FILE NO. CO-02-1092

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against CORTLEN G. CLOUTIER,
an Attorney at Law of the
State of Minnesota.

STIPULATION FOR DISCIPLINE

THIS STIPULATION is entered into by and between Martin A. Cole, Acting Director of the Office of Lawyers Professional Responsibility, hereinafter Director, and Cortlen G. Cloutier, 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 which may be summarized as follows:

a. Respondent failed to timely file and pay state and federal personal and withholding taxes, failed to communicate with two clients and to diligently pursue their legal matters, failed to cooperate with the Director's efforts to monitor his compliance with an earlier tax-related private probation and failed to cooperate with the Director's investigations into additional tax matters and three client complaints in violation of Rules 1.3, 1.4, 8.1(a)(3) and 8.4(d), Minnesota Rules of Professional Conduct, and Rule 25, RLPR.

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:

a. The appropriate discipline is a 60-day suspension pursuant to Rule 15, RLPR;

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

c. Respondent comply with Rule 26, RLPR;

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

e. Before requesting reinstatement, 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, penalties and interest. Respondent shall provide the Director's Office with proof of the

payment agreements and proof of currency on payments required by the agreements; and

f. 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.

7. Upon reinstatement, respondent shall be placed on supervised probation for a period of two years on 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 files described in paragraph d below. 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 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.

f. Within thirty days from the execution of this stipulation, respondent shall provide to the Director and to the probation supervisor, if any, a written plan outlining office procedures designed to ensure that respondent is in compliance with probation requirements. Respondent shall provide progress reports as requested.

g. Respondent shall remain in compliance with the agreements entered into with the IRS and the DOR pursuant to paragraph 6(e) above and shall provide the Director with proof of continued complaince upon request.

h. 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.

i. Respondent shall employ a qualified tax preparer to assist him in preparing and filing required 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.

j. If at the end of the first year of the period of probation, the Director determines that respondent has failed to prepare and timely file required quarterly and/or annual tax returns, the Director, in his or her sole discretion, may require respondent to employ a qualified tax preparer to assist him in preparing and filing both the required quarterly and annual tax returns.

8. If at any time during the period of probation, after giving respondent an opportunity to be heard by the Director, the Director concludes that respondent has violated the conditions of the probation or engaged in further misconduct, the Director

may file a petition for disciplinary action against respondent in the Minnesota Supreme Court without the necessity of submitting the matter to a Panel or Panel Chair. Respondent waives the right to such consideration by the Panel or Panel Chair.

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 of the right to be represented herein by an attorney but has freely chosen to appear *pro se*.

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

Dated: September 24, 2002.

MARTIN A. COLE
ACTING 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: September 24, 2002.

MARY L. GALVIN
ASSISTANT DIRECTOR
Attorney No. 238302

Dated: _____, 2002

CORTLEN G. CLOUTIER
RESPONDENT
Attorney No. 17450
250 Northstar East Building
608 Second Avenue South
Minneapolis, MN 55402-3115