

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against TERRY LYNN DJONNE,
a Minnesota Attorney,
Registration No. 226257.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of the Chair of the Lawyers Professional Responsibility Board, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(c) and 12(a), Rules on Lawyers Professional Responsibility (RLPR). The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on May 28, 1992. Respondent was suspended on January 1, 2000, for nonpayment of attorney registration fees.

As more particularly alleged below, on October 10, 2007, respondent entered a plea of guilty to theft by swindle over \$2,500, a felony, in violation of Minn. Stat. § 609.52, subd. 2(4), a necessary element of which is theft within the meaning of Rule 10(c), RLPR.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

1. In late 2000, the Chief Executive Officer (hereinafter Owner) learned that he was dying of a terminal illness. Prior to his death, Owner asked his accountant's firm (hereinafter Accountant) to audit his business's (hereinafter Corporation) records.

2. During its audit, the Accountant noticed irregularities concerning transactions by respondent. Respondent was the former vice-president and chief financial officer of the Corporation and was an attorney who also had clients outside of the Corporation itself.

3. The audit revealed a series of manual checks and wire transfers, which were authorized by respondent, but had no connection to the Corporation's normal business.

4. Before Owner's death, Accountant and an attorney (hereinafter Attorney) asked Owner about these transactions. Owner stated that he did not authorize the transactions.

5. Owner dictated an affidavit in the presence of his attorney (hereinafter Attorney 2) and Owner's wife (hereinafter Co-Administrator). However, Owner died before he was able to sign his affidavit. In his unsigned affidavit, Owner testified that a series of identified transactions were undertaken by respondent, without authorization or ratification by Owner to the best of Owner's recollection.

6. One of the transactions identified in the audit was a wire transfer (hereinafter Transaction 1) on July 11, 2000, in the amount of \$15,000 which was transferred from Corporation's bank account into a law firm's trust account (hereinafter Trust Account). A second transfer (hereinafter Transaction 2) on August 14, 2000, in the amount of \$13,000 was transferred from Corporation's bank account into the Trust Account. These transactions were used for legal matters, pertaining to individuals who had no business relationship with Corporation.

7. Owner's unsigned affidavit identified ten other suspicious wire transfers, all initiated by respondent. Five of these transfers took place between April 17, 2000, and June 27, 2000. The total amount of these five wire transfers was \$8,094.70. Four additional wire transfers took place between September 12, 2000, and October 24, 2000. The total amount of these four transfers was \$6,594.

8. In his unsigned affidavit, Owner stated that respondent was not authorized to use Corporation's money with regard to respondent's legal clients, was not authorized to conduct private legal practice using Corporation's funds or property, and that Owner had not authorized any loan or line of credit to respondent.

9. Co-Administrator also provided an affidavit. Co-Administrator explained that Transaction 1 and Transaction 2 appeared to have been made for the benefit of respondent's personal legal clients and that respondent had no authority from Corporation to apply Corporation funds to benefit respondent's personal legal clients.

10. Co-Administrator also stated that numerous manual checks were written for the benefit of Thomas J. Moon. Co-Administrator stated there was no legitimate business reason for the issuance of such checks and that the signature on the Thomas Moon checks, while containing Owner's name, was not the Owner's signature.

11. The Accountant's firm identified six checks, totaling \$21,800 issued to Thomas Moon between July 13, 2000, and September 27, 2000.

12. Accountant's firm also identified a check made payable to Norwest Bank, issued by Corporation, in the amount of \$15,141.50 and dated May 22, 2000. Respondent endorsed the check and used it to purchase a money order payable to the Minnesota Department of Revenue. The money order respondent purchased was not applied to Corporation's income or sales tax. However, the money order had the name Thomas Moon and a social security number written on the bottom left hand corner.

13. Moon stated that respondent had provided him with approximately \$66,000 in total.

14. The Accountant's firm reported to Co-Administrator that a series of original documents were missing from Corporation's headquarters, including bank statements, cancelled checks, wire transfer confirmation receipts and bank reconciliation documents. Respondent was responsible for maintaining and ensuring proper storage of those financial documents.

15. Accountant's firm also determined that respondent initiated eight wire transfers to the same Pennsylvania State Employees Credit Union account, although various individuals were the beneficiaries of these transfers. No Corporation personnel were aware of any association between Corporation and the named beneficiaries.

16. The Winona County prosecuting attorney concluded that between July 11, 2000, and December 31, 2000, respondent diverted at least \$49,800 of Corporation's funds, without authorization and for the benefit of respondent's former legal clients. It was also concluded that respondent authorized more than \$6,594 in wire transfers that cannot be associated with any Corporation business.

17. On July 5, 2001, respondent was charged with two counts of theft by swindle in violation of Minn. Stat. § 609.52, subds. 2(4), 3(1) and (5), and § 609.101.

18. Rule 19(a), RLPR, provides, in relevant part:

Criminal Conviction. A lawyer's criminal conviction in any American jurisdiction, even if upon a plea of nolo contendere or subject to appellate review, is, in proceedings under these Rules, conclusive evidence that the lawyer committed the conduct for which the lawyer was convicted.

19. On October 10, 2007, respondent pled guilty to and was adjudicated guilty of an amended count of theft by swindle over \$2,500, a felony, in violation of Minn. Stat. § 609.52, subd. 2(4). As part of the plea agreement, respondent must make \$34,500 in restitution. The sentencing date is set for January 10, 2008.

20. Respondent's conduct violated Rules 8.4(b) and (c), MRPC.

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

Dated: Nov. 8, 2007.



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and



CASSIE HANSON
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Pursuant to Rule 10(c) and 12(a), RLPR, this petition for disciplinary action is hereby approved.

Dated: 11-16, 2007.



KENT A. GERNANDER
CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD