

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against MICHAEL L. KIEFER,
a Minnesota Attorney,
Registration No. 558X.

**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 Michael L. Kiefer, 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 five-year suspension pursuant to Rule 15, RLPR. 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 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); (4) satisfaction of the continuing legal education requirements pursuant to Rule 18(e), RLPR; and (5) respondent may be reinstated only to permanent retired status.

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

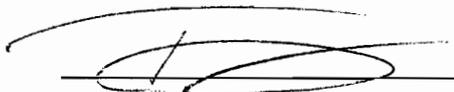
IN WITNESS WHEREOF, the parties executed this stipulation on the dates indicated below.

Dated: Sept. 19, 2007.



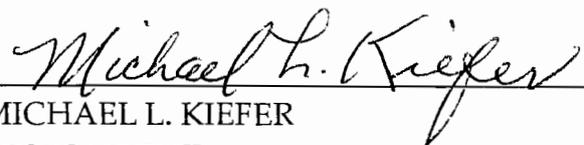
MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
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Dated: Sept 19, 2007.



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

Dated: Sept. 19,, 2007.



MICHAEL L. KIEFER
RESPONDENT
Suite 500, Parkdale Plaza Building
1660 South Highway 100
Minneapolis, MN 55416

DIRECTOR'S MEMORANDUM

The Director recognizes that the presumptive sanction for misappropriation is disbarment. In light of certain unique circumstances in this matter, however, the Director joins with respondent in recommending that the appropriate discipline is a suspension for a minimum of five years on the terms set forth in this stipulation.

The factors the Director believes warrant this stipulated discipline are the following:

- Respondent will turn 70 years old in October 2007.
- The funds respondent misappropriated for his own benefit totaled less than \$1,000.
- Respondent has made restitution.
- Respondent's clients were unaware of the misappropriation until after the money had been repaid to respondent's trust account.
- The proper application of the funds was not hindered or delayed by respondent's misappropriation.
- Respondent has represented to the Director that the only jurisdiction in which he is licensed to practice law is the State of Minnesota.
- Should respondent petition for reinstatement, he may be reinstated only to permanent retired status. In other words, respondent will not practice law again.

The Director also recognizes that the facts in this case call for substantially greater discipline than the 18-month suspensions imposed in *In re Hottinger*, 731 N.W.2d 827 (Minn. 2007); *In re DeVaughn*, 722 N.W.2d 927 (Minn. 2006); and *In re Rooney*, 709 N.W.2d 263 (Minn. 2006). Like respondent, each of those lawyers misappropriated client funds. Those lawyers were suspended for a minimum of 18 months.

The factors the Director believes distinguish this matter from, and therefore warrant greater discipline than that imposed in, those cases are the following:

- In those cases, the lawyers either self-reported the misconduct or made restitution before receiving notice that the Director's Office was investigating the matter. In the present matter, the investigation arose out of an overdraft on respondent's trust account, and respondent did not

make restitution until after he was advised that the Director was commencing an inquiry into the overdraft.

- In those cases, the lawyers did not make misrepresentations to hide their misconduct. In the present matter, respondent made multiple misrepresentations to hide his misappropriation.
- In those cases, the lawyers had no history of prior public discipline. In the present matter, respondent has previously been suspended for a minimum of one year for professional misconduct.

For the foregoing reasons, the Director believes that the resolution to which the Director and respondent have stipulated is appropriate in this matter.