

FILE NO. A11-1510

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against GARRY D. BARNETT,  
a Minnesota Attorney,  
Registration No. 4820.  
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**STIPULATION  
FOR DISCIPLINE**

THIS STIPULATION is entered into by and between Martin A. Cole, Director of the Office of Lawyers Professional Responsibility, hereinafter Director, and Garry D. Barnett, 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. Pursuant to the Rules on Lawyers Professional Responsibility (RLPR), the parties agree to dispense with further proceedings under Rule 14, RLPR, and respondent agrees to the immediate disposition of this matter by the Minnesota Supreme Court under Rule 15, RLPR.

2. Respondent understands this stipulation, when filed, 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.

4. Respondent withdraws the answer filed herein and unconditionally admits the allegations of the petition, with the following revisions:

a. Paragraph 16 of the petition is withdrawn.

b. Paragraph 17 of the petition is revised to read as follows: "During the period March to July 2010, respondent failed to communicate with Hawkinson regarding the status of his marriage dissolution proceeding and failed to respond to Hawkinson's multiple email and telephone attempts to communicate with him."

5. 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 sanctions the Court will impose.

6. The Director and respondent join in recommending that the appropriate discipline pursuant to Rule 15, RLPR, is a public reprimand and probation for a period of two years upon 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 provide to the Director a current mailing address and shall immediately notify the Director of any change of address. 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 three attorneys who have agreed to be nominated as respondent's supervisor within two weeks from the date of the Court's order. 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 files described in paragraph d. below. Respondent shall make active client files available to the Director upon request.

d. Respondent shall initiate and maintain office procedures which ensure that there are prompt responses to correspondence, telephone calls, and other important communications from clients, courts and other persons interested in matters which respondent is handling, and which will ensure that respondent regularly reviews each and every file and completes legal matters on a timely basis.

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.

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

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

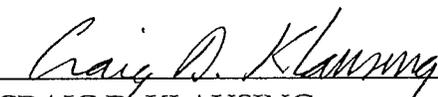
9. Respondent has been advised by the undersigned counsel concerning this stipulation and these proceedings generally.

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

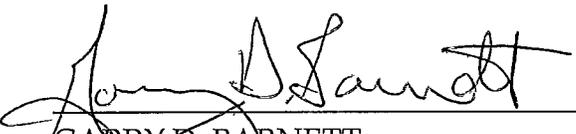
Dated: 2/12, 2013.

  
MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
Attorney No. 148416  
1500 Landmark Towers  
345 St. Peter Street  
St. Paul, MN 55102-1218  
(651) 296-3952

Dated: February 12, 2013.

  
CRAIG D. KLAUSING  
SENIOR ASSISTANT DIRECTOR  
Attorney No. 202873

Dated: April 10<sup>th</sup>, 2013.

  
GARRY D. BARNETT  
RESPONDENT

Dated: April 10, 2013.

  
KENNETH R. WHITE  
ATTORNEY FOR RESPONDENT  
Attorney No. 141525  
212 Madison Avenue, Suite 200  
Mankato, MN 56001  
(507) 345-8811

## SUPPLEMENTAL MEMORANDUM

In his answer to the petition for disciplinary action, respondent asserted that in the spring of 2010, his bipolar disorder began to manifest itself in a manic phase. Respondent had complained to his treating physician about feeling sluggish and tired on his medications and as a consequence, he had been unable to undertake much of his usual workload. As a result of a substitute medication proving to be inadequate, respondent was cycling from depressed to manic.

In his manic state, respondent did not believe that anything was wrong and that he was accomplishing more, with more precision and efficiency than before. In August 2010, respondent's manic phase reached a crisis level and he was hospitalized. Respondent remained in a manic phase for several more months, until in January 2011, he fell into a deep depression. Once again, respondent found it impossible to deal with the realities of his law practice, ignoring much of what was going on.

In April 2011 respondent was again hospitalized due to the depressive state of his bipolar disorder. He received a new medication regime during that hospitalization and returned to his treating psychologist. The new medication regime seems to have the bipolar disorder under control. Respondent also sought the assistance of another lawyer to review his practice and get files organized to ensure his clients have other attorneys who can provide them with the required assistance.

After respondent filed an answer in this matter the Director sought, and respondent provided, authorization to permit the Director to obtain respondent's medical records. After reviewing those records and meeting with respondent, the Director concludes that respondent's bipolar disorder contributed to his misconduct. The Director notes that since respondent resumed treating with his psychologist and altered his medication regime, there have been no additional complaints and no further evidence of problems with respondent's practice. Given these facts, the Director believes that a public reprimand and probation, notwithstanding the fact that misconduct of the type engaged in by respondent could warrant suspension, is the appropriate level of discipline in this matter.