FILE NO. A05-2501

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against RICHARD LEE SWANSON,
a Minnesota Attorney,
Registration No. 173423.

STIPULATION FOR DISCIPLINE

THIS STIPULATION is entered into by and between Betty M. Shaw, Acting Director of the Office of Lawyers Professional Responsibility, hereinafter Director, and Richard Lee Swanson, 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 unconditionally admits the allegations of the petition which may be summarized as follows:

a. Respondent failed to timely file an appeal on behalf of Jeffrey Poppler, who paid respondent $2,500 to appeal the final judgment and decree in his dissolution proceedings. Respondent further filed a memorandum with the court of appeals incorrectly arguing that his receipt of the notice of filing of the judgment and decree triggered the appeal time. The court of appeals dismissed Poppler's appeal as untimely. Respondent provided Poppler with a copy of the order, but did not explain why the appeal was not timely filed.

b. During the period July 25, 2005, to approximately December 2, 2005, respondent failed to cooperate with the Director's investigation of the Poppler matter. Respondent eventually cooperated with the Director's investigation and is entering into this stipulation for discipline.

c. Respondent's conduct as described above violated Rules 1.1, 1.3 and 8.1(b), Minnesota Rules of Professional Conduct (MRPC), and Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

d. Respondent has the following disciplinary history:

i. On April 13, 1988, respondent was issued an admonition for failing to adequately communicate with a client in violation of Rule 1.4(a), MRPC.

ii. On September 7, 1989, respondent was issued an admonition for advising a client to appear *pro se* at a hearing in violation of Rules 1.3 and 8.4(d), MRPC.

iii. On December 11, 1996, respondent was issued an admonition for failing to competently file a notice of appeal and failing to pay a client $1,500 in a malpractice case settlement in violation of Rules 1.1 and 8.4(d), MRPC.

iv. On May 19, 2005, respondent was issued an admonition for failing to timely file a motion with the district court, failing to timely request a continuance of a hearing for which he had a scheduling conflict and failing to provide a client with an accounting in violation of Rules 1.3 and 1.4, MRPC.

e. Approximately four months after the dismissal of the Poppler appeal, respondent began, and subsequently successfully completed, out-patient treatment for alcoholism. In the 16 months since completing treatment, respondent has abstained from alcohol and other mood-altering chemicals and has regularly attended meetings through Alcoholics Anonymous.

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 pursuant to Rule 15, RLPR, is a public reprimand and supervised probation for a period of two years from the date of the Court's order herein, upon the following conditions:

a. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation and promptly respond to the Director's correspondence by the due date. Respondent shall cooperate with the

Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

b. Respondent shall abide by the Minnesota Rules of Professional Conduct.

c. Respondent shall be supervised by a licensed Minnesota attorney, appointed by the Director to monitor compliance with the terms of this probation. Respondent shall provide to the Director the names of four attorneys who have agreed to be nominated as respondent's supervisor within two weeks from the date this stipulation is executed. If, after diligent effort, respondent is unable to locate a supervisor acceptable to the Director, the Director will seek to appoint a supervisor. Until a supervisor has signed a consent to supervise, the respondent shall on the first day of each month provide the Director with an inventory of active client files described in paragraph d. below. Respondent shall make active client files available to the Director upon request.

d. Respondent shall cooperate fully with the supervisor in his/her efforts to monitor compliance with this probation. Respondent shall contact the supervisor and schedule a minimum of one in-person meeting per calendar quarter. Respondent shall submit to the supervisor an inventory of all active client files by the first day of each month during the probation. With respect to

each active file, the inventory shall disclose the client name, type of representation, date opened, most recent activity, next anticipated action, and anticipated closing date. Respondent's supervisor shall file written reports with the Director at least quarterly, or at such more frequent intervals as may reasonably be requested by the Director.

e. Respondent shall maintain total abstinence from alcohol and other mood-altering chemicals, except that respondent may use prescription drugs in accordance with the directions of a prescribing physician who is fully advised of respondent's chemical dependency before issuing the prescription.

f. Respondent shall continue to attend weekly meetings of Alcoholics Anonymous or another out-patient alcohol treatment program acceptable to the Director. Respondent shall, by the tenth day of each month, without a specific reminder or request, submit to the Director an attendance verification on a form provided by the Director, which provides the name, address and telephone number of the person personally verifying the attendance.

g. Respondent shall successfully complete a course on civil appellate procedure and shall provide the Director with verification of said successful completion.

7. Respondent agrees to the imposition and payment of $900 in costs pursuant to Rule 24, RLPR.

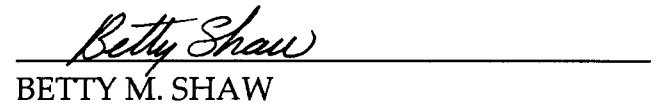
8. This stipulation is entered into by respondent freely and voluntarily, without any coercion, duress or representations by any person except as contained herein.

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: Jan 10, 2006.



BETTY M. SHAW
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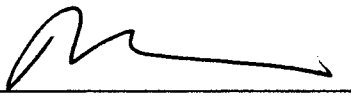
Dated: Jan. 10, 2006.

CASSIE HANSON
ASSISTANT DIRECTOR
Attorney No. 303422

Dated: 1/11, 2006.



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