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.

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 a September 8, 2011, petition for disciplinary action. 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

N.P. Matter

18. On November 3, 2010, N.P. retained respondent to represent him regarding an automobile accident that occurred on June 23, 2010. N.P. suffered serious injuries in the accident, including a traumatic brain injury. Under the retainer agreement N.P. signed, respondent was entitled to a contingent fee of one-third of amounts recovered on N.P.'s behalf.

19. Respondent settled N.P.'s liability claim for $50,000. N.P. signed a release of claims on January 25, 2011.

20. Respondent received a check in the amount of $50,000 from Progressive Insurance, the insurer for the other driver. Respondent deposited the check into his law office trust account on January 26, 2011.

21. Respondent was entitled to a contingent fee of $16,666 from N.P.'s settlement. By February 3, 2011, respondent had disbursed substantially all that fee to himself, leaving $33,334 due and owing to N.P. Between February 3, 2011, and April 12, 2011, respondent disbursed $10,100 from his trust account to N.P. by means of four checks. (Respondent claims to have disbursed an additional $1,000 in cash to N.P. and paid $500 in costs for another legal matter on N.P.'s behalf on dates that are not known.) After these payments, respondent continued to owe at least $21,734 to N.P.

22. Respondent misappropriated this $21,734 by issuing the following trust account checks to himself:

DATE	CHECK NO.	CHECK AMOUNT
02/17/11	2154	$7,500.00
02/24/11	2125	$500.00
03/02/11	2166	$1,000.00
03/17/11	2168	$2,000.00
03/25/11	2172	$2,000.00
04/12/11	2174	$1,500.00
04/21/11	2175	$2,000.00

23. In addition, on March 18, 2011, respondent issued his trust account check no. 2169 for $7,379 to K.C., an opposing party unrelated to N.P. for whom respondent was supposed to be holding funds in his trust account. *See,* paragraphs 29 to 39, below.

24. By April 30, 2011, the balance in respondent's trust account was only $10.69. As noted, on that date, respondent owed N.P. a balance of at least $21,734.

25. During the period January to November 2011, respondent failed to account to N.P. for his funds in trust.

26. In or about November 2011, N.P. demanded to be paid the remainder of his settlement.

27. Respondent borrowed $30,000 from another attorney in order to repay N.P. and two other clients. Respondent deposited the funds into his trust account on November 11, 2011. Prior to the deposit, the balance in respondent's trust account was $30. On November 10, 2011, respondent issued to N.P. a trust account check in the amount of $21,734.

28. Respondent's conduct in failing to maintain N.P.'s funds in a trust account, failing to pay N.P. the $21,734 he was owed until November 2011, and misappropriating N.P.'s funds violated Rules 1.15(a), (c)(3) and (c)(4), and 8.4(c), Minnesota Rules of Professional Conduct (MRPC).

FOURTH COUNT

K.C. Matter

29. Respondent represented A.C. in a marriage dissolution proceeding. K.C. was the opposing party in that proceeding, and was represented by attorney Ellen Wiese.

30. A.C. and K.C. reached a stipulated settlement of their dissolution of marriage that the court approved on December 31, 2009. Under the agreement, respondent was to deposit into his trust account funds received from A.C.'s pension plan. From the proceeds, respondent was to make a $26,500 payment to K.C., retain an additional $7,500 to cover K.C.'s expected tax obligation, and pay the remainder to A.C.

31. A.C., K.C., respondent, and Wiese all agreed to modify their agreement so that K.C. would give respondent $30,490.99 to cover both the payment to A.C. and K.C.'s tax obligation. On March 1, 2010, respondent deposited this $30,490.99 into his trust account.

32. In March 2010, respondent paid $21,888.34 to A.C. and fees to himself of $1,102.65, leaving a balance of $7,500 in K.C. funds in his trust account.

33. On April 30, 2010, the balance in respondent's trust account was $8,028.80, comprised of the $7,500 in K.C. funds and $528.80 in unknown client funds. On that

date, respondent issued his trust account check no. 2143 for $5,000 to himself. In so doing, respondent misappropriated $4,471.20 in K.C. funds.

34. On May 3, 2010, respondent issued his trust account check no. 2144 for $2,000 to himself, thus misappropriating additional K.C. funds.

35. On May 7, 2010, respondent issued his trust account check no. 2145 for $1,000 to an individual with no connection to K.C., thus misappropriating additional K.C. funds.

36. After respondent's trust account check nos. 2144 and 2145 cleared, the balance in respondent's trust account was only $30.07.

37. During the period March 2010 to March 18, 2011, the balance in respondent's trust account was never sufficient to cover the $7,379 respondent owed to K.C.

38. On March 18, 2011, respondent issued K.C. a check in the amount of $7,379. As noted in paragraph 23, above, this check was funded with funds belonging to N.P.

39. Respondent's conduct in failing to maintain K.C.'s $7,379 in a trust account, failing to account for the funds to K.C., and misappropriating K.C.'s funds violated Rules 1.15(a) and (c)(3), and 8.4(c), MRPC.

FIFTH COUNT

Trust Account Books and Records Matter

40. During the period January 1, 2010, to the present, respondent failed to maintain the books and records required by Rule 1.15, MRPC, and Appendix 1 to the MRPC. Specifically, respondent failed to maintain subsidiary client ledgers and monthly trial balances, and has failed to perform monthly trust account reconciliations.

41. Respondent's conduct in failing to maintain required trust account books and records violated Rule 1.15(c)(3), MRPC, and Appendix 1 to the 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: June 11, 2012.

MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
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and

KEVIN T. SLATOR
SENIOR ASSISTANT DIRECTOR
Attorney No. 204584

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

Dated: 6/11, 2012.

JUDITH M. RUSH
CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD