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Lawyers Prof. Resp. Board

STATE OF MINNESOTA

IN SUPREME COURT

CX-84-502

In the Matter of the Application for the
Discipline of David A. O'Connor, an
Attorney at Law of the State of Minnesota.

ORDER

The above entitled matter comes before this court upon the stipulation of the parties which provides as follows:

WHEREAS, respondent and his attorney have concluded it is in the best interests of respondent to enter into this stipulation,

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the undersigned as follows:

1. Respondent understands he has certain rights related to having charges of unprofessional conduct against him heard by a Lawyers Professional Responsibility Board Panel prior to the filing of a petition for disciplinary action, as set forth in the Rules on Lawyers Professional Responsibility, (RLPR). Pursuant to Rule 10(a), RLPR, the parties agree to dispense with panel proceedings under Rule 9, RLPR, and respondent agrees to the immediate filing of a petition for disciplinary action, hereinafter "petition", in the Minnesota Supreme Court.

2. Respondent understands that upon the filing of this stipulation and the petition this matter will be of public record.

3. Respondent understands that he has certain rights pursuant to Rule 14, RLPR. He waives these rights, which include rights to a hearing before a referee on the petition; to have the referee make findings and conclusions and a recommended disposition; to contest such findings and conclusions; and to a hearing before the supreme court upon the record, briefs and arguments.

4. Respondent admits service of the Director's petition for disciplinary action of this date. Respondent unconditionally admits the allegations of the Director's petition for disciplinary action. Respondent states in mitigation as follows:

- a. With respect to respondent's use of a contingent fee agreement with a clause purporting to exculpate him for malpractice, Exhibit 1 to the petition, respondent states in mitigation that he has discontinued use of such a clause upon learning that it violated a disciplinary rule; that he was previously unaware that the exculpatory clause violated a disciplinary rule; and that no client who signed such an agreement has complained to the Lawyers Board with respect to the exculpatory clause.

- b. With respect to respondent's failure to pay promptly to complainant funds after the supreme court's order, respondent states that on November 10, 1982, he delivered the undisputed funds to his attorney for transmittal to the complainant and that in the period July 23 to November 10, 1982, there were occurring good faith negotiations between his attorney and Cardenas' attorney regarding the exact amount due, but these negotiations were unsuccessful.

5. Respondent understands that based upon these admissions, this court may impose any of the sanctions set forth in Rule 15(a), (1)-(6), RLPR, including making any other such disposition as it deems appropriate. Respondent understands that by entering into this stipulation, the Director is not making any representations as to the sanction the court will impose.

6. Director and respondent join in recommending that the appropriate discipline is a public reprimand and the imposition of \$500.00 in costs pursuant to Rules 15(a)(5) and 24(a), RLPR.

7. Respondent understands that pursuant to Rule 19(b), RLPR, a finding by the court that respondent committed conduct warranting public discipline pursuant to Rule 15(a), RLPR, is in future proceedings under these rules, prima facie evidence he committed the conduct.

8. Respondent has been, and continues to be, advised by legal counsel in connection with these proceedings. This stipulation is entered into by respondent freely and voluntarily, without any coercion or duress or representations by any person, except as contained herein.

9. Respondent hereby acknowledges receipt of copies of this stipulation.

Based upon the records, files and proceedings herein, and the stipulation of the parties,

IT IS HEREBY ORDERED:

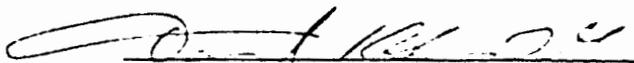
1. Respondent David A. O'Connor is publicly reprimanded pursuant to Minn. R. Law. Prof. Resp. 15(a).
2. Respondent shall pay to the petitioner \$500 in costs pursuant to Minn. R. Law. Prof. Resp. 24(a) within 60 days from the date of this order.

DATED: March 29, 1984.

BY THE COURT

OFFICE OF
APPELLATE COURTS
FILED

MAR 29 1984


Douglas K. Amdahl, Chief Justice

WAYNE TSCHIMPERLE
CLERK