

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

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against DARCY A. WEILER,  
a Minnesota Attorney,  
Registration No. 147254.  
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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 Darcy A. Weiler, 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.

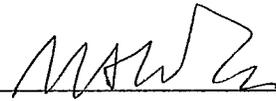
7. This stipulation is entered into by respondent freely and voluntarily, without any coercion, duress or representations by any person except as contained herein.

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

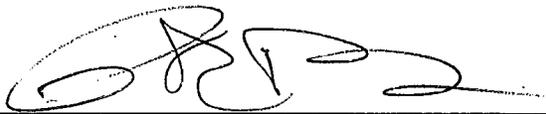
9. Respondent has been advised by the undersigned counsel concerning this stipulation and these proceedings generally.

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

Dated: November 24, 2014.

  
MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
Attorney No. 148416  
1500 Landmark Towers  
345 St. Peter Street  
St. Paul, MN 55102-1218  
(651) 296-3952

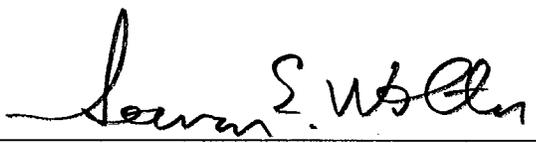
Dated: November 24, 2014.

  
PATRICK R. BURNS  
FIRST ASSISTANT DIRECTOR  
Attorney No. 134004

Dated: December 3, 2014.

  
DARCY A. WEILER  
RESPONDENT

Dated: December 3, 2014.

  
STEVEN E. WOLTER  
ATTORNEY FOR RESPONDENT  
Attorney No. 170707  
431 South Seventh Street, Suite 2530  
Minneapolis, MN 55415  
(612) 371-9090

## 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.

Most compelling, however, 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 the least culpable of the defendants charged in the underlying fraud scheme and did not profit from that scheme. Further, her misconduct did not itself cause any loss and she later admitted to her misconduct and cooperated with the authorities. Given these facts, the parties believe that the three year suspension recommended in the stipulation is the appropriate disposition.

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No.: 13-303(2) (JNE/JSM)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	POSITION OF THE UNITED STATES
	)	REGARDING SENTENCING
DARCY ANDERSON WEILER,	)	
	)	
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 Ms. Weiler. Ms. Weiler's offense, lack of enrichment, and cooperation with the government merit leniency. A sentence that does not include confinement would be appropriate and would serve the interests of justice in this case. Instead, a fine is the appropriate manner in which to punish this defendant.

The government accepts the Pre-Sentence Investigation ("PSR") Guidelines offense level of 10. Although this level could advise confinement in the typical case, the sentencing factors under 18 U.S.C. § 3553(a) counsel in favor of leniency. Along with her boss, Patrick Nolan, Ms. Weiler is the least culpable of the defendants charged in connection with the UHS mortgage rescue program. Neither Ms. Weiler nor Mr. Nolan profited from their conduct beyond receiving the typical fee that would have been earned in any case; there were no kickbacks or profit sharing as sometimes occurs in these cases. And while it was appropriate to punish her for misleading the investigators, this offense

did not itself cause any loss to the banks that had already been defrauded. Moreover, though she lied to the investigating agents when first interviewed, Ms. Weiler did later admit to her misconduct and submit to further interviews.

Ms. Weiler's history and circumstances suggest a low risk of re-offending. She has no criminal record. And to the extent she wishes to practice law or maintain a professional license, Ms. Weiler will likely be prohibited from doing so or closely monitored by licensing authorities. Thus, the characteristics of the defendant and her offense warrant a sentence below the advisory Guidelines. And as noted above, the defendant's assistance to law enforcement was substantial.

However Ms. Weiler is able to pay a fine in this case, and given that she profited more than her company did, a fine is warranted. The advisory Guidelines range is \$2,000 to \$20,000. The government requests a fine of \$3,000 in this case. A fine would deter others who might commit the same offense and would also impose a significant sanction.

For all these reasons, the government respectfully recommends a departure from the advisory Guidelines range and a sentence that accounts for Ms. Weiler's relatively low culpability and assistance to the government in this case.

Respectfully submitted,

Dated: July 11, 2014

ANDREW M. LUGER  
United States Attorney

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