

FILE NO. A07-0264

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against JOHN C. HOTTINGER,
a Minnesota Attorney,
Registration No. 4734X.

**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 John C. Hottinger, 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. In his answer, respondent admitted all of the allegations of the petition, which can be summarized as follows: respondent misappropriated \$8,820 of a client's settlement funds from his trust account for a period of six months, in violation of Rule 8.4(c), Minnesota Rules of Professional Conduct. Respondent has presented evidence in mitigation in his answer that the Director has considered in entering into this stipulation, and that is more fully explained in the attached memorandum.

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 is an indefinite suspension, with no right to apply for reinstatement for at least eighteen months, pursuant to Rule 15, RLPR. The suspension shall be effective 14 days from the date of the Court's suspension order. The reinstatement hearing provided for in Rule 18, RLPR, is not waived. Reinstatement is conditioned upon: (1) payment of costs in the amount of \$900 plus interest pursuant to Rule 24(d), RLPR; (2) compliance with Rule 26, RLPR; (3) successful completion of the professional responsibility examination pursuant to Rule 18(e); and (4) satisfaction of the continuing legal education requirements pursuant to Rule 18(e), 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.

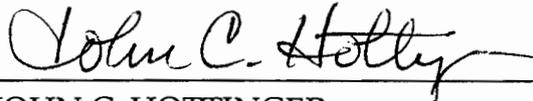
IN WITNESS WHEREOF, the parties executed this stipulation on the dates indicated below.

Dated: March 28, 2007.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
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(651) 296-3952

Dated: April 10, 2007.



JOHN C. HOTTINGER
RESPONDENT

Dated: April 10, 2007.



PHILLIP R. REITAN
ATTORNEY FOR RESPONDENT
Attorney No. 90669
142 South Riverfront Drive
Mankato, MN 56001
(507) 388-1800

DIRECTOR'S MEMORANDUM

Respondent in his answer to the petition admitted the alleged misappropriations. Respondent also raised several circumstances as potential mitigation. With respondent's claims of mitigation investigated, the parties agreed to resolve this matter in accord with *In re Rooney*, 709 N.W.2d 263 (Minn. 2006) (eighteen-month suspension for intentional misappropriation where substantial mitigating circumstances exist) and submit this stipulation to the Court.

The Director believes that this matter is similar to the *Rooney* matter. The factors considered by the Director include: respondent has no prior disciplinary history in over 34 years of practice; he has exhibited genuine remorse for his conduct; he has made complete restitution of all missing funds and no client was ultimately harmed; he has done significant *pro bono* work throughout the course of his legal career and has been a long-time public servant. Although not a mitigating circumstance, the Director notes that respondent has fully cooperated in the Director's investigation.

For these reasons, the parties believe this matter reasonably resembles the facts that convinced the Court to impose an eighteen-month suspension in *Rooney*, and that a similar disposition is appropriate in this matter.