

FILE NO. A11-2072

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against TUCKER J. HUMMEL,  
a Minnesota Attorney,  
Registration No. 286230.  
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**SUPPLEMENTARY PETITION  
FOR DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this supplementary petition for disciplinary action pursuant to Rules 10(e) and 12(a), Rules on Lawyers Professional Responsibility (RLPR).

Respondent is currently the subject of an October 19, 2011, petition for disciplinary action. On April 1, 2012, respondent was suspended for non-payment of his lawyer registration fee. The Director has investigated further allegations of unprofessional conduct against respondent.

The Director alleges that respondent has committed the following additional unprofessional conduct warranting public discipline:

THIRD COUNT

Misappropriation of Client Funds and Failure to Communicate with the Client

22. Respondent represented Gloria Regan in her capacity as personal representative of her mother's estate.

23. On April 4, 2011, respondent received a check in the amount of \$10,794.04 on Regan's behalf. The check was comprised of proceeds from the sale of Regan's mother's home and was an asset of her estate, to which Regan's brother had at least a partial interest. Respondent deposited the check into his trust account.

24. During the period April 15 to 22, 2011, respondent misappropriated the Regan funds by way of the following trust account transactions:

<u>DATE</u>	<u>DESCRIPTION</u>	<u>RECIPIENT</u>	<u>AMOUNT</u>
04/15/11	Transfer	TCF Bank A/C -7072 <sup>1</sup>	\$1,000.00
04/18/11	Transfer	TCF Bank A/C -7072	\$1,000.00
04/19/11	Check 5108	Respondent	\$1,000.00
04/19/11	Check 5109	Respondent	\$900.00
04/20/11	Check 5110	Respondent	\$900.00
04/20/11	Check 5111	Respondent	\$500.00
04/22/11	Check 5113	Respondent	\$900.00
04/22/11	Check 5114	Respondent	\$1,000.00
04/22/11	Check 5115	Respondent	\$4,500.00

25. Respondent has failed to respond to Regan's multiple attempts to communicate with him regarding distribution of house sales proceeds and her mother's estate generally.

26. Respondent's conduct in misappropriating the Regan funds and failing to communicate with Regan violated Rules 1.4 and 8.4(c), Minnesota Rules of Professional Conduct (MRPC).

#### FOURTH COUNT

##### False Statements to the Director

27. On April 22, 2011, respondent's trust account became overdrawn, a fact that the bank reported to the Director. *See*, paragraph 13 of the Director's October 19, 2011, petition for disciplinary action.

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<sup>1</sup> On information and belief, TCF Bank account no. -7072 is a business or personal account in respondent's name.

28. The April 22, 2011, overdraft in respondent's trust account was caused by payment of check no. 5115. As shown above, respondent's issuance of check 5115 constituted misappropriation of the Regan funds.

29. In his June 13, 2011, response to the Director's inquiry regarding the April 22, 2011, overdraft, respondent stated:

I just cannot provide the information you are requesting as my books are messed up due to the loss of the data as explained, and frankly because I just really don't have a good handle on the accounting program I am using. **With that I again want to stress the issues I have is [sic] 100% related to those issues and not related to abuse of funds.**

(Emphasis added.)

30. Respondent's statements as quoted above are false. In fact, the April 22, 2012, overdraft in respondent's trust account resulted from his issuance of check 5115 which constituted misappropriation of the Regan funds.

31. Respondent's conduct in making false statements to the Director violated Rules 8.1(a) and 8.4(c), MRPC.

#### FIFTH COUNT

##### Continued Failure to Cooperate with the Director's Investigation.

32. Regan filed a complaint with the Director on April 5, 2012.

33. On April 12, 2012, the Director mailed a notice of investigation of Regan's complaint to respondent at his last known address. The notice requested respondent's written response to the complaint within 14 days. Respondent failed to respond.

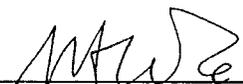
34. On May 2, 2012, the Director wrote again to respondent at his last known address to request his response to Regan's complaint.

35. On June 14, 2012, the Director's May 2 letter was returned, with the notations, "Does Not Live Here" and "Return to Sender."

36. Respondent's conduct in failing to respond to the Director's notice of investigation of the Regan complaint violated Rule 8.1(b), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility.

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

Dated: August 29, 2012.

  
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MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
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and

  
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CRAIG D. KLAUSUNG  
SENIOR ASSISTANT DIRECTOR  
Attorney No. 202873

This supplementary petition is approved for filing pursuant to Rule 10(e), RLPR, by the undersigned.

Dated: September 4, 2012.   
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RICHARD H. KYLE  
PANEL CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD