

FILE NO. A05-1616

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against KRISTINE KATHERINE TRUDEAU,
a Minnesota Attorney,
Registration No. 310372.

**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 Kristine Katherine Trudeau, 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 her answer to the petition and pursuant to Rule 13(b), RLPR, unconditionally admits for the purposes of these proceedings only the allegations of the petition which may be summarized as follows:

a. Respondent's conduct leading to her arrest on April 17, 2003, and respondent's subsequent plea of guilty to interference with a 911 call, a gross misdemeanor, violated Rule 8.4(b) and (d), Minnesota Rules of Professional Conduct (MRPC).

b. Respondent's conduct in installing and using an email spyware program to illegally obtain email information and respondent's subsequent plea of guilty to unauthorized computer access, a misdemeanor, violated Rule 8.4(b) and (d), MRPC.

c. Respondent's conduct in violating a harassment restraining order in Carver County violated Rules 3.4(c), and 8.4(b) and (d), MRPC.

d. Prior to her admission to practice law in Minnesota, respondent engaged in similar behavior involving several individuals with whom she had personal relationships, which resulted in the issuance of restraining orders.

e. Respondent's continuing pattern of harassment, including making false statements to police officers while intoxicated, numerous violations of an order for protection, and filing frivolous litigation involving a non-client matter, violated Rules 3.1, 3.4(c), and 8.4(c) and (d), MRPC. Respondent's misconduct arose solely out of her personal relationships with others and did not relate to her representation of clients or client-related matters.

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 that:

a. Respondent be indefinitely suspended from the practice of law for a minimum period of thirty months pursuant to Rule 15, RLPR. The suspension shall be effective 14 days from the date of the Court's suspension order;

b. The reinstatement hearing provided for in Rule 18, RLPR, is not waived;

c. As part of the required reinstatement hearing, respondent must establish through expert psychological or psychiatric evidence that she is psychologically fit to practice law. Respondent shall also submit to an independent medical examination by a medical expert chosen by the Director. Respondent shall bear the costs associated with this examination. In addition, respondent shall also provide evidence of sobriety for a minimum of one year prior to seeking reinstatement. Such evidence shall include successful completion of a chemical dependency program along with follow through with all aftercare recommendations and proof of regular attendance in Alcohol Anonymous;

d. Respondent shall comply with Rule 26, RLPR, and payment of costs in the amount of \$900 plus interest and disbursements in the amount of \$578.18 plus interest pursuant to Rule 24(d), RLPR;

e. Respondent shall provide proof of successful completion of the professional responsibility examination pursuant to Rule 18(e), RLPR; and

f. 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. The attached memorandum is incorporated into the stipulation by reference.

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

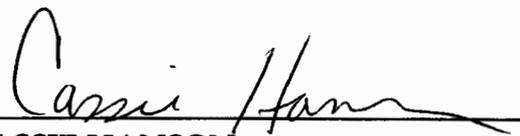
10. Respondent has been advised of the right to be represented herein by an attorney but has freely chosen to appear *pro se*.

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

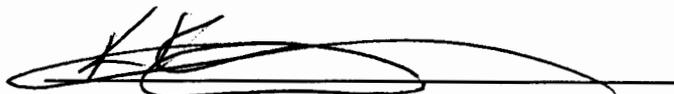
Dated: October 12, 2005.


KENNETH L. JØRGENSEN
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: October 12, 2005.


CASSIE HANSON
ASSISTANT DIRECTOR
Attorney No. 303422

Dated: Oct. 12, 2005.


KRISTINE KATHERINE TRUDEAU
RESPONDENT
473 Banfil Street, #2
St. Paul, MN 55102

MEMORANDUM

In recommending an indefinite suspension for a minimum period of thirty months, the Director has taken into consideration that respondent suffers from alcoholism and depression, which appears to have been a contributing factor to some of her misconduct.

Alcoholism is not a defense to misconduct. *In re Anderley*, 481 N.W.2d 366, 370 (Minn. 1992). For alcoholism to qualify as a mitigating factor, "the attorney must prove by clear and convincing evidence that (1) he is affected by alcoholism, (2) the alcoholism caused the misconduct, (3) he is recovering from alcoholism, (4) the recovery has arrested the misconduct, and (5) the misconduct is not apt to recur." *Id.*, see *In re Johnson*, 322 N.W.2d 616, 618 (Minn. 1982).

Respondent likely meets the first criteria and has a preadmission history of alcoholism that was the subject of her admission proceeding. Respondent obtained treatment for alcoholism during the admission process and shortly before her admission on October 23, 2001, testified that she had successfully completed alcoholism treatment. She also provided expert testimony on this issue. Respondent admits that within two years of being admitted she began drinking again.

Some of respondent's misconduct is undoubtedly exacerbated by her alcoholism.¹ Nevertheless, there is insufficient evidence to demonstrate that respondent's alcoholism was the sole cause of her misconduct and criminal convictions. In addition, respondent could not prove at this time that her alcoholism has been arrested and is not likely to recur.²

Respondent also suffers from depression. An attorney who raises a psychological disability must prove five factors: (1) that the attorney has a severe psychological problem, (2) that the psychological problem was the cause of the misconduct, (3) that the attorney is seeking treatment, (4) that the treatment has arrested

¹ Respondent admits she was intoxicated when she made false statements to the police.

² Respondent admitted during the Panel hearing that she had resumed drinking again and concurs that she needs further treatment.

the misconduct, and (5) the misconduct is not likely to recur. *In re Weyhrich*, 339 N.W.2d 274, 279 (Minn. 1983).

Respondent's medical records reflect a history of depression. While depression may have contributed to respondent's misconduct, respondent similarly could not establish the *Weyhrich* factors. There is substantial doubt that respondent's violations of court no contact orders, and pursuit of frivolous litigation were caused by either alcoholism or depression. In addition, respondent is not seeking treatment -- to the contrary respondent testified at the Panel hearing that she had not complied with treatment recommendations that she undergo counseling.

Although the gravity of respondent's conduct warrants severe discipline, the protection of the public does not appear to require disbarment. While respondent's misconduct undoubtedly affects her character and fitness as a lawyer, none of the misconduct involved client-related matters.

Respondent's alcoholism relapse since her admission and the continuing nature of her misconduct over the past few years requires at minimum a substantial period of suspension. Indefinite suspension for a minimum of thirty months hopefully will provide respondent with sufficient time to address her mental health and chemical issues. Respondent's admission to the bar was delayed fourteen months while the Board of Law Examiners closely scrutinized her alcoholism and depression in its character and fitness inquiry. This period of time has now proven to have been insufficient to gauge whether respondent appropriately addressed her chemical and psychological issues and arrested her pattern of inappropriate behavior. A longer period is necessary to determine whether respondent's behavior, despite her substantial history of personal misconduct, is not apt to again recur.

K.L.J.