

**FILED**

October 5, 2022

**OFFICE OF  
APPELLATE COURTS**

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against CLAYTON D. HALUNEN,  
a Minnesota Attorney,  
Registration No. 0219721.  
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**PETITION FOR  
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility (Director) files this petition upon the parties' agreement pursuant to Rules 10(a) and 12(a), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney (respondent) was admitted to practice law in Minnesota on October 25, 1991. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

- A. On September 26, 2007, respondent was issued an admonition for sending a letter directly to a party known to be represented by counsel in the matter, in violation of Rule 4.2, Minnesota Rules of Professional Conduct (MRPC).
- B. On January 10, 2001, respondent was issued an admonition for assisting a non-Minnesota-licensed lawyer to engage in the practice of law and maintaining false information about that lawyer on firm letterhead and telephone directory listings, in violation of Rules 5.5(b) and 7.1(a), MRPC.

- C. On February 4, 1999, respondent was issued an admonition for failing to include requisite language within a client's fee agreement, in violation of Lawyers Professional Responsibility Board Opinion 15.

FIRST COUNT

1. At all times relevant, respondent was the managing partner and sole owner of Halunen Law (the law firm). In that capacity, respondent engaged in repeated acts of unwelcome physical and verbal conduct of a sexual nature towards two men in his employ.

2. Respondent's conduct as alleged violated his obligations under the MRPC.

A. D.S. Matter

3. Respondent, then approximately 50 years old, contacted D.S. in the fall of 2014 via a dating app. At the time, D.S. was 19 years old and dissatisfied with his job at a fast-food restaurant while respondent was a well-known and respected member of the legal community.

4. D.S. initially rejected respondent's overtures due to the age difference. Respondent persisted and D.S. eventually met with him in December 2014. During the meeting, D.S. described his dissatisfaction with his job and respondent began discussing the prospect of D.S. working at his law firm. D.S. immediately accepted respondent's offer to interview for a job at his law firm as an administrative assistant. Thereafter, D.S. went through the interview process, was hired, and began working at the law firm on December 15, 2014, as an administrative assistant.

5. Within days of beginning his job at the law firm, respondent took D.S. shopping for clothes and invited D.S. to his home for a holiday party scheduled for December 20, 2014. Later that evening at the party, respondent grabbed D.S.'s buttocks. Respondent's physical contact with D.S. was unwelcome, yet D.S. did not protest as he was eager to please respondent, his employer.

6. Respondent's unwelcome sexual contact with D.S. at the holiday party on December 20, 2014, was just one of several incidents to occur while D.S. was employed by respondent.

7. Later in December 2014, D.S. went to dinner and a show with respondent and respondent's husband. Following the show, the three returned to respondent's home and respondent asked D.S. to spend the night.

8. D.S. acquiesced to the invitation to stay the night. Despite the availability of alternative sleeping arrangements, respondent asked D.S. to sleep in his marital bed, with respondent laying between his husband and D.S., and to fully disrobe. Although uncomfortable and still not interested in respondent romantically, D.S. understood that, to keep his job with the firm, he was not to rebuff his advances.

9. Once respondent's husband had fallen asleep, respondent proceeded to touch and fondle D.S. as D.S. pretended to be asleep. D.S. went home as soon as D.S. woke up the next morning.

10. While working for respondent at the law firm, D.S. was afraid to raise issues with respondent or others in the firm because of the importance of maintaining in good standing with respondent. D.S. found respondent's mood swings and changing positions disorienting, causing him to feel powerless and depressed.

11. During D.S.'s employment at respondent's law firm, respondent made sexualized and degrading comments about D.S. to other firm employees.

12. During D.S.'s employment at the law firm, respondent repeatedly engaged in conduct directed towards D.S. constituting employment discrimination under state law. Examples of respondent's unwelcome conduct in this respect included kissing and attempting to kiss and touch D.S. in the office elevator; sending D.S. flirtatious texts during the workday soliciting D.S. for sex; physically touching and groping D.S. in an aggressive manner; soliciting explicit photographs from D.S.; and

repeatedly making other sexual advances towards D.S. Respondent engaged in this conduct both in and outside of the workplace.

13. Although respondent felt his behavior was consensual, it was not welcomed by D.S. Due to his employment circumstances, and the inherent power imbalance between D.S. and respondent, D.S. felt compelled to accede to respondent's advances and requests as he believed his job security depended upon obeying respondent and complying with his demands.

14. In January 2015, respondent invited D.S. to his cabin for the weekend and engaged in unwelcome sexual contact with D.S., which conduct ceased upon respondent's husband's return to the cabin.

15. Upon returning from the cabin, D.S. perceived respondent's conduct towards him at work as becoming hostile, causing D.S. to feel trapped, depressed, and powerless to confront his employer lest he risk his employment at the law firm. On January 21, 2015, D.S. directly asked respondent if he wanted D.S. to quit working at the law firm, to which respondent replied, "I've got to decide." Respondent did not thereafter clarify his position with respect to D.S.'s continued employment at the firm, leaving D.S. uncertain of his continued employment status at the law firm.

16. At or about this time, respondent also accused D.S. of being intimate with another employee at the firm. Respondent's hostility towards D.S., coupled with respondent's cryptic response to D.S. regarding his job, reaffirmed for D.S. his understanding that his decisions as to his personal activities with respondent or others was directly connected to his continued employment at the law firm.

17. In the spring of 2015, respondent invited D.S. to travel to Steamboat Springs, Colorado with respondent and his husband, at respondent's expense. D.S. again acquiesced.

18. During the trip, respondent made sexual contact with D.S., which D.S. rebuffed as unwelcome. D.S. thereafter spent time apart from respondent during the

trip. As D.S. was respondent's guest in Colorado, respondent was offended by D.S.'s behavior. At one point, respondent stated to D.S. that he was "unsure" whether he wanted D.S. to continue working at the law firm when they returned from Colorado.

19. In early- to mid-2015, respondent arranged for he and D.S. to meet in a downtown hotel to engage in sexual relations. Feeling he had no choice, D.S. met respondent at the hotel, where they engaged in sexual contact which continued to be unwelcome to D.S. Respondent ultimately instructed D.S. to leave because he was unhappy with D.S.'s unsatisfactory attempts to please respondent.

20. Respondent thereafter vacillated between ignoring D.S. or acting hostile towards him while belittling D.S. to coworkers. Respondent ceased soliciting sex from D.S.

21. In mid-2016, D.S. brought his boyfriend to a law firm event and introduced him to respondent. Following the event, respondent renewed his unwelcome sexual conduct directed toward D.S. during the workday.

22. D.S. submitted his resignation from the law firm on July 7, 2017, and his last day working at the law firm was July 23, 2017.

23. Over approximately the next year, D.S. processed his experience working for respondent, and realized the sexual harassment he experienced while working at respondent's firm.

24. On February 26, 2019, D.S. served upon respondent and the law firm a demand letter outlining his above-described experiences. At this time, D.S. was unrepresented by legal counsel and respondent knew him to be proceeding *pro se*.

25. The following day, February 27, 2019, respondent replied to D.S., on behalf of himself and his firm, accusing D.S. of perjury, extortion, and threatening to pursue criminal and civil remedies, in the millions of dollars, if D.S. shared his allegations with anyone.

26. Following their February 2019 communications, respondent and D.S. met in public locations on March 13 and 19, 2019, to discuss D.S.'s allegations. During these meetings, which both D.S. and respondent recorded, respondent repeatedly requested a monetary demand from D.S.; advised D.S. that if he discussed his allegations with anyone, including a lawyer, respondent would not settle with him; and told D.S. that, if he retained a lawyer, respondent would pursue criminal charges against D.S. In this vein, respondent additionally stated to D.S.: "[I]f . . . there's a sum of money that you think I should pay you, you could let me know. We don't need lawyers for that . . . . I have to pay them 40% of it, so it doesn't make any sense."

27. As requested, on March 22, 2019, D.S. made a monetary demand upon respondent, to which respondent replied, "Here's the deal [D.S.]. I'm not going to [pay] you anything so you should sue me." On April 11, 2019, D.S., still proceeding *pro se*, served upon respondent and the law firm a summons and complaint outlining his allegations against respondent sexual harassment while employed at the law firm.

28. Respondent's conduct in sexually harassing an employee violated Rules 8.4(g) and (h), MRPC.

29. Respondent's conduct while representing his firm of providing advice to an unrepresented adverse party other than the advice to secure counsel, including the advice not to secure counsel, and threatening to pursue criminal charges against D.S. without basis, violated Rules 4.3(d) and 8.4(d), MRPC.

#### B. T.G. Matter

30. T.G. was a second-year law school student when respondent messaged him, unsolicited, on social media in December 2016. Although T.G. was not interested in respondent romantically, T.G. became aware through his ensuing communications with respondent that respondent was a prominent lawyer in Minnesota and in the local LGBTQIA community. Respondent discussed legal networking in his communications with T.G. and T.G. believed respondent "could potentially change [his legal] future."

31. T.G. met respondent in person for the first time for drinks in approximately April 2017. At the time, T.G. had the opportunity through his law school to engage in a summer externship program under which an employer would grade and review his work product and for which T.G. would receive law school credit. T.G. viewed the meeting with respondent primarily as a networking opportunity with a prominent lawyer but harbored the hope of possibly obtaining a summer externship with respondent and his law firm.

32. During their meeting over drinks, respondent offered T.G. a position as a summer extern at the law firm and introduced T.G. to his husband and another member of the law firm that evening as his “new law clerk.” According to T.G., he “thought [he] had hit the jackpot and somehow got lucky” as he believed he would be hired as an associate upon graduation and passage of the bar exam.

33. T.G. began working for respondent at the law firm as an extern on or about May 24, 2017.

34. A matter on which respondent was working was scheduled for mediation in San Francisco, California, in June 2017. At the last minute, respondent invited T.G. to attend the mediation with him.

35. Seizing upon what he viewed to be an opportunity to gain valuable legal experience and ingratiate himself to respondent—who had held out the prospect that T.G. would be hired as an associate upon graduation from law school—T.G. purchased a plane ticket to San Francisco to attend the mediation with respondent.

36. When T.G. arrived in San Francisco, he learned that respondent had only arranged for one, shared hotel room for respondent and T.G. Understanding respondent’s invitation to join him at the mediation was last-minute, T.G. accorded respondent the benefit of the doubt about the hotel room arrangements.

37. Following the successful completion of the mediation, T.G. and respondent went out for celebratory drinks with other lawyers involved with the

mediation. Respondent suggested to T.G. that they leave the ongoing celebration and T.G. complied.

38. During the evening, respondent attempted to hold T.G.'s hand. After initially demurring, T.G. ultimately relented and held hands with respondent. Although T.G. felt the physical contact to be unusual, at the time he accorded it no particular significance.

39. When they returned to their shared hotel room, respondent initiated sexual contact with T.G. Respondent's solicitation and contact was unwelcome, and T.G. responded as such. Respondent apologized to T.G., promising it would not happen again.

40. Prior to and throughout T.G.'s employment at the law firm, respondent engaged in extensive text message and social media communications with T.G. In these communications, respondent repeatedly made comments to T.G. of a sexual and solicitous nature.

41. Although respondent's sexually based communications to T.G. were unwelcome, T.G. believed acquiescence to such communications to be an implicit condition of advancement both in terms of initial employment at the law firm and eventual progression to a position as an associate at the law firm upon graduation.

42. In addition to the suggestive and sometimes explicit texts, respondent repeatedly touched T.G., including attempting to kiss T.G., which T.G. attempted to deflect by turning his head so the kiss landed on his cheek.

43. T.G. enjoyed his work at respondent's firm but did not welcome and was frequently made uncomfortable by respondent's conduct.

44. Further, T.G. experienced what he perceived as cycles of kindness and hostility from respondent. According to T.G., respondent repeatedly apologized for his behavior, and "each time he [apologized], it was like, okay, I know how much is at stake here, I will let it slide again until I decided that I wasn't going to do it anymore".

45. During a trip to respondent's cabin, respondent attempted to touch T.G. on his upper thigh in what T.G. perceived was a sexual manner. Respondent's contact with T.G. was unwelcome and T.G. pulled away immediately, telling respondent that his behavior was unacceptable.

46. Later that evening, respondent texted T.G.:

So, I thought it would make sense to clarify where we are at as I see it. Going forward our relationship will be employee/employer. There will be no guarantee of employment – you will earn any position at the firm based upon your performance – nothing more or less. I like you a[s] a person and hope we can have a friendship but there can never be any sort of relationship. This has become very clear to me. I'm good with that and hope you are. If I missed anything, please let me know. [Smiley emoji]

47. Following his return from this trip to respondent's cabin, T.G. reported respondent's conduct to a partner at the law firm.

48. Following this meeting, the law firm arranged for T.G. to no longer work directly with respondent or under respondent's supervision.

49. On August 21, 2017, T.G. resigned his position at the law firm.

50. On May 23, 2018, respondent sent to T.G. a message via Facebook regarding his actions in contacting the Board of Law Examiners (BLE), the agency charged with reviewing the character and fitness applications of candidates for the Minnesota bar:

Just wanted to remind you that you are required to list all past employers as part of your bar application as I required [sic] to fill out a form on your character. I have contacted the Board of Law Examiners to notify them to make sure your [sic] disclose your employment last July and August at Halunen Law. I just wanted to make sure that this did not slip your mind. I'd hate for you to fail to disclose something as important as prior employment.

Prior to contacting BLE, respondent had not received from T.G. or any other source any indication that T.G. had inaccurately withheld, or intended to withhold, from BLE the existence of his complete employment history.

51. On June 2, 2018, respondent sent to T.G. an email threatening to report him to the U.S. Attorney's Office for alleged fraud in connection with a grant application T.G. had drafted for a nonprofit employer in a matter wholly unrelated to respondent, the law firm, T.G.'s employment at the law firm, or T.G.'s claims against respondent.

52. Respondent's conduct in sexually harassing T.G., an extern at respondent's firm, violated Rules 8.4(g) and (h), MRPC.

53. Respondent's conduct in threatening to report T.G. for alleged unrelated crimes, threatening to file an ethics complaint against T.G., and implying he would provide a negative employment reference without basis violated Rule 8.4(d), MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.



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