

FILE NO. A07-1819

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against ALBERT A. GARCIA, JR.,
a Minnesota Attorney,
Registration No. 219472.

**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 Albert A. Garcia, Jr., 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 September 19, 2007, petition for disciplinary action in this matter, amended as follows:

a. The Director withdraws paragraphs 1 through 5 of the petition.

b. Respondent admits the allegations contained in paragraph 6 of the petition, concerning respondent's inclusion of language in his fee agreement with John Renville making Renville's retainer nonrefundable in the event respondent was forced to terminate his representation as a result of a "licensure issue," and that portion of paragraph 9 alleging a violation of Rule 8.4(d), Minnesota Rules of Professional Conduct (MRPC). Based on the fact that respondent made satisfactory restitution to Renville, the Director withdraws paragraphs 7 and 8 of the petition, and that portion of paragraph 9 alleging a violation of Rule 1.5(a), MRPC.

c. Respondent admits the allegations contained in paragraphs 10 through 18 of the petition, concerning respondent's failure to take reasonable steps to protect Renville's interests upon termination of representation, and that portion of paragraph 20 alleging a violation of Rule 1.16(d), MRPC. Based on the fact that respondent made satisfactory restitution to Renville, the Director withdraws paragraph 19 of the petition, and that portion of paragraph 20 alleging a violation of Rule 1.5(a), MRPC.

d. Respondent admits the allegations contained in paragraphs 21 through 29 of the petition, concerning an unauthorized charge to Cliff Kath's credit card.

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 by promptly responding 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.

7. Respondent agrees to the imposition and payment of \$900 in costs pursuant to Rule 24, RLPR.

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

9. Respondent hereby acknowledges receipt of a copy of this stipulation including a copy of the attached memorandum which is made a part hereof.

10. 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: January 4, 2008.



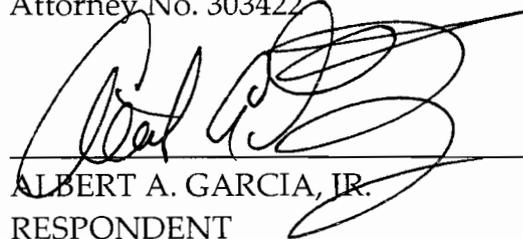
MARTIN A. COLE
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Dated: January 4, 2008.



CASSIE HANSON
ASSISTANT DIRECTOR
Attorney No. 303422

Dated: Jan 4, 2008.



ALBERT A. GARCIA, JR.
RESPONDENT

Dated: Jan. 4,, 2008.



MICHAEL H. McGLENNEN
ATTORNEY FOR RESPONDENT
Attorney No. 70439
130 - 11th Avenue South
Hopkins, MN 55343

MEMORANDUM

Respondent has prior disciplinary history, including an admonition and a 30-day suspension from the practice of law, both of which involved fee related misconduct. It is rare that an attorney with prior public discipline would not face a period of suspension for new violations involving similar acts misconduct for which he was previously disciplined. See, *In re Stanbury*, 561 N.W.2d 507 (Minn. 1997) (30-day suspension) and *In re Stanbury*, 614 N.W.2d 209 (Minn. 2000) (public reprimand and probation). However, respondent has made restitution to the affected client and there does not appear to be any outstanding harm caused by respondent's misconduct. In addition, the misconduct set forth in the petition occurred around the same time as the disciplinary matter against respondent, which resulted in his suspension from the practice of law for thirty days. Had the Director known of the misconduct set forth in the current petition, it would not likely have resulted in the imposition of significantly greater discipline against respondent at the time he was suspended.