

FILE NO. A04-1622

STATE OF MINNESOTA

IN SUPREME COURT

-----  
In Re Petition for Disciplinary  
Action against ROBERT J. MILLER,  
a Minnesota Attorney,  
Registration No. 73428.  
-----

**STIPULATION  
FOR DISCIPLINE**

THIS STIPULATION is entered into by and between Kenneth L. Jorgensen, Director of the Office of Lawyers Professional Responsibility, hereinafter Director, and Robert J. Miller, 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 which may be summarized as follows:

a. Respondent failed to provide timely and diligent representation to his clients in two different matters, failed to adequately communicate with the client in one of those matters, and failed to cooperate in the disciplinary proceedings, all in violation of Rules 1.1, 1.3, 1.4, 3.2, and 8.1(a)(3), Minnesota Rules of Professional Conduct, and Rule 25, RLPR.

5. Respondent represents to the Director and the Court that he has now closed his law office and is no longer actively engaged in the practice of law.

6. 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.

7. The Director and respondent join in recommending that the appropriate discipline is a public reprimand and immediate transfer to permanent retired status pursuant to Rule 15, RLPR. 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.

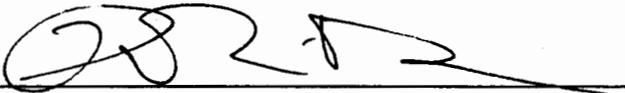
10. Respondent has been advised of the right to be represented herein by an attorney but has freely chosen to appear *pro se*.

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

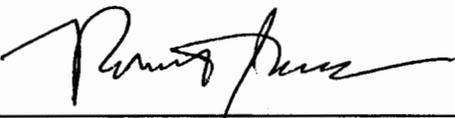
Dated: March 2, 2005.

  
KENNETH L. JORGENSEN  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
Attorney No. 159463  
1500 Landmark Towers  
345 St. Peter Street  
St. Paul, MN 55102-1218  
(651) 296-3952

Dated: MARCH 2, 2005.

  
PATRICK R. BURNS  
SENIOR ASSISTANT DIRECTOR  
Attorney No. 134004

Dated: March 22, 2005.

  
ROBERT J. MILLER  
RESPONDENT  
Attorney No. 73428  
5730 Duluth Street, B-2  
Golden Valley, MN 55422  
(763) 542-3030

## DIRECTOR'S MEMORANDUM

Respondent's misconduct, together with his history of discipline for similar misconduct, arguably warrants imposition of a sanction more severe than a public reprimand. His neglect and failure to act to implement his client's wishes in the McComber matter resulted in the frustration of his client's testamentary intent and financial harm to the client's intended beneficiaries. His lack of diligence in the probate of the Brantner estate delayed payment to Brantner's heirs for seven years (the Director has confirmed that distribution of the Brantner estate to the heirs was finally accomplished on September 30, 2004). His failure to cooperate in the disciplinary proceedings, by itself, might warrant a suspension of his license to practice law. *See e.g., In re Geiger*, 621 N.W. 2d 16, 23 (Minn. 2001) and *In re Cutting*, 671 N.W. 2d 173 (Minn. 2003).

Several factors have been considered in recommending to the Court the imposition of a public reprimand and transfer to permanent retired status. These include respondent's age – he was admitted to practice in 1959; his health – he was recently hospitalized for spleen and heart problems and tests show that he may suffer from Parkinson's disease; and the fact that he has closed his law office and is no longer actively practicing law. Given these circumstances, the recommended disposition discipline appears sufficient to protect the public.

K.L.J.