

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

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

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of a Lawyers Professional Responsibility Board Panel Chair, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(d) 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 September 16, 1974. Respondent currently practices law in Hastings, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Stillwell Matter

1. In or about November 2008, William and Susan Stillwell, Gary and Kimberly Vinje, and Terry Kramer ("the clients"), jointly retained respondent to defend them against a lawsuit brought by Laxman and Judith Sundae against the clients and others.

2. Respondent and the clients agreed that respondent would bill for his representation at \$150 per hour. The Stillwells agreed to pay 40 percent of respondent's fees and the Vinjes and Kramer were to each pay 30 percent.

3. Respondent counterclaimed on behalf of the clients. On July 29, 2009, the court dismissed the Sundaes' case as to the clients. The clients' counterclaim was not dismissed.

4. On July 13, 2010, the Sundaes' insurer, Auto Owners Insurance, agreed to pay \$10,000 to settle the clients' counterclaim. Auto Owners sent a check payable to respondent in the amount of \$10,000. Because the check was mistakenly made payable to both respondent and another attorney who had no involvement in the case, Auto Owners reissued the check in the same amount, payable to respondent's lawyer trust account, on August 11, 2010.

5. The clients agreed that they would each receive \$3,333.33 from the settlement. Because Kramer had never paid any legal fees to respondent and the Vinjes had not paid in full, respondent asserts he did not owe Kramer any money from the settlement and only owed the Vinjes \$668.16. Respondent owed the Stillwells \$3,152.67.

6. On or about August 19, 2010, respondent deposited the \$10,000 check to his lawyer trust account. On the same day, respondent transferred the funds to his law office business account in two checks in the amount of \$5,000 each. Thereafter, respondent misappropriated the funds and never paid any of it to the clients.

7. Respondent's conduct in failing to place the clients' funds in trust, failing to render appropriate accounts to the clients, and in misappropriating the funds violated Rules 1.15(a), (c)(3) and (c)(4), and 8.4(c), Minnesota Rules of Professional Conduct (MRPC).

SECOND COUNT

Noncooperation with the Disciplinary Investigation

8. On February 1, 2011, the Director mailed a notice of investigation along with a copy of the Stillwells' complaint to respondent. The notice instructed respondent to respond in writing to the complaint to the First District Ethics Committee (DEC) within fourteen days pursuant to Rule 25, RLPR, and Rule 8.1(b), MRPC. Respondent failed to do so.

9. The DEC was unable to complete an investigation because of respondent's lack of response and cooperation. The DEC referred the matter back to the Director's Office on May 17, 2011.

10. On May 20, 2011, an attorney with the Director's Office wrote to respondent and instructed him to attend a meeting at the Director's Office on May 31, 2011, at 1:00 p.m. Respondent was also instructed to bring a written response to the complaint and trust account books and records for August 2010 to the meeting. Respondent failed to attend the meeting or have any contact with the Director's Office prior to the scheduled meeting. Respondent also failed to provide any of the requested materials.

11. On June 1, 2011, an attorney with the Director's Office wrote to respondent about his lack of response and failure to appear for a meeting on May 31, 2011. Respondent was instructed to provide a response to the complaint and books and records related to the Stillwell matter within ten days or to contact the Director's Office to discuss an extension. Respondent was advised that failure to respond or cooperate could be grounds for discipline. Respondent failed to contact the Director's Office or submit any materials.

12. An attorney with the Director's Office reached respondent by phone on June 14, 2011. Respondent acknowledged that he received the letter dated June 1, 2011, and that he owed the Stillwells money. Respondent agreed to meet at the Director's

office on June 29, 2011, and to bring a complete response to the complaint and the materials requested in the Director's letter dated June 1, 2011. The Director confirmed the phone conference and what respondent was to bring to the June 29, 2011, meeting, in a letter to respondent dated June 16, 2011.

13. On June 29, 2011, respondent contacted the Director's Office to reschedule the meeting for that day, stating he was "not ready." An attorney with the Director's Office agreed, and rescheduled the meeting for July 6, 2011.

14. Respondent appeared for the July 6, 2011, meeting. Respondent provided a written response to the Stillwells' complaint and two check stubs relating to the transfer of the \$10,000 described above, but provided no other trust account books and records. Respondent later provided the materials and books and records requested by the Director's Office but never provided a copy of trust account check #2156 in the amount of \$5,000 and books and records from his business account for August 2010.

15. On August 17, 2011, the Director served respondent with charges of unprofessional conduct. Pursuant to Rule 9(a)(1), RLPR, respondent's answer to the charges of unprofessional conduct was due to the Director and Panel Chair by September 6, 2011.

16. To date, the Director has not received respondent's answer to the charges of unprofessional conduct. Further, respondent has not contacted the Director at any time since the charges of unprofessional conduct were mailed to him.

17. Respondent's conduct in failing to cooperate with the Director's investigation violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

WHEREFORE, the Director respectfully prays for an order of this Court disbarring or suspending respondent or imposing otherwise appropriate discipline,

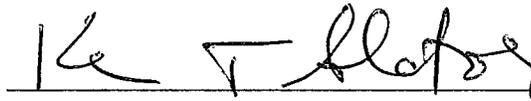
awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: Sept 7, 2011.



MARTIN A. COLE
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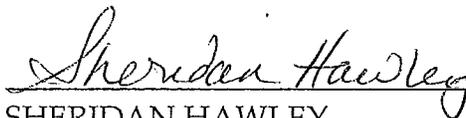
and



KEVIN T. SLATOR
ASSISTANT DIRECTOR
Attorney No. 204584

This petition is approved for filing pursuant to Rules 10(d) and 12(a), RLPR, by the undersigned Panel Chair.

Dated: Sept. 8, 2011.



SHERIDAN HAWLEY
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD