

CAUSE NO. 2009-59239

FILED  
LOREN JACKSON  
DISTRICT CLERK  
HARRIS COUNTY, TEXAS  
2009 SEP 16 AM 11:16  
P.7

COMMISSION FOR LAWYER  
DISCIPLINE,

Petitioner,

vs.

GRACE DIANE KOPACZ,

Respondent.

§ IN THE DISTRICT COURT OF

§  
§  
§  
§  
§  
§  
§  
§

HARRIS COUNTY, TEXAS

334 JUDICIAL DISTRICT

**PETITIONER, THE COMMISSION FOR LAWYER DISCIPLINE'S  
ORIGINAL PETITION FOR IMMEDIATE INTERIM SUSPENSION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, Petitioner, the COMMISSION FOR LAWYER DISCIPLINE (hereinafter referred to as "Petitioner"), and files this *Original Petition for Immediate Interim Suspension*, complaining of Respondent, GRACE DIANE KOPACZ, (hereinafter referred to as "Respondent"), and would respectfully show the Court the following:

**I. NATURE OF PROCEEDING**

1. Petitioner files this *Petition for Immediate Interim Suspension* pursuant to the STATE BAR ACT, TEXAS GOVERNMENT CODE ANNOTATED §81.001, *et seq.* (Vernon 1988 and supp. 1994); the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT; and the TEXAS RULES OF DISCIPLINARY PROCEDURE.

2. On or about June 25, 2009, the COMMISSION FOR LAWYER DISCIPLINE OF THE STATE BAR OF TEXAS authorized the Office of the Chief Disciplinary Counsel of the STATE BAR OF TEXAS to seek the immediate interim suspension of Respondent pursuant to Part XIV of the TEXAS RULES OF DISCIPLINARY PROCEDURE. An immediate interim suspension, as set forth in detail below, is in the nature of a temporary injunction suspending an

7686058

attorney during the pendency of disciplinary proceedings before other tribunals. The disciplinary proceedings which provide the factual and legal basis for the interim suspension proceedings continue independent of the interim suspension proceedings.

### **VENUE**

3. Respondent is an attorney licensed to practice law in Texas and is a member of the STATE BAR OF TEXAS. Respondent's principal place of practice is Harris County, Texas; therefore, venue is appropriate in Harris County, Texas pursuant to Rule 3.03 of the TEXAS RULES OF DISCIPLINARY PROCEDURE. An officer may serve citation on Respondent, GRACE DIANE KOPACZ, at 2500 West Loop South, Suite 450, Houston, Texas 77027, or any place she may be found.

### **APPLICABLE LAW AND PROCEDURE**

4. Interim Suspension proceedings are governed by Part XIV of the TEXAS RULES OF DISCIPLINARY PROCEDURE. In this matter, portions of the TEXAS PENAL CODE are also applicable, as described below.

#### **Rule 14.01 Irreparable Harm to Clients:**

Should the Chief Disciplinary Counsel reasonably believe based upon investigation of a Complaint that an attorney poses a substantial threat of irreparable harm to clients or prospective clients and be authorized or directed to do so by the Commission, the Chief Disciplinary Counsel shall seek the immediate interim suspension of the attorney. The Commission shall file a petition with a district court of proper venue alleging substantial threat of irreparable harm, and the district court shall, if the petition alleges facts that meet the evidentiary standard in Rule 14.02, set a hearing within ten days. If the Commission, at the hearing, meets the evidentiary standard and burden of proof as established in Rule 14.02, the court shall enter an order without requiring bond, immediately suspending the attorney pending the final disposition of the Disciplinary Proceedings or the Disciplinary Action based on the conduct causing the harm. The matter shall thereafter proceed in the district court as in matters involving temporary injunctions under the Texas Rules of Civil Procedure. If a temporary injunction is entered, the court may appoint a custodian under Part XIII. If, at the conclusion of all Disciplinary Proceedings and Disciplinary

Actions, the Respondent is not found to have committed Professional Misconduct, the immediate interim suspension may not be deemed a "Sanction" for purposes of insurance applications or any other purpose.

Rule 14.02 Burden of Proof and Evidentiary Standard:

The Commission has the burden to prove the case for an interim suspension by a preponderance of the evidence. If proved by a preponderance of the evidence, any one of the following elements establishes conclusively that the attorney poses a substantial threat of irreparable harm to clients or prospective clients:

- A. Conduct by an attorney that includes all of the elements of a Serious Crime as defined in these rules.
- B. Three or more acts of Professional Misconduct, as defined in subsections (a) (2) (3) (4) (6) (7) (8) or (10) of Rule 8.04 of the Texas Disciplinary Rules of Professional Conduct, whether or not actual harm or threatened harm is demonstrated.
- C. Any other conduct by an attorney that, if continued, will probably cause harm to clients or prospective clients.

Rule 1.06(Z) TRDP defines Serious Crime:

"Serious Crime" means barratry; any felony involving moral turpitude; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property; or any attempt, conspiracy, or solicitation of another to commit any of the foregoing crimes.

Texas Penal Code §34.02 Money Laundering:

- (a) A person commits an offense if the person knowingly:
  - (1) acquires or maintains an interest in, conceals, possesses, transfers, or transports the proceeds of criminal activity;
  - (2) conducts, supervises, or facilitates a transaction involving the proceeds of criminal activity;
  - (3) invests, expends, or receives, or offers to invest, expend, or receive, the proceeds of criminal activity or funds that the person believes are the proceeds of criminal activity; or
  - (4) finances or invests or intends to finance or invest funds that the person believes are intended to further the commission of criminal activity.
- .....
- (e) An offense under this section is:
  - (1) a state jail felony if the value of the funds is \$1,500 or more but less than \$20,000;

- (2) a felony of the third degree if the value of the funds is \$20,000 or more but less than \$100,000;
- (3) a felony of the second degree if the value of the funds is \$100,000 or more but less than \$200,000; or
- (4) a felony of the first degree if the value of the funds is \$200,000 or more.

Texas Penal Code §35.02 Insurance Fraud:

- (a) A person commits an offense if, with intent to defraud or deceive an insurer, the person, in support of a claim for payment under an insurance policy:
    - (1) prepares or causes to be prepared a statement that
      - (A) the person knows contains false or misleading material information; and
      - (B) is presented to an insurer; or
    - (2) presents or causes to be presented to an insurer a statement that the person knows contains false or misleading material information.
  - (b) A person commits an offense if, with intent to defraud or deceive an insurer, the person solicits, offers, pays, or receives a benefit in connection with the furnishing of goods or services for which a claim for payment is submitted under an insurance policy.
  - (c) An offense under Subsection (a) or (b) is:
    - (1) a Class C misdemeanor if the value of the claim is less than \$50;
    - (2) a Class B misdemeanor if the value of the claim is \$50 or more but less than \$500;
    - (3) a Class A misdemeanor if the value of the claim is \$500 or more but less than \$1,500;
    - (4) a state jail felony if the value of the claim is \$1,500 or more but less than \$20,000;
    - (5) a felony of the third degree if the value of the claim is \$20,000 or more but less than \$100,000;
    - (6) a felony of the second degree if the value of the claim is \$100,000 or more but less than \$200,000; or
    - (7) a felony of the first degree if:
      - (A) the value of the claim is \$200,000 or more; or
      - (B) an act committed in connection with the commission of the offense places a person at risk of death or serious bodily injury.
5. Any one of the provisions of Rule 14.02 A - C set forth above justifies the imposition of an interim suspension. In this case, Petitioner can provide the required proof pursuant to both 14.02 A. and C. Respondent has engaged in conduct that includes all the elements of money

launders and insurance fraud, which are both serious crimes. Accordingly, Respondent poses a substantial threat of irreparable harm to clients and prospective clients by reason of this conduct and, therefore, must be suspended from practicing law pending a final disposition of the disciplinary proceedings.

## **II. ALLEGATIONS OF PROFESSIONAL CONDUCT**

6. In March of 2009, Respondent reached an agreement with a confidential informant to launder illegal drug money through her trust account. Respondent would receive fifteen percent of the funds being laundered. In order to disguise the funds, Respondent created contracts and billing invoices for legal services using fictitious client names provided by the confidential informant.

7. On or around March 17, 2009 and April 7, 2009, the confidential informant tendered funds to Respondent in the amounts of \$21,000.00 and \$100,000.00, respectively. Respondent deposited the monies into her attorney trust account. Respondent returned the funds in small increments to the confidential informant using checks drawn on her attorney trust account. Each check was made out to one of the fictitious clients. Respondent kept approximately \$16,000.00 of the total funds as her fee for these transactions. Respondent then made arrangements with the confidential informant to launder \$300,000.00 in increments of \$100,000.00. Respondent was arrested on May 22, 2009, before the last agreed transaction could take place. On May 23, 2009, Respondent was indicted on felony money laundering of an amount of \$100,000.00 or more but less than \$200,000.00.

8. Concurrent with the money laundering scheme, Respondent solicited the confidential informant to take her car to Mexico and abandon it. Respondent instructed the confidential informant to inform her when it was safe to report to her insurance company that the car had

been stolen. Upon being so informed, Respondent reported to the local police and her insurance company that her car had been stolen from her law office parking lot. On May 23, 2009, Respondent was indicted for insurance fraud.

### **CONCLUSION**

9. Respondent has a pattern of misconduct and blatant disregard for the duties and obligations she owes to his clients and to the legal profession. This disregard is particularly manifested in the seriousness of the alleged offenses. The commission of the acts money laundering and insurance fraud pose a threat to the public and to the administration of justice.

10. According to Rule 14.02 of the TEXAS RULES OF DISCIPLINARY PROCEDURE, conduct that contains the elements of a serious crime is grounds for interim suspension regardless of whether actual harm or threatened harm is demonstrated.

11. In this case, however, Respondent's conduct is unbecoming of a lawyer and will unquestionably place any client or prospective client at risk or harm due to her dishonesty and lack of trustworthiness. Accordingly, Respondent must be suspended from the practice of law pending a final disposition of the disciplinary proceedings currently pending against her.

### **PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, respectfully prays that this Court: (1) set a hearing herein within 10 days as required by Rule 14.02 Tex. R. Disc. P.; (2) upon such hearing, enter an *Order Of Immediate Interim Suspension* thereby suspending Respondent from the practice of law pending a final disposition of the disciplinary matters pending against her; and (3) grant all other relief to which Petitioner may show itself to be justly entitled.

Respectfully submitted,

**STATE BAR OF TEXAS**  
*Office of the Chief Disciplinary Counsel*

**LINDA A. ACEVEDO**  
Chief Disciplinary Counsel



---

**SHANNON BREAUX SAUCEDA**

Assistant Disciplinary Counsel  
State Bar No. 24002896  
600 Jefferson Street, Suite 1000  
Houston, Texas 77002  
Phone: (713) 758-8200  
Fax: (713) 758-8292

**ATTORNEYS FOR PETITIONER,  
COMMISSION FOR LAWYER DISCIPLINE**