

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against GILDA MARLENE CLARK,  
a Minnesota Attorney,  
Registration No. 293544.  
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**STIPULATION FOR DISPENSING  
WITH PANEL PROCEEDINGS,  
FOR FILING PETITION FOR  
DISCIPLINARY ACTION,  
AND FOR DISCIPLINE**

THIS STIPULATION is entered into by and between Martin A. Cole, Director of the Office of Lawyers Professional Responsibility, hereinafter Director, and Gilda Marlene Clark, 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 of the petition.

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 sanction the Court will impose.

6. The Director and respondent join in recommending that the appropriate discipline is a public reprimand pursuant to Rule 15, RLPR. Respondent agrees to the imposition and payment of \$900 in costs pursuant to Rule 24, RLPR.

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.

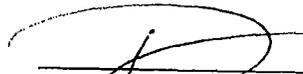
Dated: April 21, 2014.



MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY

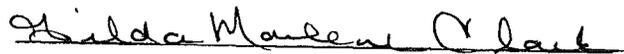
Attorney No. 148416  
1500 Landmark Towers  
345 St. Peter Street  
St. Paul, MN 55102-1218  
(651) 296-3952

Dated: April 21, 2014.



TIMOTHY M. BURKE  
SENIOR ASSISTANT DIRECTOR  
Attorney No. 19248x

Dated: May 12, 2014.



GILDA MARLENE CLARK  
RESPONDENT  
Attorney No. 293544

Dated: May 15, 2014.



ERIC T. COOPERSTEIN  
ATTORNEY FOR RESPONDENT  
Attorney No. 210201  
800 Nicollet Mall, Suite 2600  
Minneapolis, MN 55402  
(612) 436-2299

## DIRECTOR'S MEMORANDUM

In this matter, there is no doubt that respondent's statements that the document was from the bankruptcy court file and that the bankruptcy court had made a determination regarding Jelinski's ownership of the property objectively were false. The document was not part of the bankruptcy court file, and the bankruptcy court never made any such determination. Respondent acknowledges that an intentional misrepresentation to the court, if proven by clear and convincing evidence, could warrant discipline more severe than a reprimand. *See In re Scott*, 657 N.W.2d 567 (Minn. 2003).

Respondent states that she made her statements based on her understanding of Jelinski's statements to her about the document. Respondent acknowledges that Jelinski did not specifically state that the bankruptcy court had made such a determination or expressly state that the document was part of the file. To the extent respondent's contention attempts to place blame on her client, the Director rejects this argument. Respondent is an experienced attorney; the Director holds her responsible for her own statements in her role as a lawyer and her sworn statements as an expert witness. Respondent could have and should have corrected her statements before they were submitted to courts.

Proving by clear and convincing evidence that respondent's misrepresentation was in fact intentional is not a given under all the circumstances. Even a negligent misrepresentation to a court nevertheless can warrant public discipline. *See In re Grigsby*, 764 N.W.2d 54 (Minn. 2009); *In re Czarnik*, 759 N.W.2d 217 (Minn. 2009); *In re Kalk*, 829 N.W.2d 366 (Minn. 2013). In this matter, a public reprimand would fulfill the purposes of lawyer discipline without the necessity of further proceedings.