

FILE NO. A15-1877

STATE OF MINNESOTA

IN SUPREME COURT

FILED

February 5, 2016

**OFFICE OF
APPELLATE COURTS**

In Re Petition for Disciplinary Action
against SCOTT ALAN BECKER,
a Minnesota Attorney,
Registration No. 0248253.

**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 Scott Alan Becker, 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 for disciplinary action filed in this matter.

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 lawyer with the Director's Office, who will monitor respondent's compliance with the terms of this probation.

d. Respondent shall cooperate fully with the supervisor in his/her efforts to monitor compliance with this probation.

e. Respondent shall, on a quarterly basis, affirmatively report to the Director the status of his efforts to resolve the claims of the heirs of Richard Linde. After one year, if the claims of the heirs have been resolved, respondent may request early termination of the probation. If the Director agrees, the parties may file a request for termination of probation with the Court.

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: December 30, 2015.


MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 0148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

Dated: December 30, 2015.


CRAIG D. KLAUSUNG
SENIOR ASSISTANT DIRECTOR
Attorney No. 0202873

Dated: January 26, 2016.


SCOTT ALAN BECKER
RESPONDENT
Attorney No. 0248253

Dated: Feb. 1, 2016.


ERIC T. COOPERSTEIN
ATTORNEY FOR RESPONDENT
Attorney No. 0210201
800 Nicollet Mall, Suite 2600
Minneapolis, MN 55402
(612) 436-2299

MEMORANDUM

Respondent's misconduct in this matter does not involve misappropriation or fraud. Rather, respondent allowed a potential windfall (i.e., Robert Denison's proposal that in exchange for handling the estate of Denison's nephew, Denison would give respondent his interest in the estate) to create a conflict between his interests and the interests of his client. That conflict resulted in Robert Denison not receiving the objective advice he was entitled to and in respondent not being candid with Denison and other heirs.

Similar, although arguably more serious misconduct has resulted in public discipline and probation. For example, a lawyer who borrowed \$30,000 from an elderly client (whose funds he managed) in order to make a balloon payment on a condominium he owned. He never informed his client, who at the time was 91 years old and suffering from Alzheimer's disease that he had borrowed the money from her cash fund and did not prepare a promissory note or mortgage to secure the loan. When the Director questioned the lawyer about the client's matter, the lawyer disclosed the loan transaction to the Director; and repaid the indebtedness to the client. The lawyer received a public reprimand and two years of unsupervised probation. *In re Ullstad*, 507 N.W.2d 614 (Minn. 1993)

Respondent in the present matter did not "borrow" funds from his client; rather, his client authorized the transfer. Respondent has indicated that he is willing to disgorge proceeds from the estate to the heirs who would have received the funds had Robert Denison simply disclaimed his interest in the estate. However, as alleged in paragraph 22 of the petition for disciplinary action, respondent has not yet done so. Respondent has provided the Director with evidence that he has proposed distributing the funds to the heirs. Some of those heirs are now represented by counsel and they have not yet been able to reach an agreement regarding the disgorgement.

A disciplinary probation in this matter is helpful to the extent that the Director is able to ensure that respondent continues to work toward the promised disgorgement of the funds, or if he and the heirs are unable to reach an agreement regarding disgorgement, that there is a process in place to resolve the issue. After either one of those things has been accomplished, the Director believes that there is little reason to continue the probation. Therefore, if the Director is satisfied that the matter either has been resolved, or processes are in place to resolve the matter, the probation could be terminated with the authorization of the Court.