

FILE NO. A11-1715

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against HARVEY N. JONES,
a Minnesota Attorney,
Registration No. 52498.

**SECOND 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 second 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 a September 8, 2011, petition for disciplinary action ("petition") and a June 11, 2012, supplementary petition for disciplinary action ("supplementary petition"). 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:

SIXTH COUNT

S.B.K. Matter

42. Respondent represented S.B.K. in matters related to his mother's estate. Respondent also represented the personal representative of S.B.K.'s mother's estate.

43. Beginning in January 2010 respondent received for S.B.K. funds (a) to which S.B.K.'s mother's estate was entitled, and (b) to which S.B.K. was entitled in his individual capacity. Respondent properly and promptly remitted the funds to which S.B.K.'s mother's estate was entitled to the personal representative.

44. Respondent received and deposited into his trust account \$29,723.23 in funds to which S.B.K. was entitled in his individual capacity, as follows:

<u>DATE</u>	<u>AMOUNT</u>
01/25/10	\$5,512.86
02/23/10	\$5,009.00
05/18/10	<u>\$19,201.37</u>
TOTAL	\$29,723.23

45. Respondent misappropriated \$17,200 of S.B.K.'s funds by issuing the following trust account checks to himself:

<u>DATE</u>	<u>CHECK NO.</u>	<u>CHECK AMOUNT</u>
02/01/10	2133	\$2,700
02/03/10	2134	\$2,000
03/10/10	2140	\$5,000
05/21/10	2147	\$1,000
05/28/10	2148	\$5,000
06/04/10	2150	\$500
06/04/10	2151	\$500
07/09/10	2152	\$500

46. In addition, on May 25, 2010, respondent issued his trust account check no. 2146 for \$7,500 to S.M.K., a client unrelated to S.B.K. for whom respondent was supposed to be holding funds in his trust account. See paragraphs 50 to 58, below.

47. As of July 10, 2010, the balance in respondent's trust account was only approximately \$230. On that date, respondent continued to owe approximately \$24,000 to S.B.K.

48. As of the present date, respondent continues to owe approximately \$9,000 to S.B.K.

49. Respondent's conduct in failing to maintain S.B.K.'s funds in a trust account, failing to pay S.B.K. the funds he was owed, and misappropriating S.B.K.'s funds violated Rules 1.15(a), (c)(3) and (c)(4), and 8.4(c), Minnesota Rules of Professional Conduct (MRPC).

SEVENTH COUNT

S.M.K. Matter

50. Respondent represented S.M.K. in a personal injury matter.

51. In January 2009, respondent received \$50,000 in settlement of S.M.K.'s personal injury claim. Respondent deposited these funds into his trust account.

52. During the period January through May 2009, respondent paid himself \$12,500 in fees and \$257.48 in costs from the S.M.K. proceeds. Respondent also disbursed \$29,742.52 to S.M.K.

53. After making these disbursements, a \$7,500 balance of S.M.K.'s proceeds, which respondent was supposed to hold on S.M.K.'s behalf, remained in respondent's trust account.

54. By way of the following trust account checks that he issued to himself, respondent misappropriated S.M.K.'s funds:

<u>DATE</u>	<u>CHECK NO.</u>	<u>CHECK AMOUNT</u>
08/11/09	2111	\$1,000
10/02/09	2113	\$4,000
11/09/09	2118	\$2,500

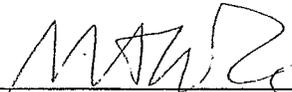
55. By January 1, 2010, the balance in respondent's trust account was only approximately \$1,800. By May 7, 2010, the balance in respondent's trust account was only approximately \$30.

56. Respondent issued trust account check no. 2146 for \$7,500 to S.M.K., which cleared respondent's trust account on May 25, 2010. As noted above, funds belonging to respondent's client S.B.K. were used to cover check no. 2146.

57. Respondent's conduct in failing to maintain S.M.K.'s funds in a trust account, failing to pay S.M.K. the \$7,500 she was owed until May 25, 2010, and misappropriating S.M.K.'s funds violated Rules 1.3, 1.15(a), (c)(3) and (c)(4), and 8.4(c), 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: July 13, 2012.



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and



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

Dated: _____, 2012. _____

JUDITH M. RUSH
CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD