brief lapse in judgment” or “a single, isolated incident” of misconduct from “multiple instances of mis[conduct] occurring over a substantial amount of time.” *In re Murrin*, 821 N.W.2d 195, 208 (Minn. 2012) (citation omitted) (internal quotations omitted). Respondent’s misconduct cannot be viewed as a brief lapse or an isolated incident. Respondent engaged in the unauthorized practice of law not once, but at least four times through his appearance at a telephone conference and his filing of pleadings on behalf of his law firm. Respondent did this despite warnings and the opportunity to correct his conduct.

Respondent also failed to cooperate with the Director’s investigation over the course of close to a year. The Director sent numerous letters and warnings

about respondent's obligations to cooperate and respondent failed to respond. To this day, respondent has not provided a written response to the notice of investigation and complaint. Indeed, the only written response the Director received was a letter in which respondent erroneously claimed the matter was moot. The cumulative weight of respondent's conduct supports a suspension.

3. Harm to the Public and Legal Profession.

Respondent's misconduct caused harm to both the public and the legal profession. Respondent's failure to abide by the rule of law as demonstrated by his unauthorized practice of law in Minnesota and his disregard of the rules in this state, harms the profession. *See In re Mollin*, 940 N.W.2d at 475 ("Misconduct that "'undermine[s] the public's confidence in the ability of attorneys to abide by the rule of law" harms the legal profession.") (citing *In re Brost*, 850 N.W.2d 699, 704 (Minn. 2014)). Respondent's failure to cooperate with the Director's disciplinary investigation also harmed the legal profession and the public's faith in the ability of the Court and the Director to effectively regulate the legal profession in that the public perception of a functioning and efficacious disciplinary system is critical to the public's continued confidence in the self-regulating process. *Brost*, 850 N.W.2d at 705 (an attorney's failure to cooperate "harm[s] the legal profession by undermining the integrity of the attorney disciplinary system" and "weakens the public's perception of the legal profession's ability to self-regulate") (alteration in original) (quoting, respectively, *In re Ulanowski*, 834 N.W.2d 697, 703 (Minn. 2013) and *In re Pitera*, 827 N.W.2d 207, 212); *see also In re Ek*, 643 N.W.2d 611, 614 (Minn. 2002) ("[I]f we are to meet our goal of protecting the public we cannot ignore conduct where a lawyer acts 'with complete disregard for the disciplinary process.'" (quoting *In re Sigler*, 512 N.W.2d 899, 901-02 (Minn. 1994))).

4. There are No Mitigating Factors for the Court to Consider.

As respondent did not respond to the petition, and presented no mitigating factors for the Court's consideration in this matter, any mitigation claim respondent may have had cannot be taken into consideration. *Cf. In re Cowan*, 540 N.W.2d 825, 827 (Minn. 1995); *In re Day*, 710 N.W.2d 789, 794 (Minn. 2006). Therefore, there are not mitigating factors for this Court to consider.

5. All the Factors Taken Together, the Director Believes a 30-Day Suspension is Appropriate.

The Director acknowledges that this case presents a unique circumstance for the Court, as respondent is not licensed to practice in Minnesota and therefore, any discipline imposed in the form of a suspension, is more symbolic than usual. The Director nonetheless believes a 30-day suspension is warranted. The case precedent supports that the misconduct at issue—multiple instances of engaging in the unauthorized practice of law plus failure to cooperate—warrants a suspension, rather than a public reprimand. The Court's decision in *In re Lallier*, 555 N.W.2d 903 (Minn. 1996) is instructive. Lallier's license was suspended for failure to fulfill his CLE obligations but he nonetheless engaged in the unauthorized practice of law and held himself out as a licensed attorney. *Id.* at 905-906. This Court imposed a suspension of 180 days. *Lallier* concerned only the unauthorized practice of law and failure to cooperate with the Director's investigation, the same violations as this case. Lallier's suspension was more severe than what is requested here because Lallier's misconduct was more extensive. A short suspension in this case is therefore appropriate.

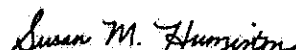
While a 30-day suspension may not impact respondent's legal practice, as he already is not licensed in Minnesota, it correctly reflects the appropriate level of discipline imposed for the misconduct in this case in light of the Court's case law. This is important because should respondent's home state pursue

reciprocal discipline, the level of discipline imposed by the Court where the misconduct occurred would be relevant.

CONCLUSION

The nature and cumulative weight of respondent's misconduct and the harm to the public and the legal profession, and the absence of any proven mitigating factors, warrant a minimum 30-day suspension.

Respectfully submitted,



Humiston, Susan
152 39 7020 (11/17/18)

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EXHIBIT 4

FILED

March 9, 2021

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA
IN SUPREME COURT

A20-1247

In re Petition for Disciplinary Action against
Alfonso Kennard, Jr., a Non-Minnesota Attorney.

O R D E R

The Director of the Office of Lawyers Professional Responsibility filed a petition for disciplinary action alleging that respondent Alfonso Kennard, Jr., a lawyer licensed to practice in Texas, committed professional misconduct in Minnesota warranting public discipline. The petition alleged that respondent engaged in the unauthorized practice of law by representing a party in a lawsuit filed in a Minnesota district court without being admitted to practice in Minnesota and continued to do so in violation of a court order, *see* Minn. R. Prof. Conduct 3.4(c), 5.5(a); and failed to cooperate with the Director's investigation, *see* Minn. R. Prof. Conduct 8.1(b), Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

In a November 30, 2020 order, we deemed the allegations in the petition admitted because respondent failed to file an answer to the petition, *see* Rule 13(b), RLPR, and directed the parties to file memoranda regarding the appropriate discipline to impose in this case. The Director recommends that the court suspend respondent for 30 days. Respondent did not make a recommendation as to the appropriate discipline.

We permit lawyers not admitted to practice in Minnesota to provide legal services in Minnesota in certain circumstances. *See* Minn. R. Prof. Conduct 5.5(c)–(d). We also have the authority to discipline a lawyer who provides legal services in Minnesota even when that lawyer is not admitted to practice here. Minn. R. Prof. Conduct 8.5(a) (“A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides . . . any legal services in this jurisdiction.”).

The court has independently reviewed the file and approves the Director’s recommended discipline.

Based upon all the files, records, and proceedings herein,

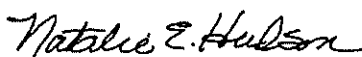
IT IS HEREBY ORDERED THAT:

1. Respondent Alfonso Kennard, Jr., is suspended from the practice of law in Minnesota for a minimum of 30 days, effective 14 days from the date of this order.
2. Respondent shall comply with Rule 26, RLPR (requiring notice of suspension to clients, opposing counsel, and tribunals), and shall pay \$900 in costs pursuant to Rule 24, RLPR.
3. Respondent shall be eligible to have the suspension lifted following the expiration of the suspension period provided that, not less than 15 days before the end of the suspension period, respondent files with the Clerk of the Appellate Courts and serves upon the Director an affidavit establishing that he has complied with Rules 24 and 26, RLPR, and has complied with any other conditions for reinstatement imposed by the court. We expressly waive the reinstatement requirements in Rule 18(e)(4)(1), (f), RLPR, regarding satisfaction of continuing legal education obligations.

4. Within 1 year of the date of this order, respondent shall file with the Clerk of the Appellate Courts and serve upon the Director proof of successful completion of the written examination required for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility. *See* Rule 4.A.(5), Rules for Admission to the Bar (requiring evidence that an applicant has successfully completed the Multistate Professional Responsibility Examination). Failure to timely file the required documentation shall result in automatic suspension, as provided in Rule 18(e)(3), RLPR.

Dated: March 9, 2021

BY THE COURT:



Natalie E. Hudson
Associate Justice

EXHIBIT 5

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY THE
SUPREME COURT OF TEXAS**



FILED
4/21/22

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

**IN THE MATTER OF
ALFONSO KENNARD, JR.
STATE BAR CARD 24036888**

§
§
§

CAUSE NO. 65861

**RESPONDENT ALFONSO KENNARD'S FIRST AMENDED
ORIGINAL ANSWER AND RESPONSE TO PETITION FOR
RECIPROCAL DISCIPLINE AND MOTION TO DISMISS**

TO THE BOARD OF DISCIPLINARY APPEALS:

Respondent, Alfonso Kennard, Jr. ("Kennard") hereby enters a general denial (with explanation) to any and all, singular and plural, claims of Petitioner, Commission for Lawyer Discipline, now asserted or ever to be asserted against him in this Petition for Reciprocal Litigation. Respondent has shown cause why the Board of Disciplinary Appeals ("BODA") should not take any discipline, reciprocal or otherwise, against Respondent, Alfonso Kennard, Jr. Moreover, given the clear rationale and reasoning contained herein, a full-blown hearing is not necessary, Petitioner is unable to meet the requisite burdens of proof, and this matter should be summarily dismissed.

I. BACKGROUND STATEMENT AND VERIFIED FACTS

a. Some Personal and Professional Background

Respondent, Alfonso Kennard, Jr. ("Kennard") is a life-long Texan having grown up in El Paso, Texas. Mr. Kennard was raised by his mother, a cafeteria worker, and worked very hard to attend the University of Notre Dame on a full academic scholarship, and, subsequently, St. Mary's University School of Law. At Notre Dame, Kennard served as President of the Class of 1999 and as Student Body President at St. Mary's Law.

After graduation and after nearly a decade of working for large national defense firms, including but not limited to, Epstein Becker Green, Mr. Kennard opened his own employment and civil rights law firm on April 17, 2011, as a Professional Corporation. Exhibit 1, Respondent's Professional Corporation documents.

Alfonso Kennard, as the founding shareholder, is and has been the **sole shareholder in Kennard Law, P.C. since its inception**. Exhibit 1. This will be uber-important for reasons discussed further below. It is worth noting that Kennard has trained many lawyers that have either remained with the Firm or gone on to be recruited by large national and international law firms and are flourishing as legal practitioners.

Respondent, Alfonso Kennard earned his Board Certification in Employment Law by the Texas Board of Legal Specialization in 2010. Kennard was named a Texas Super Lawyer Rising Star in 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017 (less than 2% of all attorneys are selected for this honor). In 2018, 2019, 2020, 2021 and 2022, Kennard was named a Texas Super Lawyer. Additionally, Kennard is AV-Rated by Martindale Hubbell and has also received the Judicial AV selection each of the last four years. Judges are polled and asked to identify the best attorneys by practice area, and Kennard has been selected as one of the top employment law attorneys according to judges that handle these matters in Texas, both in Federal and State Court. Kennard also serves as a mentor to Latino entrepreneurs as part of the Latino Business Action Network at the Graduate School of Business at Stanford University. Kennard also spent three years serving as President of the Notre Dame Alumni Association for Houston.

Kennard has three children, Ava (14), Alfonso III (12), and Grace (9)—who he happens to share a birthday with. He has coached all their sports teams and is currently the team announcer for the Post Oak Little League Minors RiverDogs.

b. **What Was Kennard Doing in Minnesota?**

Kennard retained a cloud service/case management systems provider in Texas for everyday business use for his growing law firm, Kennard Law, P.C. Unfortunately, the provider failed to provide reliable service to Kennard Law. The company, Uptime Systems, although based in Minnesota, advertised and solicited client law firms all over the country, and provided services in Texas as well. Kennard was one of their first clients in Texas. Unfortunately, over time, Uptime Systems was more concerned with expansion and less concerned with servicing the clients they had, including his law firm.

On occasion, the cloud servers would be down for several days at a time. As such, Kennard Law could not consistently operate, and the productivity loss was beyond frustrating. This fell on deaf ears at Uptime. Kennard refused to continue paying for the substandard services, filed a lawsuit in Harris County, Texas and Uptime had also threatened to delete Kennard Law's stored client data. It is worth noting that the Minnesota court allowed Uptime to delete client-proprietary data. This is not justice.

It is also worth noting that the Minnesota Supreme Court, around the same time it denied Kennard due process (as will be discussed further), issued an Opinion that overturned a felony rape conviction because the woman was willingly intoxicated at the time of the rape. See <https://www.usatoday.com/story/news/politics/2021/03/27/minnesota-supreme-court-drunk-rape-victim-not-incapacitated/7027981002/>. The Minnesota Supreme Court ruled that a person can't be found guilty of sexually assaulting someone, who is mentally incapacitated due to intoxication, if that person became intoxicated by voluntarily ingesting drugs or alcohol. See *State of Minnesota v. Khalil* (Minn. Sup. Ct. 2021). The Minnesota Supreme Court basically overturned a felony rape conviction because the victim had been drinking. This is not justice.

The dispute between Kennard and Uptime Systems ended up in Minnesota—absolutely not by choice, but because of a choice of venue provision in the Uptime contract. Kennard Law sued Uptime however, the Texas state district court upheld a Minnesota choice of law provision contained in the services agreement. Uptime then turned around and immediately sued Kennard Law, P.C. in Minnesota.

Kennard Law (which is Kennard) did not have the financial resources at that time to spend \$50,000.00 to \$100,000.00 or more to hire counsel to defend the underlying matter filed by Uptime in Minnesota against Kennard. For Kennard, payroll and bills came first, and this was simply not in the budget. This was even more the case during Covid. He would ultimately be left to defend himself and the law firm he has given his life to against the frivolous action brought in Minnesota.

Kennard did appear *pro se*¹ on behalf of his Professional Corporation in state court and then subsequently in Federal Court in Minnesota. This is absolutely true. In sum, Kennard got “home cooked” by virtue of not being allowed to defend himself because he was an attorney in Texas, and despite his constant attempts to represent himself and his law firm *pro se*. **Kennard has never represented, nor sought to represent, anyone else in Minnesota ever, other than himself.** As will be discussed below, this was at all times allowable under Minnesota statute.

Attorneys for Uptime, while their lawsuit was pending in Minnesota, reported Mr. Kennard’s appearing *pro se* to the State Bar of Minnesota as an alleged violation. Kennard did respond to the Minnesota Bar by repeatedly informing them that he was representing Kennard Law P.C. as the sole shareholder of the entity **only**. The Minnesota Bar, not satisfied with Kennard’s multiple responses that he was only representing himself, opted to take the alleged disciplinary issue to the Supreme Court of Minnesota.

¹ It is important to note that Kennard never tried or intended to solicit or represent any cases in Minnesota other than defending his corporation as the sole shareholder in that state.

This part of the story took place during the peak of Covid-19. Kennard did not receive timely notice of the Minnesota Supreme Court proceedings. Kennard had no access to the Minnesota filing system. Kennard received no alerts via electronic means during the heart of the pandemic and “work from home” era. Kennard allowed all employees to work from home for their safety and to accommodate their need to care for children where no daycare was available. In sum, Kennard received no notice of the proceedings against him until it was deemed “too late.” This is not due process.

Shortly after the Covid-19 pandemic began in March 2020, Kennard Law maintained no physical office space, all employees worked from home, and the Minnesota Supreme Court failed to send electronic notices to Alfonso Kennard, Jr. Kennard raised those issues on multiple occasions to the Minnesota Supreme Court and was denied relief each and every time. This is not due process.

Contrary to allegations, Kennard **did** file a motion for and in fact obtained *pro hac vice* status in Uptime’s Minnesota case against him. Exhibit 2, Docket Sheet as it relates to Kennard’s *pro hac vice* Motion for self-representation only. Kennard was not trying to “sneak around” pretending to be a Minnesota lawyer. Nothing could be further from the truth. Kennard has never sought admission to the Minnesota Bar and never will. Kennard has never advertised in Minnesota. Kennard has never represented a client in Minnesota—not ever.

Kennard did file his *pro hac vice* Application on July 17, 2020. The Court granted that Pro Hac Vice Application for Kennard on July 28, 2020. Less than a month later and on August 27, 2020, Uptime’s counsel moved to revoke Kennard’s *pro hac vice* status. Briefing ensued for months. The Court ultimately granted Uptime’s motion and revoked Kennard’s *pro hac vice* status (as well as sanctioned him).

Subsequently, the Minnesota Appellate Court's dated the disciplinary Order against Mr. Kennard on March 9, 2021.

The Court wholly failed to issue the Order electronically to Mr. Kennard. The Court sent Respondent a notice of the Order via Certified Mail (#7018 1830 0002 1141 9729). The certified letter sent by the Office of the Clerk to Mr. Kennard was postmarked March 12, 2021, **three (3) days after the Order was issued.**

The Order, mailed on March 12, 2021, would presumptively have been received at a minimum, three (3) days after that (which would be March 15, 2021). Respondent did not receive the certified letter from the Office of the Clerk until March 18, 2021.²

Respondent Kennard's subsequent Motion/Petition to vacate the Order was timely postmarked by FedEx on March 26, 2021.

Despite Respondent's timeliness, the Minnesota Disciplinary Body absolutely refused to accept Respondent Kennard's Motion for Reconsideration and Rehearing.³ They didn't even read it. It was denied on arrival. This is not due process.

Neither the state or federal courts in Minnesota (nor the Minnesota Bar) ever considered the fact (nor was it argued) that Mr. Kennard is and always has been the 100 percent sole shareholder of his corporation and during the pendency of the lawsuit in Minnesota. This is incredibly important. Why?

² Mr. Kennard verifies these facts in the attached Sworn Verification.

³ Rule 140.1 presumes that Notice has actually been afforded to the Respondent via the electronic system and that Respondent is made aware that an Order was issued. That was absolutely not the case here. Respondent only received the letter on March 18, 2021. This makes perfect sense because the certified letter was sent on a Friday from Minnesota and received by Respondent on the next Thursday (and since the letter was likely not sent by the post office until after the weekend). Kennard also enclosed a check for \$100.00 since he has been unable to locate an electronic method to process a fee. He also provided his email to: alfonso.kennard@kennardlaw.com and since the Minnesota electronic filing system will (and still does not) allow Kennard alerts or filing privileges

Minnesota law allows the sole shareholder of a corporation to represent themselves in a Minnesota court—regardless of whether they are an attorney or not. Kennard was ultimately right all along. He was 100 % within his rights to represent Kennard Law P.C. in any Minnesota court. Granted, Kennard never got far enough in any process to raise this issue formally. Nonetheless, it does not change the fact that Kennard did not violate any law or ethical rule in Minnesota by representing himself. This was lost on the Minnesota tribunals. It must not be lost here—in Texas—the only State he is licensed in and the only State he wants to be licensed in.

II. GENERAL DENIAL

Respondent, Alfonso Kennard, Jr. hereby enters a general denial (with explanation) to any and all, singular and plural, claims of Petitioner, Commission for Lawyer Discipline, now asserted or ever to be asserted against him in this Petition for Reciprocal Litigation. Respondent has shown cause why the Board of Disciplinary Appeals (“BODA”) should not take any discipline, reciprocal or otherwise, against Respondent, Alfonso Kennard, Jr. Respondent incorporates all eligible defenses herein.

III. SPECIFIC DENIAL, DEFENSES AND RESPONSES TO PETITIONER’S PETITION

A. Respondent, Alfonso Kennard, Jr., did not violate the Unauthorized Practice of Law rule, as codified, in Minnesota. As such, there can be no “reciprocal discipline” where there was no violation to begin with. The Minnesota court system never realized this, but certainly would have if: (1) the grieving attorney for Uptime Systems had met his duty of candor to the tribunal by addressing that Minnesota law allows self-representation here, and (2) Kennard had been given actual due process to defend himself and had been properly given notice of filings and orders.

B. Alfonso Kennard, Jr., is and has been the sole shareholder of Kennard Law since its inception in 2011. That means, he could at all times represent Kennard Law in Minnesota, and even in Texas for that matter. There would have been no violation here, either.

C. The Minnesota Statute is clear. See Minnesota Statute 481.02 **Unauthorized Practice of Law** Subsection 3 **Permitted actions** (the provisions of this section shall not prohibit): (15) the sole shareholder of a corporation from appearing on behalf of the corporation in court.

481.02 MINNESOTA STATUTES 2021

Subd. 3. **Permitted actions.** The provisions of this section shall not prohibit:

(1) any person from drawing, without charge, any document to which the person, an employer of the person, a firm of which the person is a member, or a corporation whose officer or employee the person is, is a party, except another's will or testamentary disposition or instrument of trust serving purposes similar to those of a will;

(2) a person from drawing a will for another in an emergency if the imminence of death leaves insufficient time to have it drawn and its execution supervised by a licensed attorney-at-law;

(3) any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, the insureds in policies issued or to be issued by it, in accordance with the terms of the policies;

(4) a licensed attorney-at-law from acting for several common-carrier corporations or any of its subsidiaries pursuant to arrangement between the corporations;

(5) any bona fide labor organization from giving legal advice to its members in matters arising out of their employment;

(6) any person from conferring or cooperating with a licensed attorney-at-law of another in preparing any legal document, if the attorney is not, directly or indirectly, in the employ of the person or of any person, firm, or corporation represented by the person;

(7) any licensed attorney-at-law of Minnesota, who is an officer or employee of a corporation, from drawing, for or without compensation, any document to which the corporation is a party or in which it is interested personally or in a representative capacity, except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will, but any charge made for the legal work connected with preparing and drawing the document shall not exceed the amount paid to and received and retained by the attorney, and the attorney shall not, directly or indirectly, rebate the fee to or divide the fee with the corporation;

(8) any person or corporation from drawing, for or without a fee, farm or house leases, notes, mortgages, chattel mortgages, bills of sale, deeds, assignments, satisfactions, or any other conveyances except testamentary dispositions and instruments of trust;

(9) a licensed attorney-at-law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom the attorney is employed and by whom no compensation is, directly or indirectly, received for the services;

(10) any person or corporation engaged in the business of making collections from engaging or turning over to an attorney-at-law for the purpose of instituting and conducting suit or making proof of claim of a creditor in any case in which the attorney-at-law receives the entire compensation for the work;

(11) any regularly established farm journal or newspaper, devoted to general news, from publishing a department of legal questions and answers to them, made by a licensed attorney-at-law, if no answer is accompanied or at any time preceded or followed by any charge for it, any disclosure of any name of the maker of any answer, any recommendation of or reference to any one to furnish legal advice or services, or by any legal advice or service for the periodical or any one connected with it or suggested by it, directly or indirectly;

(12) any authorized management agent of an owner of rental property used for residential purposes, whether the management agent is a natural person, corporation, partnership, limited partnership, or any other business entity, from commencing, maintaining, conducting, or defending in its own behalf any action in any court in this state to recover or retain possession of the property, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal;

(13) any person from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state pursuant to the provisions of section [504B.375](#) or sections [504B.185](#) and [504B.381](#) to [504B.471](#) or from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state for the recovery of rental property used for residential purposes pursuant to the provisions of section [504B.285, subdivision 1](#), or [504B.301](#), except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal, and provided that, except for a nonprofit corporation, a person who is not a licensed attorney-at-law shall not charge or collect a separate fee for services rendered pursuant to this clause;

(14) the delivery of legal services by a specialized legal assistant in accordance with a specialty license issued by the supreme court before July 1, 1995;

(15) the sole shareholder of a corporation from appearing on behalf of the corporation in court; or

(16) an officer, manager, partner, or employee or an agent of a condominium, cooperative, or townhouse association from appearing on behalf of a corporation, limited liability company, partnership, sole proprietorship, or association in conciliation court or in a district court action removed from conciliation court, in accordance with section [491A.02, subdivision 4](#).

D. Alfonso Kennard Jr., as the sole shareholder of his corporation **had the absolute right to represent his corporation (Kennard Law) in Court in Minnesota when it was sued by Uptime.**

See Exhibit 3 Minnesota Statute 481.02. re: Unauthorized Practice of Law.

E. Kennard did not violate any statute or disciplinary rule of the state of Minnesota. While opposing counsel, the courts and the disciplinary process were “concerned” that Kennard was not licensed in Minnesota, all wholly failed to question, ascertain or even consider that Kennard was the sole shareholder of his corporation and therefore within his right to defend his sole shareholder corporation. **Kennard was and is always legally allowed to represent his own entity in both Texas and Minnesota, regardless of being licensed in Minnesota or not.**

F. Kennard has not violated any Texas disciplinary rule by representing his own entity, of which he does and has owned 100 percent of all shares pertaining thereto. Kennard never sought to represent any other client or entity. He appeared in courts in Minnesota, at all times, strictly to

represent Kennard Law as a defendant in matter with a Minnesota choice of venue provision.

Again, this is allowed by Minnesota statute. At all times in Minnesota State Court, Kennard appeared as “pro se,” and did not represent that he was an attorney licensed in Minnesota. In Minnesota federal court, Kennard appeared “pro hac vice,” and at no time represented himself to be licensed to practice in the State of Minnesota.

G. Petitioner fails to satisfy the legal requirements necessary to bring this action against Kennard. In fact, it appears that this panel may lack jurisdiction to hear this matter given that no statute or ethical rule was violated. Even if not, Petitioner is wholly unable to meet the clear and well-stated requirements necessary to bring this type of action.

H. The State Bar of Texas website (www.texasbar.com) shows the standard for all attorneys and the world to see, and states clearly and unequivocally as follows:

RECIPROCAL DISCIPLINE

If an attorney is disciplined in another jurisdiction **where the attorney is licensed to practice law,** the CDC **may** seek the identical or “reciprocal” discipline. These proceedings are filed with the Board of Disciplinary Appeals. The CDC files a petition for reciprocal discipline, which includes a certified copy of the order of discipline from the other jurisdiction and requests that the lawyer be disciplined in Texas. BODA notifies the attorney, who has 30 days to show why imposition of the identical discipline in Texas would be unwarranted. Defenses available to the attorney include the following:

- The procedure in the other jurisdiction was so lacking in notice or opportunity to be heard that the attorney was deprived of due process.
- There was such an infirmity of proof in the other jurisdiction that the conclusion that was reached should not be accepted as final.
- Imposition of identical discipline would result in grave injustice.
- That the misconduct established in the other jurisdiction warrants a substantially different discipline in this state.
- That the misconduct for which the attorney was disciplined in the other jurisdiction does not constitute professional misconduct in this state.

Absent establishment of a defense, BODA shall impose discipline identical, to the extent practicable, with that imposed by the other jurisdiction. Appeals from decisions in reciprocal discipline cases are to the Supreme Court of Texas.

I. Petitioner cannot get past the first sentence of the standard for “reciprocal discipline,” **which requires that the attorney be licensed in the other jurisdiction for reciprocal discipline to even be allowed to be pursued by the CDC.** Moreover, the CDC “may” pursue discipline (**but only if** the attorney was actually licensed in the other state)—but it is not required. Counsel for CDC has stated that she had no choice but to pursue this because of the rule. This is incorrect according to the rule as presented to Texas attorneys on the topic at www.texasbar.com

J. Petitioner cannot show that Kennard was ever licensed in Minnesota, and Kennard has at all times represented that he is not. The standard is clear: discipline can only be sought only “**if** an attorney is disciplined **in another jurisdiction where the attorney is licensed to practice law.**” That is clearly not the case here. **Petitioner cannot satisfy this case-definitive requirement. This matter must be dismissed.**

K. Kennard did not violate a rule by representing himself. The Minnesota statute is clear, even if this was lost on the tribunals in Minnesota. Kennard was not licensed “in another jurisdiction,” and therefore, “reciprocal discipline” would be a travesty of justice and ruin a twenty (20) plus year career; a career that started way before then when Kennard worked hard to make something of himself starting when he was a child growing up in El Paso, Texas.

L. Petitioner relies heavily on the *Teater* matter. This Opinion does not apply here at all. **Teater was actually dual-licensed in Texas and Kentucky.** Kentucky requested reciprocal discipline from Texas. Teater failed to appear at any hearing in any State. Kennard has appeared. Teater had a default judgement against her in Kentucky and Texas. Kennard is participating. Teater was licensed in the state where she was first disciplined. Kennard is not and has never been licensed in Minnesota. Minnesota has requested reciprocal discipline, yet Kennard was never

licensed there⁴. Thus, the standard for reciprocal discipline is not, and cannot be met. *Teater* simply does not apply.

	KENNARD	v.	TEATER
Dual Licensed			X
Licensed in Texas	X		X
Licensed in Kansas			X
Appeared	X		
Default Judgment			X

M. Summarily, Teater was in fact licensed in the State (Kentucky) requesting reciprocal discipline from Texas—that is the difference, and a huge difference at that. Teater was actually licensed in the State requesting discipline from Texas, while Kennard is not, has not, and has never tried to be and therefore, Kennard is not “eligible” for reciprocal discipline in Texas.

N. Respondent, Alfonso Kennard, Jr., Kennard further alleges that the procedure followed in Minnesota on the disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process as Kennard timely requested a rehearing as set out, above. Due Process was at all times lacking in Minnesota, which failed to provide notice to Kennard of the proceedings as they were happening. Kennard submitted a timely response based on the date a certified letter was finally received, yet the Minnesota court outright refused to hear it or even file it in their system.

⁴ Petitioner cannot ignore that licensure in the other jurisdiction is a specific requirement for bringing an action for reciprocal discipline in Texas.

O. Respondent Alfonso Kennard, while legitimately representing his sole shareholder corporation, did apply and was granted *pro hac vice* status.⁵ Kennard clearly followed the rules to be heard in federal court in Minnesota, which he was not even required to do given that Minnesota allows self-representation, regardless of “attorney status” to anyone representing their 100 percent owned entity.

P. Respondent, Alfonso Kennard, did cooperate with the Minnesota State Bar. Kennard did speak to the representative of the Minnesota Bar several times (as well as emailed) and explained that he was the 100 percent owner of the entity he was representing, and only that entity.

Q. A grave injustice would be committed if a 20-year attorney has his career ruined for doing something (representing himself and his entity only in another jurisdiction) that he was never prohibited from doing under Minnesota and Texas Law in the first place. TBLS and SBOT have opted to not discipline Kennard for any Minnesota-related issues presented (Kennard self-reported to both); BODA must do the same.

R. There is clearly an infirmity of proof coming from Minnesota, which wholly failed to address or recognize that the conduct it “suspended” Kennard for was not worthy of suspension to begin with and because Kennard was at all times allowed under Minnesota law to represent his entity—which he owns 100 percent of. Kennard would absolutely be allowed to represent his own law firm in Texas as well. There would be no violation here and, there was no violation in Minnesota, either.

⁵ Importantly, there is much mention of an Order that corporations must be represented by attorneys. However, there are clear exceptions to having an attorney and the Court failed to specify same. Counsel for Uptime neglected their duty of candor by failing to advise the court of this statute. Alfonso Kennard, Jr., as the sole shareholder of the corporation can and could at all times represent it in court. He could also represent the corporation under Minnesota law. He would be allowed to do the same in Texas. There was no violation anywhere.

IV. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Respondent, Alfonso Kennard prays this Board finds that any and all discipline against him as noticed pursuant to 9.02 Texas Rules of Disciplinary Procedure is found unwarranted and this matter be dismissed in its entirety.

Respectfully Submitted,



/s/ Ellen Sprovach
Ellen Sprovach
Texas State Bar ID 24000672
ellen.sprovach@kennardlaw.com
5120 Woodway Dr., Suite 10010
Houston, Texas 77056
(713) 742-0900 (main)
(832) 558-9412 (facsimile)

**ATTORNEY IN CHARGE
FOR RESPONDENT**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument has been forwarded via e-mail on this 21st day of April 2022.

Jackie Truitt
Executive Assistant
Board Of Disciplinary Appeals
Po Box 12426
Austin, Tx 78711

Via E-mail: filing@txboda.org

Amanda Kates
Assistant Disciplinary Counsel
State Bar of Texas

Via E-mail: Amanda.kates@texasbar.com

/s/ Ellen Sprovach
Ellen Sprovach

BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY THE
SUPREME COURT OF TEXAS

IN THE MATTER OF
ALFONSO KENNARD, JR.
STATE BAR CARD 24036888

§
§
§

CAUSE NO. 65861

VERIFICATION OF ALFONSO KENNARD, JR.

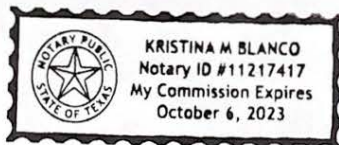
1. "My name is Alfonso Kennard, Jr.; I am over the age of eighteen (18) and I am fully competent to make this declaration. All of the facts stated herein are true and correct and are based upon my personal knowledge. The documents attached are true and correct copies.
2. I am the Sole Shareholder for Kennard P.C. My law firm just recently had its 10th year anniversary. Prior to running this firm, I worked for several years for large defense firms after graduating from St. Mary's School of Law and the University of Notre Dame. I have been licensed as an attorney in Texas since 2002.
3. The facts contained in Respondent Alfonso Kennard's Amended Original Answer, Response to Petition For Reciprocal Discipline and Motion to Dismiss are true and correct.

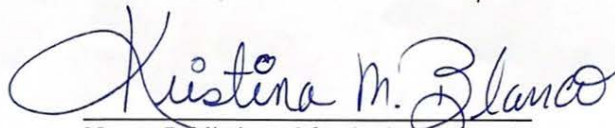
I declare under penalty of perjury under the laws of the state of Texas that the facts I have provided on this form and any attachments are true.



ALFONSO, KENNARD, JR.

Subscribed and sworn to before me on this 30th day of March, 2022.




Notary Public in and for the State of Texas

My commission expires October 6, 2023

EXHIBIT 1

Form 203

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709

Filing Fee: \$300

**Certificate of Formation
Professional Corporation**

Filed in the Office of the
Secretary of State of Texas
Filing #: 801412940 04/17/2011
Document #: 364260720002
Image Generated Electronically
for Web Filing

Article 1 - Entity Name and Type

The filing entity being formed is a professional corporation. The name of the entity is:

Kennard Law P.C.

The name must contain one of the words of organization required for business corporations or an abbreviation thereof, or the phrase "Professional Corporation" or the initials "P.C." The name must not be the same as, deceptively similar to or similar to that of an existing corporate, limited liability company, or limited partnership name on file with the secretary of state. A preliminary check for the "name availability" is recommended.

Article 2 - Registered Agent and Registered Office

☐ A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

OR

☒ B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Alfonso Kennard Jr

C. The business address of the registered agent and the registered office address is:

Street Address:

3746 Rocky Ledge Lane Katy TX 77494

Consent of Registered Agent

☐ A. A copy of the consent of registered agent is attached.

OR

☒ B. The consent of the registered agent is maintained by the entity.

Article 3 - Directors

The number of directors constituting the initial board of directors and the names and addresses of the person or persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualified are set forth below:

Director 1: **Alfonso Kennard Jr**

Address: **3746 Rocky Ledge Lane Katy TX, USA 77494**

Article 4 - Authorized Shares

The total number of shares the corporation is authorized to issue and the par value of each of such shares, or a statement that such shares is without par value, is set forth below.

Number of Shares	Par Value (must choose and complete either A or B)	Class	Series
10000	<input type="checkbox"/> A. has a par value of \$ <input checked="" type="checkbox"/> B. without par value.		

If the shares are to be divided into classes, you must set forth the designation of each class, the number of shares of each class, and the par value (or statement of no par value), of each class. If shares of a class are to be issued in series, you must provide the designation of each series. The preferences, limitations, and relative rights of each class or series must be stated in the space provided for supplemental information.

Article 5 - Purpose

The purpose for which the corporation is organized is for the rendition of the professional service set forth below (only one specific type of professional service is permitted) and services ancillary to the rendition thereto.

Legal/Attorney services and consultation

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

Effectiveness of Filing

☒ A. This document becomes effective when the document is filed by the secretary of state.

OR

☐ B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Organizer

The name and address of the organizer is set forth below.

Alfonso Kennard Jr. **3746 Rocky Ledge Lane, Katy, TX 77494**

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Alfonso Kennard Jr.

Signature of organizer.

FILING OFFICE COPY

EXHIBIT 2

07/17/2020	5	MOTION for Admission Pro Hac Vice for Attorney Alfonso Kennard, Jr.. Filing fee \$ 100, receipt number AMNDC-7891987 filed by Kennard Law, P.C.. (Minenko, Michael) (Entered: 07/17/2020)
07/28/2020	6	TEXT ONLY ENTRY: ORDER granting 5 Motion for Admission Pro Hac Vice of Attorney Alfonso Kennard for Kennard Law, P.C. Approved by Magistrate Judge Elizabeth Cowan Wright on 7/28/2020. (NAH) (Entered: 07/28/2020)
08/05/2020	7	ORDER/NOTICE: Rule 26 Meeting Report due by 8/17/2020. TELEPHONIC Pretrial Conference set for 8/24/2020 at 11:00 AM before Magistrate Judge Elizabeth Cowan Wright. Signed by Magistrate Judge Elizabeth Cowan Wright on 8/5/2020. (Attachments: # 1 Consent Form)(TMA) (Entered: 08/05/2020)
08/14/2020	8	NOTICE of Appearance by Steven M. Cerny on behalf of Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	9	RULE 7.1 DISCLOSURE STATEMENT. There is no parent corporation, publicly held corporation or wholly-owned subsidiary to report for Plaintiff Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	10	MOTION to Remand to State Court , MOTION for Attorney Fees filed by Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	11	NOTICE OF HEARING ON MOTION 10 MOTION to Remand to State Court MOTION for Attorney Fees : Date and time to be determined. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	12	MEMORANDUM in Support re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	13	AFFIDAVIT of Steven M. Cerny in SUPPORT OF 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC. (Attachments: # 1 Exhibit(s) Exhibit 1, # 2 Exhibit(s) Exhibit 2, # 3 Exhibit(s) Exhibit 3, # 4 Exhibit(s) Exhibit 4, # 5 Exhibit(s) Exhibit 5, # 6 Exhibit(s) Exhibit 6, # 7 Exhibit(s) Exhibit 7, # 8 Exhibit(s) Exhibit 8, # 9 Exhibit(s) Exhibit 9, # 10 Exhibit(s) Exhibit 10, # 11 Exhibit(s) Exhibit 11, # 12 Exhibit(s) Exhibit 12, # 13 Exhibit(s) Exhibit 13, # 14 Exhibit(s) Exhibit 14, # 15 Exhibit(s) Exhibit 15)(Cerny, Steven) (Entered: 08/14/2020)

08/14/2020	14	PROPOSED ORDER TO JUDGE re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	15	MEET and CONFER STATEMENT re 10 Motion to Remand to State Court, Motion for Attorney Fees filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/14/2020)
08/17/2020	16	(Text-Only) NOTICE TO ATTORNEY regarding Dispositive Motions briefing schedule: All dispositive motions must comply with Local Rule 7.1(c). Responses to dispositive motions shall be filed with the Court on or before 21 days after the service of the supporting memorandum to the original motion. Replies to responsive briefs shall be filed 14 days after the service of the response to the dispositive motion. <u>Upon the motion being fully briefed and filed, counsel for the moving party shall email Chief Judge Tunheims chambers at Tunheim_Chambers@mnd.uscourts.gov to request a hearing date.</u> Upon receiving from Chief Judge Tunheims Courtroom Deputy a hearing date, time and location, the moving party shall file the amended notice of hearing at that time. (HAZ) (Entered: 08/17/2020)
08/17/2020	17	REPORT of Rule 26(f) Planning Meeting. Filed by Uptime Systems, LLC. Jointly Signed by Kennard Law, P.C..(Cerny, Steven) (Entered: 08/17/2020)
08/18/2020	18	ORDER: The Pretrial conference scheduled for 8/24/20 is CANCELLED. See ORDER for details. Signed by Magistrate Judge Elizabeth Cowan Wright on 8/18/2020.(TMA) (Entered: 08/18/2020)
08/27/2020	19	MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/27/2020)
08/27/2020	20	NOTICE OF HEARING ON MOTION 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. : Motion Hearing set for 10/2/2020 at 01:00 PM in Video Conference (no courtroom) before Magistrate Judge Elizabeth Cowan Wright. (Cerny, Steven) (Entered: 08/27/2020)
08/28/2020	21	MEMORANDUM in Support re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 08/28/2020)

08/29/2020	22	Declaration of Steven M. Cerny in Support of 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Attachments: # 1 Exhibit 1)(Cerny, Steven) (Entered: 08/29/2020)
08/29/2020	23	PROPOSED ORDER TO JUDGE re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/29/2020)
08/29/2020	24	MEET and CONFER STATEMENT re 19 Motion for Miscellaneous Relief filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/29/2020)
08/29/2020	25	CERTIFICATE OF SERVICE by Uptime Systems, LLC re 21 Memorandum in Support of Motion, (Cerny, Steven) (Entered: 08/29/2020)
08/31/2020	26	MOTION to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C.. (Attachments: # 1 Exhibit(s), # 2 Exhibit(s))(Kennard, Alfonso) (Entered: 08/31/2020)
08/31/2020	27	PROPOSED ORDER TO JUDGE re Defendant's Motion to Amend Answer 26 Motion to Alter/Amend/Supplement Pleadings. (Kennard, Alfonso) (Entered: 08/31/2020)
08/31/2020	28	MEET and CONFER STATEMENT re 26 Motion to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C..(Kennard, Alfonso) (Entered: 08/31/2020)
09/04/2020	29	(Text-Only) ORDER/NOTICE: Motion Hearing on Plaintiff's Motion to Amend is set for 10/15/2020 at 10:00 AM before Magistrate Judge Elizabeth Cowan Wright via videoconference. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/4/2020.(TMA) (Entered: 09/04/2020)
09/04/2020	30	RESPONSE in Opposition re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Kennard Law, P.C.. (Attachments: # 1 Exhibit(s), # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Kennard, Alfonso) (Entered: 09/04/2020)
09/04/2020	31	PROPOSED ORDER TO JUDGE re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Kennard Law, P.C..(Kennard, Alfonso) (Entered: 09/04/2020)
09/08/2020	33	(Text-Only) ORDER/NOTICE: Motion Hearing on Defendant's Motion to Amend is reset for 10/26/2020 at 01:00 PM before Magistrate Judge Elizabeth Cowan

		Wright. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/8/2020.(TMA) (Entered: 09/08/2020)
09/18/2020	34	RESPONSE in Opposition re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. , 5 MOTION for Admission Pro Hac Vice for Attorney Alfonso Kennard, Jr.. Filing fee \$ 100, receipt number AMNDC-7891987, 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Kennard Law, P.C.. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate Certificate of Compliance, # 2 Exhibit(s) Ex. 1)(Kennard, Alfonso) (Entered: 09/18/2020)
09/18/2020	35	PROPOSED ORDER TO JUDGE re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. , 5 MOTION for Admission Pro Hac Vice for Attorney Alfonso Kennard, Jr.. Filing fee \$ 100, receipt number AMNDC-7891987 filed by Kennard Law, P.C..(Kennard, Alfonso) (Entered: 09/18/2020)
09/18/2020	36	Reply to Response to Motion re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate, # 2 Certificate of Service)(Cerny, Steven) (Entered: 09/18/2020)
09/18/2020	37	Second Declaration of Steven M. Cerny in Support of 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 09/18/2020)
09/22/2020	38	LETTER TO MAGISTRATE JUDGE by Uptime Systems, LLC <i>Requesting Permission to File Reply Memorandum in Support of Motion to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr.</i> . (Cerny, Steven) (Entered: 09/22/2020)
09/22/2020	39	(Text-Only) ORDER/NOTICE TO ATTORNEY. This case is before the Court on the Motion to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Plaintiff (Dkt. 19). IT IS ORDERED that local counsel for Defendant Kennard Law, P.C., Michael Minenko, appear at the Zoom hearing on the Motion to Revoke. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/22/2020.(TMA) (Entered: 09/22/2020)
09/22/2020	40	(Text-Only) ORDER/NOTICE: Motion Hearing on Motion to revoke pro hoc vice status (Dkt. 19) is reset for 10/7/2020 at 09:30 AM before Magistrate Judge Elizabeth Cowan Wright.(TMA) (Entered: 09/22/2020)
09/22/2020	41	(Text-Only) ORDER in Response to 38 Letter to Magistrate Judge.This case is before the Court on Defendants request to file a reply brief of no more than 2,000 words in support of its Motion to Revoke (Dkt. 38). The request is GRANTED. Defendant may file a reply of no more than 2,000 words on or before

		September 28, 2020. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/22/2020.(TMA) (Entered: 09/22/2020)
09/28/2020	42	Reply to Response to Motion re 19 MOTION <i>to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr.</i> filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 09/28/2020)
10/05/2020	43	LETTER TO MAGISTRATE JUDGE by Uptime Systems, LLC . (Attachments: # 1 Petition For Disciplinary Action)(Cerny, Steven) (Entered: 10/05/2020)
10/06/2020	44	First MOTION for Leave to File Reply/Surreply filed by Kennard Law, P.C.. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate Certificate of Compliance, # 2 Exhibit(s) Ex. 1, # 3 Exhibit(s) Ex. 2, # 4 Exhibit(s) Ex. 3)(Kennard, Alfonso) (Entered: 10/06/2020)
10/07/2020	45	Minute Entry for proceedings held before Magistrate Judge Elizabeth Cowan Wright: granting 44 Motion for Leave to File Reply/Surreply; Motion Hearing held on 10/7/2020 re 19 MOTION <i>to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr.</i> filed by Uptime Systems, LLC, 44 First MOTION for Leave to File Reply/Surreply filed by Kennard Law, P.C.. (Court Reporter Renee Rogge) (EMCS) (Entered: 10/07/2020)
10/07/2020	46	ORDER. If Mr. Kennard wishes to make an oral argument on the Motion to Revoke, Mr. Kennard is ordered to file a letter showing good cause why he should be permitted to do so, in view of his failure to appear at the October 7 hearing, no later than 9:00 a.m. on October 8, 2020. Signed by Magistrate Judge Elizabeth Cowan Wright on 10/7/2020.(EMCS) (Entered: 10/07/2020)
10/08/2020	47	LETTER TO MAGISTRATE JUDGE by Kennard Law, P.C. . (Kennard, Alfonso) (Entered: 10/08/2020)
10/12/2020	48	MEMORANDUM in Support re 26 MOTION to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C.. (Attachments: # 1 Certificate of Compliance)(Kennard, Alfonso) (Entered: 10/12/2020)
10/13/2020	49	TRANSCRIPT of Motions Hearing held on 10/7/2020 before Magistrate Judge Elizabeth Cowan Wright. (19 pages). Court Reporter: Renee Rogge. For a copy of the transcript, please file a Transcript Request under <i>Other Filings/Other Documents</i> . Transcript temporarily sealed to determine if redactions are required. Parties have 7 days to file a <i>Notice of Intent to Request Redaction</i> or <i>Notice that No</i>

		<p><i>Redaction is Required.</i> In accordance with Judicial Conference policy and Local Rule 80.1, the transcript may be released and made remotely electronically available to the public in 90 days. For further information on redaction procedures, please review Local Rule 5.5 and Case Information >Transcripts, Court Reporters and Digital Audio Recordings.</p> <p>Notice Intent/No Intent to Request Redactions due 10/20/2020. Redaction Request due 11/3/2020. Redacted Transcript Deadline set for 11/13/2020. Release of Transcript Restriction set for 1/11/2021.</p> <p>(RAR) (Entered: 10/13/2020)</p>
10/14/2020	50	ORDER/NOTICE TO ATTORNEY regarding 26 MOTION to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C. Signed by Magistrate Judge Elizabeth Cowan Wright on 10/14/2020.(EMCS) (Entered: 10/14/2020)
10/30/2020	51	AMENDED NOTICE of Hearing on Motion: 10 MOTION to Remand to State Court MOTION for Attorney Fees : Motion Hearing set for 12/1/2020 at 10:30 AM in Video Conference (no courtroom) before Chief Judge John R. Tunheim. (Cerny, Steven) (Entered: 10/30/2020)
11/20/2020	52	MOTION for Sanctions filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service)(Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	53	NOTICE OF HEARING ON MOTION 52 MOTION for Sanctions : Motion Hearing set for 12/14/2020 at 01:00 PM in Video Conference (no courtroom) before Magistrate Judge Elizabeth Cowan Wright. (Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	54	MEMORANDUM in Support re 52 MOTION for Sanctions filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	55	Declaration of Steven M Cerny in Support of 52 MOTION for Sanctions filed by Uptime Systems, LLC. (Attachments: # 1 Exhibit(s) Exhibit 1, # 2 Exhibit(s) Exhibit 2, # 3 Exhibit(s) Exhibit 3, # 4 Exhibit(s) Exhibit 4, # 5 Exhibit(s) Exhibit 5, # 6 Exhibit(s) Exhibit 6, # 7 Exhibit(s) Exhibit 7, # 8 Exhibit(s) Exhibit 8, # 9 Exhibit(s) Exhibit 9, # 10 Exhibit(s) Exhibit 10, # 11 Exhibit(s) Exhibit 11, # 12 Exhibit(s) Exhibit 12)(Cerny, Steven) (Entered: 11/20/2020)

11/20/2020	56	MEET and CONFER STATEMENT re 52 Motion for Sanctions filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	57	PROPOSED ORDER TO JUDGE re 52 MOTION for Sanctions filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 11/20/2020)
11/23/2020	58	MEMORANDUM in Opposition re 52 MOTION for Sanctions filed by Kennard Law, P.C.. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate)(Minenko, Michael) (Entered: 11/23/2020)
11/23/2020	59	DECLARATION of Michael J. Minenko in Opposition to 52 MOTION for Sanctions filed by Kennard Law, P.C..(Minenko, Michael) (Entered: 11/23/2020)
11/25/2020	60	ORDER granting 19 Motion. Plaintiffs Motion to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. (Dkt. 19) is GRANTED and Alfonso Kennard, Jr.s pro hac vice admission to the District of Minnesota is REVOKED. Signed by Magistrate Judge Elizabeth Cowan Wright on 11/25/2020. (TMA) (Entered: 11/25/2020)

EXHIBIT 3

481.02 UNAUTHORIZED PRACTICE OF LAW.

Subdivision 1. **Prohibitions.** It shall be unlawful for any person or association of persons, except members of the bar of Minnesota admitted and licensed to practice as attorneys at law, to appear as attorney or counselor at law in any action or proceeding in any court in this state to maintain, conduct, or defend the same, except personally as a party thereto in other than a representative capacity, or, by word, sign, letter, or advertisement, to hold out as competent or qualified to give legal advice or counsel, or to prepare legal documents, or as being engaged in advising or counseling in law or acting as attorney or counselor at law, or in furnishing to others the services of a lawyer or lawyers, or, for a fee or any consideration, to give legal advice or counsel, perform for or furnish to another legal services, or, for or without a fee or any consideration, to prepare, directly or through another, for another person, firm, or corporation, any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or, for a fee or any consideration, to prepare for another person, firm, or corporation, any other legal document, except as provided in subdivision 3.

Subd. 2. **Corporations.** No corporation, organized for pecuniary profit, except an attorney's professional firm organized under chapter 319B, by or through its officers or employees or any one else, shall maintain, conduct, or defend, except in its own behalf when a party litigant, any action or proceeding in any court in this state, or shall, by or through its officers or employees or any one else, give or assume to give legal advice or counsel or perform for or furnish to another person or corporation legal services; or shall, by word, sign, letter, or advertisement, solicit the public or any person to permit it to prepare, or cause to be prepared, any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or hold itself out as desiring or willing to prepare any such document, or to give legal advice or legal services relating thereto or to give general legal advice or counsel, or to act as attorney at law or as supplying, or being in a position to supply, the services of a lawyer or lawyers; or shall to any extent engage in, or hold itself out as being engaged in, the business of supplying services of a lawyer or lawyers; or shall cause to be prepared any person's will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or any other legal document, for another person, firm, or corporation, and receive, directly or indirectly, all or a part of the charges for such preparation or any benefits therefrom; or shall itself prepare, directly or through another, any such document for another person, firm, or corporation, except as provided in subdivision 3.

Subd. 3. **Permitted actions.** The provisions of this section shall not prohibit:

(1) any person from drawing, without charge, any document to which the person, an employer of the person, a firm of which the person is a member, or a corporation whose officer or employee the person is, is a party, except another's will or testamentary disposition or instrument of trust serving purposes similar to those of a will;

(2) a person from drawing a will for another in an emergency if the imminence of death leaves insufficient time to have it drawn and its execution supervised by a licensed attorney-at-law;

(3) any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, the insureds in policies issued or to be issued by it, in accordance with the terms of the policies;

(4) a licensed attorney-at-law from acting for several common-carrier corporations or any of its subsidiaries pursuant to arrangement between the corporations;

(5) any bona fide labor organization from giving legal advice to its members in matters arising out of their employment;

(6) any person from conferring or cooperating with a licensed attorney-at-law of another in preparing any legal document, if the attorney is not, directly or indirectly, in the employ of the person or of any person, firm, or corporation represented by the person;

(7) any licensed attorney-at-law of Minnesota, who is an officer or employee of a corporation, from drawing, for or without compensation, any document to which the corporation is a party or in which it is interested personally or in a representative capacity, except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will, but any charge made for the legal work connected with preparing and drawing the document shall not exceed the amount paid to and received and retained by the attorney, and the attorney shall not, directly or indirectly, rebate the fee to or divide the fee with the corporation;

(8) any person or corporation from drawing, for or without a fee, farm or house leases, notes, mortgages, chattel mortgages, bills of sale, deeds, assignments, satisfactions, or any other conveyances except testamentary dispositions and instruments of trust;

(9) a licensed attorney-at-law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom the attorney is employed and by whom no compensation is, directly or indirectly, received for the services;

(10) any person or corporation engaged in the business of making collections from engaging or turning over to an attorney-at-law for the purpose of instituting and conducting suit or making proof of claim of a creditor in any case in which the attorney-at-law receives the entire compensation for the work;

(11) any regularly established farm journal or newspaper, devoted to general news, from publishing a department of legal questions and answers to them, made by a licensed attorney-at-law, if no answer is accompanied or at any time preceded or followed by any charge for it, any disclosure of any name of the maker of any answer, any recommendation of or reference to any one to furnish legal advice or services, or by any legal advice or service for the periodical or any one connected with it or suggested by it, directly or indirectly;

(12) any authorized management agent of an owner of rental property used for residential purposes, whether the management agent is a natural person, corporation, partnership, limited partnership, or any other business entity, from commencing, maintaining, conducting, or defending in its own behalf any action in any court in this state to recover or retain possession of the property, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal;

(13) any person from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state pursuant to the provisions of section 504B.375 or sections 504B.185 and 504B.381 to 504B.471 or from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state for the recovery of rental property used for residential purposes pursuant to the provisions of section 504B.285, subdivision 1, or 504B.301, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal, and provided that, except for a nonprofit corporation, a person who is not a licensed attorney-at-law shall not charge or collect a separate fee for services rendered pursuant to this clause;

(14) the delivery of legal services by a specialized legal assistant in accordance with a specialty license issued by the supreme court before July 1, 1995;

(15) the sole shareholder of a corporation from appearing on behalf of the corporation in court; or

(16) an officer, manager, partner, or employee or an agent of a condominium, cooperative, or townhouse association from appearing on behalf of a corporation, limited liability company, partnership, sole proprietorship, or association in conciliation court or in a district court action removed from conciliation court, in accordance with section 491A.02, subdivision 4.

Subd. 3a. Real estate closing services. Nothing in this section shall be construed to prevent a real estate broker, a real estate salesperson, or a real estate closing agent, as defined in section 82.55, from drawing or assisting in drawing papers incident to the sale, trade, lease, or loan of property, or from charging for drawing or assisting in drawing them, except as hereafter provided by the supreme court.

Subd. 4. Mortgage foreclosure fees. It shall be unlawful to exact, charge or receive any attorney's fee for the foreclosure of any mortgage, unless the foreclosure is conducted by a licensed attorney at law of Minnesota and unless the full amount charged as attorney's fee is actually paid to and received and retained by such attorney, without being, directly or indirectly, shared with or rebated to any one else; and it shall be unlawful for any such attorney to make any showing of receiving such a fee unless the attorney has received the same or to share with or rebate to any other person, firm, or corporation such fee, or any part thereof, received by the attorney; but such attorney may divide such fee with another licensed attorney at law maintaining the other's place of business and not an officer or employee of the foreclosing party, if such attorney has assisted in performing the services for which the fee is paid, or resides in a place other than that where the foreclosure proceedings are conducted and has forwarded the case to the attorney conducting such foreclosure.

Subd. 5. Corporate fiduciary agents. It shall be unlawful for any corporation, appearing as executor, administrator, guardian, trustee, or other representative, to do the legal work in any action, probate proceeding or other proceeding in any court in this state, except through a licensed attorney at law of Minnesota maintaining the attorney's own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or representative. No attorney's fee shall be charged or paid or received in any such case, unless actually paid to and received and retained by such an attorney at law maintaining the attorney's own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or representative; and it shall be unlawful for such attorney to represent in any manner receiving any sum as a fee or compensation unless the same has been actually received or, directly or indirectly, to divide with or rebate to any person, firm, or corporation any part of any such fee or consideration received by the attorney in any such case; but such attorney may divide such fee with another licensed attorney at law maintaining the other's own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or other representative, if such attorney has assisted in performing the services for which the fees are paid, or resides in a place other than that where the action or proceedings are conducted and has forwarded the case to the attorney conducting the action or proceedings.

Subd. 6. Attorneys of other states. Any attorney or counselor at law residing in any other state or territory in which the attorney has been admitted to practice law, who attends any term of the supreme court, court of appeals, or district court of this state for the purpose of trying or participating in the trial or proceedings of any action or proceedings there pending, may, in the discretion of the court before which the attorney appears in the action or proceeding, be permitted to try, or participate in the trial or proceedings in, the action or proceeding, without being subject to the provisions of this section, other than those set forth in subdivision 2, providing the state in which the attorney is licensed to practice law likewise grants permission to members of the state bar of Minnesota to act as an attorney for a client in that state under the same terms.

Subd. 7. **Lay assistance to attorneys.** Nothing herein contained shall be construed to prevent a corporation from furnishing to any person lawfully engaged in the practice of law, such information or such clerical service in and about the attorney's professional work as, except for the provisions of this section, may be lawful, provided, that at all times the lawyer receiving such information or such services shall maintain full, professional and direct responsibility to the attorney's clients for the information and services so received.

Subd. 8. **Penalty; injunction.** (a) Any person or corporation, or officer or employee thereof, violating any of the foregoing provisions shall be guilty of a misdemeanor; and, upon conviction thereof, shall be punished as by statute provided for the punishment of misdemeanors. It shall be the duty of the respective county attorneys in this state to prosecute violations of this section, and the district courts of this state shall have sole original jurisdiction of any such offense under this section.

(b) A county attorney or the attorney general may, in the name of the state of Minnesota, or in the name of the State Board of Law Examiners, proceed by injunction suit against any violator of any of the provisions above set forth to enjoin the doing of any act or acts violating any of said provisions.

(c) In addition to the penalties and remedies provided in paragraphs (a) and (b), the public and private penalties and remedies in section 8.31 apply to violations of this section.

Subd. 9. **Construing subdivision.** Nothing in subdivision 3a shall be construed to allow a person other than a licensed attorney to perform or provide the services of an attorney or be construed to otherwise conflict with this section.

History: (5687-1) 1931 c 114 s 1; 1959 c 476 s 1; 1969 c 9 s 87; 1974 c 406 s 49; 1981 c 168 s 1; 1983 c 247 s 173,174; 1986 c 444; 1987 c 377 s 6; 1988 c 695 s 3-5; 1991 c 299 s 1; 1992 c 376 art 1 s 1; 1992 c 497 s 1; 1992 c 591 s 1; 1993 c 321 s 1; 1994 c 502 s 1; 1994 c 568 s 2; 1997 c 174 art 12 s 70; 1999 c 86 art 1 s 74; 1999 c 199 art 2 s 19

NOTE: This section was deemed unconstitutional to the extent that it attempts to require courts to allow nonattorneys to appear in court on behalf of corporations in *Haugen v. Superior Development, Inc.*, 819 N.W.2d 715 (Minn. Ct. App. 2012), citing *Nicollet Restoration, Inc. v. Turnham*, 486 N.W.2d 753 (Minn. 1992).

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY THE
SUPREME COURT OF TEXAS**

**IN THE MATTER OF
ALFONSO KENNARD, JR.
STATE BAR CARD 24036888**

§
§
§

CAUSE NO. 65861

**ORDER GRANTING RESPONDENT
ALFONSO KENNARD'S MOTION TO DISMISS**

This Board of Disciplinary Appeals has reviewed the Respondent's Motion for to Dismiss and finds that the Motion should be GRANTED for the reasons stated therein. It is therefore ORDERED that Petition for Reciprocal Discipline is DISMISSED.

Signed this _____ day of _____, 2022.

Presiding Judge

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**

**IN THE MATTER OF
ALFONSO KENNARD, JR.,
STATE BAR CARD NO. 24036888**

§
§
§

CAUSE NO. 65861

ORDER ON RESPONDENT’S MOTION TO DISMISS

ON THIS DAY CAME ON TO BE HEARD, Respondent’s Motion to Dismiss, in the above entitled and numbered cause. After considering the pleadings and argument of counsel, the Board hereby **DENIES** Respondent’s Motion to Dismiss.

SIGNED this _____ day of _____ 2022.

CHAIR PRESIDING