

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against WILLIAM F. JONES,
a Minnesota Attorney,
Registration No. 146444.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

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

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on May 6, 1983. Respondent currently practices law in Park Rapids, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

A. On March 28, 1989, respondent received an admonition for violation of Rule 8.4(c), Minnesota Rules of Professional Conduct (MRPC).

B. On October 26, 1995, respondent received an admonition for violation of Rules 1.7(a) and 1.8, MRPC.

C. On February 11, 1997, respondent received an admonition for violation of Rules 8.4(c) and (d), MRPC.

D. On November 17, 1999, respondent stipulated to a two year private probation for violation of Rules 1.3, 3.3(a), 4.1, 8.4(c), and 8.4(d), MRPC.

FIRST COUNT

Holler Matter

1. In late 2001 Terri and Rod Holler retained respondent to represent them in challenging the amount of special assessments pending against property they owned in Park Rapids, Minnesota. The property they owned consisted of a 10-acre homestead encumbered by a mortgage in the approximate amount of \$78,000 and a 29-acre parcel they owned free and clear of any mortgage (collectively, the Park Rapids property). The Hollers were attempting to sell the entire 39 acres and had listed the properties for sale for \$229,000, but the amount of the assessment caused one potential buyer to withdraw an offer to buy the property.

2. Respondent was successful in getting the amount of the assessment reduced, but the Hollers believed that the assessment still remained as a major impediment in selling their property.

3. After various discussions between respondent and the Hollers, it was agreed that respondent would trade the Hollers a duplex he owned in Park Rapids (the duplex) for the Park Rapids property. Respondent also agreed to assist the Hollers in obtaining financing for a house and land suitable to their purposes. The Hollers located property in Menahga, Minnesota, they wished to purchase (the Menahga property). On January 17, 2002, respondent entered into a purchase agreement for the Menahga property. The purchase price was \$102,000.

4. Respondent then entered into a series of transactions between himself and the Hollers:

a. On January 22, 2002, respondent had the Hollers execute and deliver to him quit claim and warranty deeds for the Park Rapids property.

b. On January 22, 2002, respondent and his spouse executed a quit claim deed to the Hollers for the duplex. This deed was never delivered to the Hollers and was not recorded.

c. On February 5, 2002, respondent and the Hollers executed a contract for deed for the duplex and Menahga properties.

d. On March 1, 2002, respondent closed on the purchase of the Menahga property.

e. On March 7, 2002, respondent had the Hollers execute and deliver to him quit claim deeds for the Park Rapids property and a new contract for deed was executed by respondent and the Hollers for the duplex and Menahga properties.

f. Respondent recorded the March 7, 2002, quit claim deeds and contract for deed on March 11, 2002.

5. The purchase price of the Menahga property as set forth in the February 5, 2002, contract for deed was \$105,000. The purchase price of the Menahga property as set forth in the March 7, 2002, contract for deed was \$104,000.

6. The purchase price of the duplex as set forth in the February 5, 2002, contract for deed was \$135,000. The purchase price of the duplex as set forth in the March 7, 2002, contract for deed was \$130,000.

7. In the February 5, 2002, contract for deed, respondent credited the Hollers with a \$74,400 down payment on the duplex for "the transfer of a parcel of property in Hubbard County." That contract for deed did not specify whether the parcel of property in Hubbard County was the 10-acre parcel, the 29-acre parcel, or both parcels. In the March 7, 2002, contract for deed, respondent credited the Hollers with a \$69,400 down payment on the duplex for "the transfer of a parcel of property in Hubbard County in Section 25, Township 140, Range 35." That contract for deed likewise did not

specify whether the parcel of property in Hubbard County was the 10-acre parcel, the 29-acre parcel, or both parcels.

8. The February 5, 2002, contract for deed made no mention of any liens or encumbrances on the duplex or the Menahga properties. The March 7, 2002, contract for deed noted the existence of a mortgage on each of those properties.

9. Although respondent obtained a title opinion on the Menahga property when he purchased it, he did not, prior to the execution of the January 22, 2002, deeds and the February 5, 2002, contract for deed, provide the Hollers with a title opinion on that property or on the duplex property that he conveyed to them in the contract for deed, nor did he advise them to obtain a title opinion on the properties.

10. Both contracts for deed call for respondent to deliver to the Hollers a quit claim deed rather than a warranty deed upon full performance of the contract. Respondent did, however, ultimately provide the Hollers with warranty deeds to both properties.

11. At the time both contracts for deed were entered into, respondent was not the owner of record of the duplex property. Respondent had purchased the property from Barb and Mike Ness. A portion of the consideration respondent paid to the Nesses was an agreement to pay an outstanding mortgage on the property to Bank of America that contained a due on sale clause. Respondent did not record the deed from the Nesses to him prior to entering into the contracts for deed with the Hollers.

12. Both contracts for deed required the Hollers to make payments on the Menahga property in "an amount equal to the interest charged by Northwoods Bank of Park Rapids for the loan taken out by Seller [respondent] to finance the purchase of the subject property. Said payments shall commence on the first day (1st) of April, 2002¹ and continue on the First day of each month thereafter until paid in full." Respondent

¹ The February 5, 2002, contract for deed called for payments to commence on the first day of March 2002. The March 7, 2002, contract for deed called for payments to commence the first day of April 2002.

did not, prior to the execution of the January 22, 2002, deeds and the February 5, 2002, contract for deed, disclose to the Hollers that the loan agreement between respondent and Northwoods Bank of Park Rapids called for payment in full on February 26, 2003.

13. Although respondent had the Hollers deed to him both the 10-acre and 29-acre parcels constituting the Park Rapids property, he did not specifically assume the mortgage on the 10-acre parcel and made no payments on that mortgage. The Hollers had understood that, as part of the transaction, respondent would assume the mortgage.

14. Prior to having the Hollers execute the deeds to the Park Rapids property and the contracts for deed, respondent did not notify them in writing that they should consider independent counsel in the transaction. While respondent did include notification regarding seeking independent counsel in the March 7, 2002, contract for deed, the Hollers were not given the opportunity to consult with independent counsel in the transaction after that notice.

15. Prior to having the Hollers execute the deeds to the Park Rapids property and the contracts for deed, respondent did not fully disclose in writing to them all of the terms of the transactions. He did not disclose to them in writing whether or not he was going to assume the mortgage on the 10-acre parcel, he did not disclose to them in writing that they would have to pay the outstanding taxes owed on the 10 and 29-acre parcels, he did not disclose in writing that the underlying mortgage on the Menahga property was payable in full on February 26, 2003, and he did not disclose in writing that he was not the owner of record of the duplex.

16. Respondent did not obtain from the Hollers a separate written consent to the transaction in light of respondent's conflict of interest in the matter.

17. Respondent's conduct violated Rule 1.8(a), MRPC.

SECOND COUNT

Tiede Matter

18. Respondent represented Mark Tiede in his marriage dissolution and bankruptcy matters.

19. In November 2000, after filing of the bankruptcy proceedings, respondent took possession of a snowmobile owned by Tiede as security for legal fees owed by Tiede to respondent.

20. On February 14, 2002, without prior notice to, or permission from Tiede, the snowmobile was registered in respondent's name.

21. Respondent retained possession of Tiede's snowmobile until the attorney's fees were paid in full on March 7, 2002. While in possession of the snowmobile, respondent failed to hold it in a place of safekeeping and instead, without Tiede's specific permission or consent, utilized it for his personal use and/or allowed others to use it. Upon return of the snowmobile to Tiede it had 980 more miles on it than it had when delivered to respondent and it had been damaged. Tiede sued respondent in conciliation court for the damages and depreciation and obtained a judgment against respondent for \$1,038.00. Respondent has satisfied the judgment.

22. Prior to taking Tiede's snowmobile as security for his fees, respondent did not provide written notification to Tiede that independent counsel should be considered in the transaction, nor did he give Tiede a reasonable opportunity to seek the advice of independent counsel.

23. Respondent did not disclose and transmit in writing to Tiede the terms of his security interest in the snowmobile.

24. Respondent did not obtain from Tiede a written consent to his acquisition of a security interest in the snowmobile in light of the conflict of interest created thereby.

25. Respondent's conduct violated Rules 1.8(a) and 1.15(c)(2), MRPC.

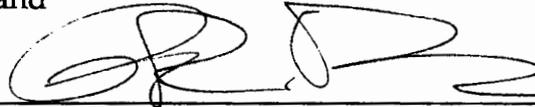
WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: May 24, 2006.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

and



PATRICK R. BURNS
SENIOR ASSISTANT DIRECTOR
Attorney No. 134004