

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary  
Action against PATRICK J NOLAN, III,  
a Minnesota Attorney,  
Registration No. 121307.  
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**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 Patrick J. Nolan, III, 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 or considered by the Chair of the Board 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 an indefinite suspension with a three-year minimum term 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), RLPR; and (4) satisfaction of the continuing legal education requirements pursuant to Rule 18(e), RLPR.

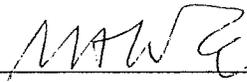
7. This stipulation is entered into by respondent freely and voluntarily, without any coercion, duress or representations by any person except as contained herein.

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

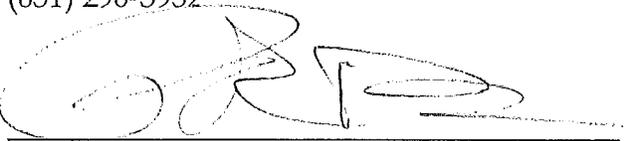
9. Respondent has been advised by the undersigned counsel concerning this stipulation and these proceedings generally.

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

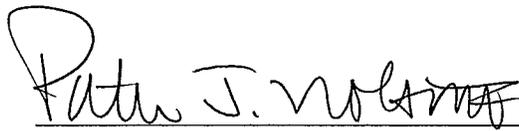
Dated: JANUARY 7, 2015.

  
MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
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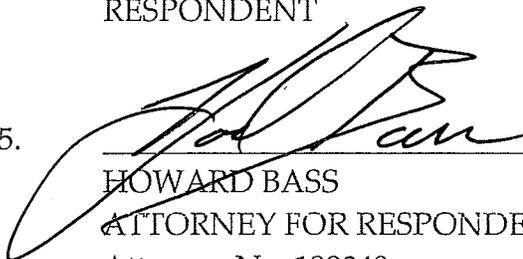
Dated: JANUARY 7, 2015.

  
PATRICK R. BURNS  
FIRST ASSISTANT DIRECTOR  
Attorney No. 134009

Dated: JANUARY 14, 2015.

  
PATRICK J. NOLAN, III  
RESPONDENT

Dated: JANUARY 14, 2015.

  
HOWARD BASS  
ATTORNEY FOR RESPONDENT  
Attorney No. 189340  
13963 Preserve Blvd. West, Suite 200  
Burnsville, MN 55337  
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## MEMORANDUM

The parties, in submitting this stipulation, are aware the Court has stated that the presumptive discipline for a felony conviction is disbarment. *In re Perez*, 688 N.W. 2d 562 (Minn. 2004). The Court, however, has not always disbarred lawyers convicted of felonies. For instance, in *In re Jones*, 763 N.W.2d 38 (Minn. 2009), the Court accepted a stipulation for a three year extension of an already-existing suspension where the lawyer's conviction resulted from the filing of a single federal tax return, was unrelated to his practice of law, and no clients or client funds were involved.

Similar considerations apply here. Respondent's conviction arose out of a single, isolated incident involving questioning by Postal Inspectors related to transactions of a real estate closing service. The dishonesty did not occur during or relate to the practice of law. No attorney-client relationships were involved and no clients or client funds were put in jeopardy. Further, unlike the lawyer in *Jones*, respondent here has no prior discipline.

Also compelling are the factors cited by the United States Attorney in the attached Position of the United States Regarding Sentencing. As noted there, respondent was deemed to be among the least culpable of the defendants charged in the underlying fraud scheme and did not profit from that scheme. Further, his misconduct did not itself cause any loss and he exhibited immediate contrition and acceptance of his own responsibility.

Finally, the stipulated disposition here is consistent with the recent discipline in the companion case of *In re Weiler* (A14-2104, January 6, 2015) where the Court accepted a stipulation of the parties and ordered an indefinite suspension with no right to petition for reinstatement for three years.

Given these facts, the parties believe that the indefinite suspension with no right to petition for reinstatement for three years recommended in the stipulation is the appropriate disposition.

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No.: 13-303(1) (JNE/JSM)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	POSITION OF THE UNITED STATES
	)	REGARDING SENTENCING
PATRICK JOSEPH NOLAN III,	)	
	)	
Defendant.	)	

The United States of America respectfully submits the following position regarding sentencing. For the following reasons, the government does not seek a prison sentence for Mr. Nolan. Mr. Nolan's offense, lack of enrichment, exceptionally prompt acceptance of responsibility, and personal circumstances at the time of offense merit leniency. A sentence that does not include confinement would be appropriate and would serve the interests of justice in this case.

The government respectfully disagrees with the Pre-Sentence Investigation Guidelines offense level of 10. Consistent with the calculation in the plea agreement the government respectfully submits that the loss for Guidelines purposes should be not more than \$30,000 with a resulting offense level increase of 4, not 6 as proposed in the PSR. While the defendant and Ms. Weiler did commit their offenses with respect to the same investigation, their respective roles in the underlying scheme and their corresponding financial benefits were different. In essence, Weiler was the only one in a position to observe the closings and aware of the scope and details of the scheme. Nolan knew there were closings and knew that, for example, sellers were being allowed to stay in

their homes and that this fact would have been material to lenders. He was not aware of many other facts. When Nolan told Weiler to continue with the closings, it was within this limited context. And when Nolan was interviewed, there is nothing to suggest he was more informed than he had been at the time Weiler approached him.

Moreover, the financial split between the two defendants here favored Weiler; she received more of the closing fee than Nolan did, and Nolan netted even less because, as the owner of the business, Nolan had to pay other employee salaries and overhead out of his modest cut. Given the differences in knowledge of the transactions at issue and the corresponding different importance to the investigation and ability to mislead the agents, we respectfully submit that Nolan should not be held accountable, for sentencing purposes, for the entire gain to him and his firm, on the one hand, and to Darcy Weiler personally on the other. After reduction for acceptance of responsibility, therefore, the total offense level should be 8. This suggests a sentence between 0 and 6 months.

Even if Mr. Nolan's range, however, includes a possibility of imprisonment, the government agrees that this is a case in which a sentence of probation is still appropriate. Interviews with witnesses who know and worked with Mr. Nolan described behaviors consistent with what the defendant now explains as a traumatic personal situation at the time of the offense. While personal difficulties alone may not support a lenient sentence, in this case, combined with all the other relevant factors, they do. Simply put, Mr. Nolan does not need additional punishment in the form of prison to understand the mistakes he has made, learn from them, and not re-offend.

In these circumstances, the sentencing factors under 18 U.S.C. § 3553(a) counsel in favor of leniency. Along with Darcy Weiler, Mr. Nolan is the least culpable of the defendants charged in connection with the UHS mortgage rescue program. Like Weiler, Nolan did not profit from his conduct beyond receiving the typical fee that would have been earned in any case; there were no kickbacks or profit sharing as sometimes occurs. And while it is appropriate to punish him for misleading the investigators, this offense did not itself cause any loss to the banks that had already been defrauded. Moreover, and most significantly, the defendant here was immediately contrite and accepting of his own responsibility. Among the many defendants prosecuted by the undersigned, the defendant here was one of the least hesitant to express a desire to plead guilty.

The defendant's history and circumstances suggest a low risk of re-offending. He has no criminal record. To the extent he wishes to practice law, Mr. Nolan will likely be prohibited from doing so. Thus, the characteristics of the defendant and his offense warrant a sentence below the advisory Guidelines.

For all these reasons, the government respectfully recommends a sentence of probation in this case.

Respectfully submitted,

Dated: September 22, 2014

ANDREW M. LUGER  
United States Attorney

*s/Robert M. Lewis*  
ROBERT M. LEWIS  
Assistant U.S. Attorney  
Attorney ID No. 0249488