

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

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against DYLAN J. McFARLAND,  
an Attorney at Law of the  
State of Minnesota.  
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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 24, 1980. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Misappropriation of Law Firm Funds

1. At all times from February 2000 through September 21, 2001, respondent was an associate and employee of the law firm of Burstein and Hertogs (the law firm), or predecessors thereof.

2. By agreement with the law firm, in addition to a salary, respondent received 15 percent of the fees generated on any legal work brought into the firm by respondent. All other fees generated from respondent's work, including on work brought into the firm by respondent, belonged exclusively to the law firm.

3. American Family Insurance Group (American Family) periodically hired the law firm to provide legal defense to American Family's insureds. This was considered legal work brought into the firm by respondent.

4. Michael Rerat was an attorney employed by American Family. He and respondent are personal friends. As part of his position, Rerat hired counsel outside the insurance company to provide legal defense to American Family's insureds.

5. During the period from February 2000 through March 2001, Rerat, on behalf of American Family, requested legal defense services from the law firm on 17 files. In each instance, the engagement letter was addressed to respondent at the law firm's address.

6. On each of these files, the first bill for services was sent to American Family by respondent personally, on letterhead stationery listing only respondent's name and using respondent's home address and telephone number. The letterhead also identified a personal Tax I.D. number for respondent.

7. In each instance, the bill was paid by American Family by issuing a check to respondent personally. Respondent had no authority to bill personally for legal services and at least 85 percent of the fees generated belonged to the law firm. Respondent wrongfully retained the full amount of the fee payment on these bills. Respondent's actions constituted misappropriation of law firm funds.

8. On these files, after the first bill had been paid, the matter was opened as a file at the law firm. Thereafter, all billings on these files were sent on law firm letterhead and all fees were paid by American Family to the law firm.

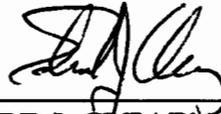
9. In the year 2000, respondent received \$25,534.98 in legal fees from American Family, at least 85 percent of which belonged to his employer and which respondent misappropriated and converted to his own use. In 2001, respondent received an additional \$4,358.30 in fees from American Family, at least 85 percent of which respondent misappropriated.

10. To date, respondent has not repaid to the law firm the wrongfully retained fees to which respondent was not entitled.

11. Respondent's conduct in misappropriating law firm funds violated Rule 8.4(c), Minnesota Rules of Professional Conduct (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: March 27, 2002.



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EDWARD J. CLEARY  
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and



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