FILE NO. C4-99-1827

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against STANLEY JAMES LEINO,
an Attorney at Law of the
State of Minnesota.

STIPULATION
FOR DISCIPLINE

THIS STIPULATION is entered into by and between Edward J. Cleary, Director of the Office of Lawyers Professional Responsibility, hereinafter Director, and Stanley James Leino, attorney, hereinafter respondent.

WHEREAS, the Director has filed an October 4, 1999, petition for disciplinary action and a February 11, 2000, supplementary petition for disciplinary action against respondent with the Supreme Court, and

WHEREAS, by stipulation filed with the Court on January 24, 2000, respondent has admitted the first and second counts of the October 4, 1999, petition for disciplinary action and the Director has withdrawn the third count of the October 4, 1999, petition for disciplinary action, and

WHEREAS, on March 2, 2000, respondent was temporarily suspended from the practice of law pending final determination of these disciplinary proceedings, and

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 hereby withdraws his answer to the February 11, 2000, supplementary petition for disciplinary action and unconditionally admits the allegations of that petition. The admitted allegations of the October 4, 1999, and February 11, 2000, petitions for disciplinary action may be summarized as follows:

a. Respondent misappropriated client funds, fabricated and forged documents and made false statements under oath intended to conceal the misappropriation.

b. Respondent submitted false police reports alleging that the former clients who had complained against him had burglarized his office and kidnapped him.

c. Respondent mailed an anonymous threatening note to the District Court judge assigned to hear the disciplinary proceedings with the intent of making it appear that the complaining former clients had sent the note.

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 a three-year minimum term, commencement of the term of suspension to be retroactive to March 2, 2000, the date of respondent's

temporary 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 plus interest and disbursements in the amount of $244.27 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); (4) satisfaction of the continuing legal education requirements pursuant to Rule 18(e), RLPR; (5) restitution of the misappropriated funds, and (6) submission of a current psychiatric evaluation demonstrating fitness to practice law.

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 12, 2000.

EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY
Attorney No. 17267
25 Constitution Avenue, Suite 105
St. Paul, MN 55155-1500
(651) 296-3952

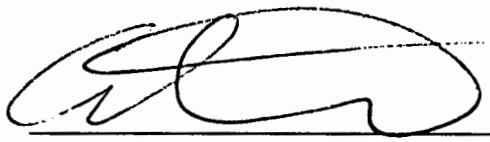
Dated: April 11, 2000.

PATRICK R. BURNS
SENIOR ASSISTANT DIRECTOR
Attorney No. 134004

Dated: 4/11/, 2000.

STANLEY JAMES LEINO
RESPONDENT
Attorney No. 272292

Dated: April 11, 2000.



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DIRECTOR'S MEMORANDUM

It is the Director's position that the misconduct committed by respondent warrants disbarment. Disbarment is the usual discipline for an attorney who misappropriates client funds and engages in a cover-up of the misappropriation. *See In re McNabb,* 577 N.W. 2d 924 (Minn. 1998). Evidence of substantial mitigating factors has, however, been considered in ordering sanctions less than disbarment. *See In re Pyles,* 421 N.W.2d 321, 326 (Minn.1988), *In re Heffernan,* 351 N.W.2d 13, 15 (Minn.1984), and *In re Shaw,* 298 N.W.2d 133, 135 (Minn.1980).

In this matter respondent has asserted mitigation consisting of inexperience, lack of prior disciplinary history, and psychological disability. Inexperience and lack of disciplinary history, taken alone or together, do not constitute sufficient mitigation to warrant a sanction less than disbarment.

Respondent has, however, provided the Director with medical records indicating a long history of treatment for depression and obsessive-compulsive disorder. The Director does not concede that respondent's disability caused the misconduct, but acknowledges that the disability contributed to it in some fashion. While it appears that respondent would be unlikely at trial to establish by clear and convincing evidence of all of the disability mitigation factors set forth in *In re Weyhrich,* 339 N.W. 2d 274 (Minn. 1983), it seems apparent that the disability played some role in the misconduct. In that sense this case is analogous to *In re Bergstrom,* 562 N.W. 2d 674 (Minn. 1997), as far as consideration of psychological mitigation is concerned. In *Bergstrom,* the court accepted a psychological disability as mitigation despite the fact that less than all of the *Weyhrich* factors had been established.

The Director is satisfied that respondent's psychological condition did play a role in his misconduct and that the public is adequately protected in this case by the imposition of a three year suspension coupled with the requirement for a current

psychological evaluation indicating fitness to practice law as a condition for reinstatement.

EJC