

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against DAVID E. ALBRIGHT,
an Attorney at Law of the
State of Minnesota.

**STIPULATION FOR DISPENSING
WITH PANEL PROCEEDINGS,
FOR FILING PETITION FOR
DISCIPLINARY ACTION,
AND FOR DISCIPLINE**

THIS STIPULATION is entered into by and between Edward J. Cleary, Director of the Office of Lawyers Professional Responsibility, hereinafter Director, and David E. Albright, attorney, hereinafter respondent.

WHEREAS, respondent has concluded it is in respondent's best interest to enter into this stipulation,

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

1. It is understood that respondent has the right to have charges of unprofessional conduct 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. It is understood that respondent has certain rights pursuant to Rule 14, RLPR. Respondent waives these rights, which include the right 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. Respondent hereby admits service of the petition.

4. Respondent waives the right to answer and unconditionally admits the allegations as described in the petition for disciplinary action.

5. As mitigation, respondent states that he has suffered from untreated major recurrent depression during the time in question as well as undiagnosed and untreated attention deficit disorder. Respondent has been prescribed and now regularly takes Welbutrin for the depression and Adderall for the attention deficit disorder. The Internal Revenue Service determined that the delay in filing was due to respondent's condition and abated the penalties for late filing. Respondent self-reported both his initial failure to file his tax returns and his improper use of his trust account.

6. Respondent understands that based upon these admissions, this Court may impose any of the sanctions set forth in Rule 15(a)(1) - (9), RLPR, including making any disposition 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.

7. The Director and respondent join in recommending that:

a. The appropriate discipline is a 90-day suspension pursuant to Rule 15, RLPR;

b. The reinstatement hearing provided for in Rule 18(a) through (d), RLPR, be waived;

c. Respondent be required to successfully complete the professional responsibility portion of the state bar examination within one year of the date of this Court's order;

d. Respondent comply with Rule 26, RLPR;

e. Respondent pay \$900 in costs pursuant to Rule 24(a), RLPR;

f. Respondent provides proof of filing of all tax returns which are due and that respondent enter into payment agreements with the tax authorities for all taxes due and owing;

g. Respondent be reinstated following the expiration of the suspension provided that at least 15 days before the expiration of the suspension period, respondent files an affidavit with the Clerk of Appellate Courts and the Director's Office establishing that respondent is current with Continuing Legal Education, has fully complied with Rules 24 and 26, RLPR, and has satisfactorily completed all other conditions imposed by the Court in its decision.

8. Upon reinstatement to the practice of law, respondent shall be placed on two years supervised probation subject to the following conditions:

a. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation and promptly respond to the Director's correspondence by the due date. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

b. Respondent shall abide by the Minnesota Rules of Professional Conduct.

c. Respondent shall be supervised by a licensed Minnesota attorney, appointed by the Director to monitor compliance with the terms of this probation. Respondent shall provide to the Director the names of four attorneys who have agreed to be nominated as respondent's supervisor within two weeks

from the date this stipulation is executed. If, after diligent effort, respondent is unable to locate a supervisor acceptable to the Director, the Director will seek to appoint a supervisor. Until a supervisor has signed a consent to supervise, the respondent shall on the first day of each month provide the Director with an inventory of active client file. Respondent shall make active client files available to the Director upon request.

d. Respondent shall cooperate fully with the supervisor in his/her efforts to monitor compliance with this probation. Respondent shall contact the supervisor and schedule a minimum of one in-person meeting per calendar quarter. Respondent shall submit to the supervisor an inventory of all active client files by the first day of each month during the probation. With respect to each active file, the inventory shall disclose the client name, type of representation, date opened, most recent activity, next anticipated action, and anticipated closing date. Respondent's supervisor shall file written reports with the Director at least quarterly, or at such more frequent intervals as may reasonably be requested by the Director.

e. Respondent shall initiate or continue current treatment by a licensed consulting psychologist or other mental health professional acceptable to the Director, and shall complete all therapy programs recommended by the therapist.

f. Respondent shall maintain law office and trust account books and records in compliance with Rule 1.15, MRPC, and LPRB Amended Opinion No. 9. These books and records include the following: client subsidiary ledger, checkbook register, monthly trial balances, monthly trust account reconciliation, bank statements, canceled checks, duplicate deposit slips and bank reports of interest, service charges and interest payments to the Lawyer Trust Account

Board. Such books and records shall be made available to the Director within 30 days of the approval of this stipulation and thereafter shall be made available to the Director at such intervals as he deems necessary to determine compliance.

g. Respondent shall timely file all required state and federal tax returns, including individual and employer withholding returns, and timely pay the taxes due thereon. Respondent shall affirmatively report to the Director, on or before the due date of the required returns, his compliance with filing and payment requirements. Such reports shall include copies of the required returns. On or before the filing deadline, respondent shall provide the Director with copies of all applications for filing extension and proof of approval of such applications. Respondent shall provide all of the documents and information required herein without specific reminder or request.

h. Within sixty days from the execution of this stipulation, respondent shall enter into agreements satisfactory to the Internal Revenue Service (IRS) and the Minnesota Department of Revenue (DOR) for the payment of all unpaid taxes. Respondent shall provide the Director with copies of the payment agreements and proof of currency on payments required by the agreements. If after sixty days, agreement with the IRS and/or DOR has not been reached despite diligent effort by respondent, respondent shall report monthly to the Director concerning his progress in reaching agreement. Such reports shall continue until written agreements have been signed by both the IRS and DOR.

i. Respondent shall employ a qualified tax preparer to assist him in preparing and filing required quarterly and annual tax returns. Respondent shall make timely quarterly estimated payments to the state and federal tax authorities. On or before the filing deadline, respondent shall provide proof of such filing and payment to the Director without specific reminder or request.

9. This stipulation is entered into by respondent freely and voluntarily, without any coercion, duress or representations by any person except as contained herein.

10. Respondent hereby acknowledges receipt of a copy of this stipulation.

11. Respondent has been advised by the undersigned counsel.

IN WITNESS WHEREOF, the parties executed this stipulation on the dates indicated below.

Dated: January 3, 2002.


EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 17267
25 Constitution Avenue, Suite 105
St. Paul, MN 55155-1500
(651) 296-3952

Dated: January 3, 2002.


KENNETH L. JORGENSEN
FIRST ASSISTANT DIRECTOR
Attorney No. 159463

Dated: 1-7, 2002.


THOMAS J. HUNZIKER
COUNSEL FOR RESPONDENT
Attorney No. 48379
701 Fourth Avenue South
Minneapolis, MN 55415
(612) 339-1290

Dated: 1-11, 2002.


DAVID E. ALBRIGHT
RESPONDENT
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