

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against JOHN CANFIELD LILLIE, III,  
a Minnesota Attorney,  
Registration No. 286850.  
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**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 October 30, 1998. Respondent currently practices law in St. Paul, Minnesota.

FIRST COUNT

1. Since he was admitted to practice in 1998, respondent has been an associate with the Dudley & Smith law firm. Respondent practices primarily criminal defense law.
2. At all times material, Matthew Runningshield has been an inmate at the Minnesota Correctional Facility – Oak Park Heights (“Oak Park Heights”).
3. In May or June 2004, attorney Eric Thole introduced respondent to Runningshield. At all times material, Thole was an Assistant Washington County Attorney.

4. In 2000 Thole prosecuted a murder case in which a number of inmates at Oak Park Heights were accused of murdering another inmate. Runningshield was an uncharged witness in the murder case. In or about August 2000, Runningshield testified as a prosecution witness before the grand jury.

5. Runningshield testified, among other things, that he is a member of the Shakopee Mdewakanton Sioux Community (the "Community").

6. In February 2003, Runningshield had written to Thole, asking for help to get early release. Thole and Runningshield thereafter developed a friendship.

7. Thole told respondent that Runningshield was a member of the Community. Thole told respondent that Runningshield received substantial earnings as a member of the Community from his share of the profits from Mystic Lake Casino, which is owned and operated by the Community. Runningshield said that he had millions of dollars held in trust during his incarceration and available to him only for limited purposes, such as investments.

8. The Department of Corrections (DOC) has issued policies and directives governing various matters related to inmates. DOC policy 302.020 establishes guidelines for the processing of incoming and outgoing inmate mail. The policy differentiates between:

- All incoming mail is subject to being read by prison staff.
- Inmates may not use the facility address as a personal business address.
- Inmates may not receive mail pertaining to an unauthorized business activity.

- Incoming legal mail is opened by staff only in the presence of the inmate. Legal mail is defined as correspondence to or from the court, attorneys or groups of attorneys involved in the representation of the inmate and which clearly indicates as part of the address that it is to or from one of these sources.

9. On two (2) occasions respondent sent correspondence which had nothing to do with Runningshield's legal affairs in Dudley & Smith envelopes.

10. On two (2) occasions respondent provided to Runningshield correspondence from Thole. Respondent did so in Dudley & Smith envelopes, thereby avoiding the legal mail security system at Oak Park Heights. Thole's correspondence was unrelated to official Washington County attorney business or Runningshield's legal affairs.

11. DOC policy 300.1003 prohibits inmates from conducting business activity during incarceration and prohibits inmates from using the prison address as a business address. DOC policy 300.1001 states that "business activity":

[I]ncludes, but is not limited to, the practice of a profession, the sale or solicitation for sales or services and/or the manufacture or distribution of any goods or services, whether direct or indirect. This does not include authorized hobby craft activity or routine communication with a person who is operating a business established by an offender prior to the offender's incarceration.

12. Thole told respondent that Thole and Runningshield had been discussing establishing a new business for Runningshield's ownership that would invest Runningshield's earnings from the Community in outside ventures. Thole wanted respondent to perform the corporate and other related legal work.

13. From June through November 2004 respondent was contacted by and spoke with Runningshield between 30 and 40 times and also visited Runningshield on multiple occasions at Oak Park Heights.

14. In June 2004 the United States Supreme Court decided *Blakely v. Washington*. That case related to sentencing and potentially affected the sentences of some then-incarcerated persons. Respondent advised Runningshield about how *Blakely* could affect Runningshield's sentence and how to proceed in light of *Blakely*.

15. Respondent also worked with Runningshield and Thole on forming a business to invest Runningshield's profits from his purported Community membership.

16. No later than July 2004, respondent knew about the Department of Corrections policy prohibiting inmates from establishing and running a new business while incarcerated.

17. During an August 4, 2004, conversation, respondent told Runningshield that as long as Runningshield did not tell anyone at the prison about the incorporation of a new business and they file with the Secretary of State articles of incorporation, only respondent, Thole and Runningshield would know about Runningshield's ownership. Respondent stated that articles of incorporation are company books, and nobody would see those books except respondent, Thole and Runningshield, and the Internal Revenue Service if the company were audited. Respondent stated that they could put in the company's books that Runningshield was a 60 percent owner and could give Runningshield papers documenting his ownership. Respondent also stated that it was acceptable to him if nobody at the prison got wind of Runningshield's ownership interest in the business.

18. By the middle of August 2004, respondent arranged for the drafting and filing of articles of incorporation for the new business, and respondent opened a bank account for the new business. The bank account was opened at a bank whose president was a friend of Thole. Respondent, Thole and Runningshield discussed a corporate

name that included or referenced their names or initials. Eventually, the corporation was named "R. Shield Ventures, Inc."

19. Runningshield was to own the majority of the business corporation; respondent and Thole would equally own the balance. The lawyers were not required to invest any of their own funds in the business.

20. Runningshield told respondent and Thole that he would initially transfer \$1 million each to respondent and Thole to spend on their own needs and later transfer substantially more to the corporation.

21. In the summer of 2004 Thole and his wife made an offer of \$715,000 on a house. The offer was not accepted. During conversations in October 2004 Thole told respondent and Runningshield that he and his wife could not offer more on the house because the funding of R. Shield Ventures and transfer of money to Thole had not yet occurred.

22. In November 2004, DOC staff discovered a partially opened envelope in the incoming mail. The envelope was a Dudley and Smith firm envelope, but the letters enclosed were handwritten. The letters were from respondent and Thole and dealt solely with personal matters and R. Shield Ventures. An investigation ensued, which led to the discovery of respondent's dealings with Runningshield.

23. In fact, Runningshield is not a member of the Community and receives no profits from Mystic Lake Casino.

24. Respondent's conduct violated Rules 8.4(c) and (d), Minnesota Rules of Professional Conduct.

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: November 30, 2005.

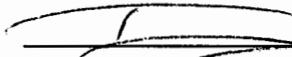


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