

NO. 5807 P. 3
FILED

February 5, 2016

**OFFICE OF
APPELLATE COURTS**

FILE NO. A15-1274

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against JAMES RICHARD MAYER,
a Minnesota Attorney,
Registration No. 0312241.

STIPULATION
FOR DISCIPLINE

THIS STIPULATION is entered into by and between Patrick R. Burns, Acting Director of the Office of Lawyers Professional Responsibility, hereinafter Director, and James Richard Mayer, 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.

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 18-month suspension pursuant to Rule 15, RLPR. The suspension shall be effective on 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), RLPR; 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.

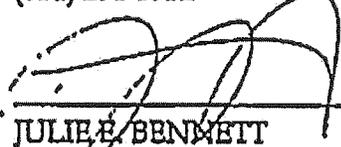
8. Respondent hereby acknowledges receipt of a copy of this stipulation.

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: JANUARY 28, 2016. 

PATRICK R. BURNS
ACTING DIRECTOR OF THE OFFICE OF
LAWYERS PROFESSIONAL
RESPONSIBILITY
Attorney No. 0134004
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

Dated: January 28, 2016. 

JULIE E. BENNETT
SENIOR ASSISTANT DIRECTOR
Attorney No. 0289474

Dated: Feb. 1, 2016. 

JAMES RICHARD MAYER
RESPONDENT
Attorney No. 0312241

Dated: Feb 1, 2016. 

JAMES H. KASTER
Attorney No. 0053946
JASON HUNGERFORD
Attorney No. 0395908
ATTORNEYS FOR RESPONDENT
80 South Eighth Street
4600 IDS Center
Minneapolis, MN 55402
(612) 256-3200

MEMORANDUM

There is no question that respondent committed serious misconduct. Respondent acknowledges the misconduct was serious and could warrant discipline more severe than an 18-month suspension followed by probation.

In determining discipline, the Court weighs both the aggravating and mitigating circumstances of a particular case. *See In re Fairbairn*, 802 N.W.2d 734, 746 (Minn. 2011).

Respondent raised several factors in mitigation which if proven would serve to mitigate respondent's misconduct. Respondent raised restitution, *pro bono* activities and financial stress as mitigating factors. The Director concedes respondent, after discovery but before confrontation, fully repaid the misappropriated funds and engaged in significant *pro bono* activity and that those factors would likely warrant mitigation. The Director does not believe respondent's alleged financial stress warrants mitigation.

Based on respondent's full restitution and significant *pro bono* work, an 18-month suspension is an appropriate discipline.