

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

**IN THE MATTER OF A
SUSPENDED MEMBER OF
THE STATE BAR OF ARIZONA,**

**DAVID P. DE COSTA,
Bar No. 020139**

Respondent.

PDJ-2015-9010

FINAL JUDGMENT AND ORDER

[State Bar File Nos. 13-0454, 13-0743, 13-0958, 13-1382, 14-2218, and 14-2322]

FILED FEBRUARY 17, 2015

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on January 16, 2015, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **David P. De Costa**, is hereby suspended for four (4) years for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective the date of this Order. A period of suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona.

IT IS FURTHER ORDERED that Respondent shall pay Restitution within 180 days of the date of the final Judgment and Order in the sums of \$1,700 to Complainant Silvia S. Vazquez Rivera in 13-0958, \$2,500 (total) to Norma, Arcadio,

and Eligio Saenz in 13-1382, and \$1,500 to Complainant Maria Scaramelli in 14-2322.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,440.00, within 180 days from the date of the final Judgment and Order, and if costs are not paid within the 180 days, interest will begin to accrue at the legal rate.

DATED this 17th day of February, 2015.

William J. O'Neil

**William J. O'Neil, Presiding Disciplinary
Judge**

Copies of the foregoing mailed/emailed
this 17th day of February, 2015, to:

David P. De Costa
1514 W. Encanto Blvd.
Phoenix, AZ 85007-1203
Email: dcde_costa@yahoo.com
Respondent

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: MSmith

**BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY
JUDGE**

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
ARIZONA,

DAVID P. DE COSTA,
Bar No. 020139

Respondent.

No. PDJ-2015-9010

**REPORT ACCEPTING CONSENT
FOR DISCIPLINE**

[State Bar Files Nos. 13-0454, 13-
0743, 13-0958, 13-1382, and 14-
2322]

FILED FEBRUARY 17 2015

An Agreement for Discipline by Consent was filed on January 16, 2015, and submitted under Rule 57(a) of the Rules of the Arizona Supreme Court. The Agreement was reached before the authorization to file a formal complaint. Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate."

Rule 57 requires admissions be tendered solely "...in exchange for the stated form of discipline..." Under that rule, the right to an adjudicatory hearing is waived only if the "...conditional admission and proposed form of discipline is approved...". If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding.

Under Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this Agreement was provided to the complainants by e-mail and letter on January 20, 2015. Complainants were

notified of the opportunity to file a written objection to the agreement with the State Bar within five days of bar counsel's notice. Complainants did not file any objections.

Five clients receive restitution under this agreement. Mr. De Costa conditionally admits his conduct violated Rule 42, ERs 1.3, 1.4(a) and (b), 1.5(a), 1.6(a), 1.15(d), 1.16(d), 3.3(a), 3.4(c), 5.5(a) and (b), 8.1(a), 8.4(b) and (c), 8.4(d), and Rule 72. The parties stipulate to a long-term suspension of four years, payment in full of stated restitution, and costs and expenses of the disciplinary proceedings to the State Bar in the amount of \$1,440.00 within 180 days of the date of the final Judgment and Order. Aggravating and mitigating factors were generally referred to in the Agreement.

GENERAL ALLEGATIONS

In the thirty-three (33) page Agreement, six separate counts outline a consistent pattern of misconduct. Mr. De Costa conditionally admits he engaged in the unauthorized practice of law. He used the office space, materials, and goodwill of a law firm to conduct his own legal practice while suspended; misled attorneys to do legal work not billed to said law firm; filed court documents in other attorney's names without their authorization; charged and collected fees as a paid document preparer; cashed client's money orders meant for court filing fees in his own name; continued to collect legal fees after suspended; did not fulfill his duties in termination of counsel causing harm to his clients; and failed to exercise due diligence to his clients.

The admissions here are conditioned on the acceptance of this agreement by this judge. Agreements resolve the controversy existent in each discipline matter. The State Bar must prove its case in each count by clear and convincing evidence.

However, there may be issues regarding the evidence available to the State Bar, and there may be credibility issues or unavailability of witnesses. Further, Mr. De Costa may have defenses or mitigating factors to one or all of the counts. The presumptive sanction for Mr. De Costa's most egregious misconduct is disbarment. However, the parties conditionally agree that the principle sanction should be reduced to a long-term suspension of four years to reduce uncertainty and achieve predictability and finality. All trials are uncertain. The agreement for a four year suspension and restitution is not unreasonable under the circumstances.

The parties agree that Mr. De Costa acted variously with an intentional, knowing, and negligent mental state. Notwithstanding, the PDJ finds the proposed sanctions of four year suspension and restitution meet the objectives of discipline. The Agreement is accepted.

IT IS ORDERED incorporating by this reference the Agreement for Discipline by Consent and any supporting documents by this reference. The agreed upon sanctions are: four year suspension, payment in full of stated restitution, and costs and expenses of the disciplinary hearing to the State Bar in the amount of \$1,440.00 within 180 days of the date of the final Judgment and Order. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings. If costs are not paid within the 180 days, interest will begin to accrue at the legal rate. Further, suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona.

IT IS FURTHER ORDERED the Agreement for Discipline by Consent discipline is accepted. A final judgment and order was submitted simultaneously with the

Agreement. Restitution is approved in the amount listed. Costs as submitted are approved for \$1,440.00. The proposed final judgment and order having been reviewed are approved as to form. Now therefore, the final judgment and order will be signed on February 17, 2015.

DATED this 17th day of February 2015.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

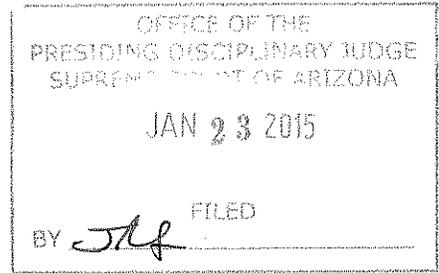
Copies of the foregoing mailed/emailed
this 17th day of February, 2015 to:

David L. Sandweiss
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: lro@staff.azbar.org

David P. De Costa, Bar No. 120139
1514 W. Encanto Blvd
Phoenix, AZ 85007-1203
Telephone 408-767-0316
Email: dcde_costa@yahoo.com
Respondent

Lawyer Regulation Manager
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: lro@staff.azbar.org

by: MSmith



David L. Sandweiss, Bar No. 005501
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7250
Email: LRO@staff.azbar.org

David P. De Costa, Bar No. 020139
1514 W. Encanto Blvd.
Phoenix, AZ 85007-1203
Telephone 408-767-0316
Email: dcde_costa@yahoo.com
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**BEFORE THE PRESIDING DISCIPLINARY JUDGE
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IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
ARIZONA,

DAVID P. DE COSTA,
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Respondent.

PDJ 2015 - 9010

State Bar File Nos. 13-0454, 13-0743,
13-0958, 13-1382, 14-2218, and
14-2322

**AGREEMENT FOR DISCIPLINE BY
CONSENT (PRE-FILING)**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, David P. De Costa, who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct.¹ Probable cause orders were entered on November 24, 2014 in 13-0454, and December 22, 2014 in 13-1382. Cases 13-0743, 13-0958, 14-2218, and 14-2322, have not yet been presented to the Attorney Discipline Probable Cause Committee ("ADPCC") but they are included in this pre-filing consent to conclude all

¹ All references to rules are to the Arizona Rules of the Supreme Court unless otherwise expressly stated.

pending matters relating to Respondent. A formal complaint has not been filed in these matters.

Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admissions and proposed form of discipline are approved.

Pursuant to Rule 53(b)(3), notice of this agreement was provided to the complainants by letter and email on January 20, 2015. Complainants have been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.3-Failure to Exercise Reasonable Diligence, 1.4(a) and (b)-Failure to Communicate Reasonably with Clients, 1.5(a)-Unreasonable Fees, 1.6(a)-Confidential Information, 1.15(d)-Safekeeping Property, 1.16(d)-Duties on Termination of Representation, 3.3(a)-Candor Toward the Tribunal, 3.4(c)-Violation of Court Order or Rule, 5.5(a) and (b)-Unauthorized Practice of Law, 8.1(a)-False Statement in a Disciplinary Matter, 8.4(b)-Criminal Act, 8.4(c)-Misconduct Involving Dishonesty, 8.4(d)-Misconduct Prejudicial to the Administration of Justice, Rule 72-Duties of Notification and Recordkeeping Upon Suspension. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Long-Term Suspension for four (4) years, and Restitution within 180 days of the date of the final Judgment and Order-\$1,700 to Complainant Silvia S. Vazquez Rivera in 13-0958, \$2,500 (total) to Norma, Arcadio, and Eligio Saenz in 13-1382,

and \$1,500 to Complainant Maria Scaramelli in 14-2322. A suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 180 days from the date of the final Judgment and Order, and if costs are not paid within the 180 days, interest will begin to accrue at the legal rate.² The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on May 24, 2001.

COUNT ONE (File no. 13-0454/Kissandra Tysman)

2. On April 2, 2012, Respondent, a suspended attorney, went to work for Complainant as a paralegal. Complainant operated her practice from two offices, one in Mesa (Tysman Law Firm) and the other in Phoenix (Tysman Law Group, hereafter "TLG"). Generally, she used her Mesa office as the base for her personal injury and family law practice, and the Phoenix office for criminal and immigration cases. Respondent worked in the Phoenix office where Complainant rarely was present.

3. Sister attorneys Brittany Fisher and Lindsay Guthrie were admitted to practice in February and September 2012, respectively. Ms. Fisher provided contract services to Complainant, and Ms. Guthrie was an employee. Initially,

² Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

neither knew much about criminal law or immigration. Since Respondent had experience in both fields Complainant had Respondent train the two attorneys and accompany them to court. Ms. Fisher stopped working for Complainant in October 2012.

4. Ms. Fisher and Ms. Guthrie's responsibilities were to handle cases—*i.e.*, meet with the firm's in-custody clients, draft and file documents, and make court appearances. Neither was responsible for client intake, determination of fees, signing or obtaining signatures on fee agreements, or firm management.

5. On January 24, 2013, Respondent visited with Ms. Guthrie to discuss a new immigration client who had a court matter at 1:00 p.m. Ms. Guthrie reviewed the thin file, signed a Notice of Appearance, and headed to court. Respondent met her there to introduce her to the client, Rosario Panduro-Paz, and then left. The client had a file so Ms. Guthrie reviewed it for anything that might be relevant to the representation. She found a "fee agreement" that bore the title "Tysman & Associates" and below that it read "Attorney Lindsay Guthrie" and her bar number. Below that information was a Phoenix address that Ms. Guthrie did not recognize. The document called for payment of a \$1,000 fee and was signed by the client and someone named "Jennifer" who was identified as a paralegal. Subsequent events revealed that "Jennifer" is Jennifer Samaniego, Respondent's former paralegal.

6. Ms. Guthrie reported this irregularity to Complainant. She and her administrative assistant went through Respondent's office and found a variety of materials and emails suggesting that Respondent was running a law practice side-business from his office in Complainant's suite. She fired him on February 5, 2013,

and filed bar charges against Respondent, Ms. Fisher, and Ms. Guthrie on March 1, 2013.

7. Complainant produced court documents showing that Ms. Fisher and Ms. Guthrie, for TLG, were counsel of record in many cases. Both of them believed that their clients in those cases were firm clients; Respondent assigned them the cases and they had no reason to believe otherwise. They were paid no additional sums beyond their agreed rates of pay.

8. After investigating, Complainant discovered that none of the many "clients" in question was a TLG client. Respondent obtained the cases from his sources, used TLG receipt forms to document client payments to him, used Complainant's electronic signature to file court documents purporting to show that TLG was counsel of record, and sometimes filed Notices of Appearance for Ms. Fisher or Ms. Guthrie without them knowing it and in cases about which they knew nothing.

9. Complainant charged that Ms. Fisher and Ms. Guthrie conspired with Respondent to use Complainant's name clandestinely to delude clients into believing that they were represented by Complainant's firm. Ms. Fisher and Ms. Guthrie deny that charge, and Respondent confided in writing to Complainant that "they knew nothing and were involved in nothing." The evidence shows that Ms. Fisher and Ms. Guthrie both believed: 1) every client for whom they entered a court appearance was a TLG client; 2) other "clients" for whom a Notice of Appearance was filed purportedly by or for them were people of whom, and in cases of which, they had no knowledge; and 3) in the very few cases in which they appeared as counsel of

record in the name of TLG for a client the firm did not actually represent they were covering for the client's retained attorney who was unable to appear in court at the particular time. When they learned that Respondent had assigned to them cases in which to enter appearances for TLG that were not TLG clients, they filed motions to withdraw. Respondent drafted some of the motions for Ms. Guthrie but in the lawyer identity block at the top of the first page he ascribed to her someone else's phone number. Complainant learned that the number belonged to "Karina Morales Servicios Hispanos." Complainant, Ms. Fisher, and Ms. Guthrie had no idea who Karina Morales was. The evidence is not clear and convincing that Ms. Fisher or Ms. Guthrie violated any ethical rules.

10. Complainant discovered the following about Respondent's activities; she knew nothing about any of these "clients:"

A. Patrick Garrett, Maricopa County Superior Court CR2012-144174. Respondent had Ms. Fisher and Ms. Guthrie sign appearances and other court filings on behalf of TLG, but admits that this was not a TLG client. Rather, this client was his friend. Mr. Garrett paid Respondent \$1,000 no portion of which was deposited into a firm bank account or shared with Ms. Fisher or Ms. Guthrie. Rather than claim that Ms. Fisher and Ms. Guthrie supervised his work for Mr. Garrett, Respondent claimed that the attorneys represented the client *pro bono* and Respondent furnished and charged for paralegal services for an unrelated matter.

B. Matthew David Nguyen, Maricopa County Superior Court CR2012-157280. Respondent had Ms. Guthrie sign appearances and other court filings on behalf of TLG. Respondent entered into a fee agreement with the client in which he identified himself as "Attorney" and collected \$1,500 from the client no portion of which was deposited into a firm bank account or shared with Ms. Fisher or Ms. Guthrie. Respondent removed the TLG logo from the fee agreement but the body of the agreement contained references to TLG. Rather than claim that Ms. Guthrie supervised his work for Mr. Nguyen, Respondent claimed that she represented the client *pro bono* and Respondent charged the client paralegal fees for a motion.

C. Maria Isabele Sepulveda, Maricopa County Superior Court CR2012-157280. Respondent admitted to Complainant that this was not a TLG client. Rather, this client was his friend. Respondent filed motions on TLG pleading paper using Complainant's electronic signature, creating the false impression that Complainant represented the client and filed the motions.

D. Jose Rosas-Vargas, Maricopa County Superior Court CR2007-142419. In June 2011 Respondent drafted an Application to Set Aside the Judgment for the client to file *pro per*. The motion was not actually filed and Complainant did not provide evidence that Respondent accepted fees and acted on behalf of TLG. However, the draft

application evidences that Respondent advised the client while suspended, constituting the unauthorized practice of law.

E. Ruben Ceballos, Phoenix Municipal Court M-0741-4608428. Ms. Guthrie entered an appearance and filed a motion on TLG pleading paper. Respondent admitted to Complainant in writing that this client was not a TLG client but, rather, was Respondent's friend. Respondent claims that Ms. Guthrie represented the client *pro bono*.

F. Rene Orlando De La Torre, Phoenix Municipal Court M-0741-4608428. Respondent electronically signed and filed a Notice of Appearance in Complainant's name on TLG pleading paper. Ms. Guthrie and Ms. Fisher later appeared purportedly on behalf of the firm. Respondent claims that Ms. Guthrie and Ms. Fisher represented the client *pro bono*.

G. Rene Molina-Vargas, Phoenix Municipal Court CR2008-904921501, and related Eloy immigration case A035-894-541. Respondent entered into a fee agreement with the client using a TLG template but with references to TLG whited out. He had the client pay him fees totaling \$2,000, admitted that the client was not a TLG client, and claimed that Ms. Fisher represented the client *pro bono*. In a letter and emails, the client makes it evident that he thought he was being represented by TLG.

H. Laura Graciela Ortiz-Orozco, Phoenix Municipal Court M-0741-4557254. Respondent admitted to Complainant in writing that

this client was not a TLG client but, rather, was Respondent's friend. Ms. Fisher entered an appearance in the case and signed other filings on TLG pleading paper. Respondent claimed that Ms. Fisher represented the client *pro bono*.

I. David Rodriguez Ramirez, Phoenix Municipal Court M-0741-4621227. Ms. Guthrie entered an appearance in the case on TLG pleading paper. Respondent claimed that Ms. Guthrie represented the client *pro bono*.

J. Oscar Vasquez-Soto, Phoenix Municipal Court M-0741-4607086. Ms. Guthrie entered an appearance in the case on TLG pleading paper. Respondent claimed that Ms. Guthrie represented the client *pro bono*. Respondent admitted to Complainant in writing that this client was not a TLG client but, rather, was Respondent's friend's cousin.

K. Jason Sydney, Surprise Municipal Court TR12-00984. Ms. Guthrie entered an appearance in the case on TLG pleading paper. Respondent claimed that Ms. Guthrie represented the client *pro bono*. Respondent admitted to Complainant in writing that this client was not a TLG client but, rather, was Respondent's best friend's son-in-law.

L. Anna Marie Castaneda, San Marcos Justice Court CC2009-371934. Respondent used TLG letterhead and FAX cover sheets to communicate with an opposing party. He did not indicate on the letter that he was a paralegal although on the FAX cover sheet he did

identify himself as "assigned paralegal." He also stated in letters that TLG was retained to represent the client to dispute a claim made against her. Ms. Fisher entered an appearance on TLG pleading paper. Respondent claimed that Ms. Fisher represented the client *pro bono*.

M. Dylan Jones, Tempe Municipal Court 1546567. Respondent electronically signed and filed Complainant's Notice of Appearance. He admitted to Complainant in writing that this client was not a TLG client but, rather, was Respondent's nephew. He claimed that Ms. Guthrie represented the client *pro bono*.

N. Ailin Brenda Acuna-Barrientos, Immigration matter A087-765-039. This client married Jason Sydney (see K. above). Ms. Fisher entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

O. Cirilo Barreto-Arroyo, Immigration matter A200-947-607. Ms. Guthrie entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

P. Enrique Mendez-Dorantes, Immigration matter A095-782-325. Ms. Fisher entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client. Complainant provided a copy of a receipt showing that the client paid to Respondent some indecipherable amount.

Q. Jesus Oralia Vargas Miranda, Immigration matter A201-147-898. Ms. Fisher entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

R. Alberto Juan Murrieta, Immigration matter A200-281-662. Ms. Guthrie entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

S. Rosairo Panduro-Paz, Immigration matter A200-947-280. See para. 4., above.

T. Damian Peyeyra-Gallo, Immigration matter A200-832-242. Ms. Guthrie entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

U. Aaron Rodriguez-Santillan, Immigration matter A098-185-267. Ms. Fisher entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client. He charged and collected from the client \$1,200 "as a paid document preparer." Respondent is not a Certified Document Preparer.

V. Ricardo Ramirez, Immigration matter A200-832-199. Ms. Guthrie entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

W. Artemio Gutierrez-Ruedas, Immigration matter A200-898-301. Ms. Guthrie entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

X. Erika Gastelum, Immigration matter A075-593-817. Ms. Fisher entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

Y. Maria Gonzalez, Immigration matter A205-139-569. Ms. Guthrie entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

Z. Felipe Lopez, Immigration matter A205-137-519. Ms. Fisher entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

AA. Liliana Orduno-Lopez, Immigration matter A087-535-997. Ms. Fisher entered an appearance in immigration court on behalf of TLG. Respondent admitted that this client was not a TLG client.

BB. Consuelo Agundes Garcia and Jesus Ramon Castro, Immigration matter A047-730-218. This couple came to Complainant's firm based on her advertising. Respondent charged and collected from them \$800 to prepare an I-601 form. He gave them a handwritten receipt with the TLG logo copied and pasted onto it (receipt no. 001). Complainant found a form that the clients signed acknowledging that they were not meeting with an attorney. Respondent claims that he prepared the I-601 as a paid document preparer.

CC. Brianda Berenice Bastidas Osuna, Immigration matter A204-190-711. Respondent prepared and submitted forms in this Deferred Action matter for the clients. Respondent claims that he prepared the

I-821D as a paid document preparer. Respondent admitted in a letter to Complainant that this Deferred Action client is part of "his stuff." There is a request to Ms. Fisher at TLG for additional evidence near the time that she stopped working for Complainant. The client's petition later was granted, meaning someone other than Ms. Fisher responded to the request.

DD. Selene Elizaide, Immigration I-130 form. Respondent charged and collected from the client \$250 to prepare an I-130 form. Respondent claims that he prepared the form as a paid document preparer. Respondent admitted in a letter to Complainant that this Deferred Action client is part of "his stuff." Respondent communicated with a medical office regarding this client's petition using Complainant's FAX number but there is nothing else tying this matter to Complainant's firm.

EE. Gloria Marlene Martinez, Immigration I-130 form. Respondent prepared and signed an I-130 petition and supportive documents bearing the TLG address. The client signed the documents, too. Respondent claims that he prepared the form as a paid document preparer. There is a request to Ms. Fisher at the TLG for additional evidence near the time that she stopped working for Complainant. The client's petition later was granted, meaning someone other than Ms. Fisher responded to the request.

FF. Roberto Anacieto Martinez Molina, Immigration matter A204-187-734. Respondent prepared and submitted forms in this Deferred Action matter for the client. Respondent claims that he prepared the I-821D as a paid document preparer. There is a request for evidence directed to Ms. Fisher at the TLG address, so it is evident that Respondent portrayed himself as acting on behalf of Complainant's firm.

GG. Brenda Leticia Diaz Rodriguez, Immigration matter A204-190-862. Respondent prepared and submitted forms in this Deferred Action matter for the client. Respondent claims that he prepared the I-821D as a paid document preparer. There is a request to Ms. Fisher at TLG for additional evidence near the time that she stopped working for Complainant. The client's petition later was granted, meaning someone other than Ms. Fisher responded to the request.

HH. Maravalia and Roberto Rodriguez, Immigration I-821 form. Respondent prepared and submitted forms in this Deferred Action matter for the clients. Respondent claims that he prepared the I-821D as a paid document preparer.

11. Complainant spoke with Steve Villanueva, the owner of a business down the hallway from her suite. Respondent portrayed himself to Mr. Villanueva as an attorney and provided various legal services to him. Respondent prepared a legal memorandum for one of Mr. Villanueva's clients; the client signed the document *proper*; the client paid Mr. Villanueva; and Mr. Villanueva paid Respondent. On another

occasion, Respondent charged and was paid \$850 to advise Mr. Villanueva's wife on an immigration matter.

12. In examining files Complainant found in Respondent's desk she found carbon copies of many money orders intended to pay for client filing fees in various cases. She obtained copies of the endorsed money orders and discovered that Respondent had clients obtain money orders for filing fees but with the payee line blank. He wrote his own name on the payee line and cashed the checks. Complainant provided copies of about \$1,840 worth of such money orders that are legible. However, she advised bar counsel that when she learned of Respondent's actions, she reviewed case files client by client including clients Respondent represented without her knowledge. She claims that she paid \$67,000 out of her pocket to pay the clients back for the money Respondent stole from them, but has not yet produced documentation of those payments.

13. Regarding the money orders, Respondent wrote to bar counsel: "All the money orders . . . are from copies of personal money orders found in my personal drawer at TLG. The receipts for each money order were in a folder in my personal drawer. I still have personal records, bills, receipts, money, prescriptions, pictures, memorabilia, wine bottle, business cards, notes, printouts, documents, minute entries, files, letters, correspondence, and more at TLG that have not been returned to me."

14. Respondent counter-charged that Complainant provided no supervision, management, or leadership at the TLG office. She hired non-lawyer administrators to sign up cases and gave Respondent Notice of Appearance and

immigration forms signed in blank for him to complete and file in various cases. Complainant denies all of this, and currently meets at regular intervals with her practice mentor, Marlene Appel, to review the conduct of her law practice. None of the "clients" about whom Complainant was unaware filed a bar charge against her.

COUNT TWO (File no. 13-0743/Ms. Sanjum Punia)

15. In February 2013, Complainant, an attorney, was looking for a job. Her parents ran a business and an employee there whom Respondent had represented, Selina Elizalde, gave him Complainant's résumé. Ms. Elizalde told Complainant that Respondent was a lawyer working for attorney Kissandra Tysman.

16. On the evening of February 4, 2013, Respondent called Complainant about a possible job opportunity. He told her that he was an attorney working for Ms. Tysman and told Complainant to meet him in Immigration Court the following morning.

17. Respondent had been employed as a paralegal for Ms. Tysman. She terminated him on February 4, 2013. Until then Respondent operated an illicit immigration practice out of Ms. Tysman's office and used Ms. Tysman's lawyer employee, Lindsay Guthrie, for court appearances. See SBA no. 13-0454 (David De Costa, Respondent) and associated Probable Cause Order in which Ms. Tysman is the complainant.

18. Respondent and Complainant met in court the morning of February 5. He told her to appear for him and the client, Emmanuel Pio Cruz. Respondent told her to enter the court room and ask for a continuance for attorney preparation. Respondent handed her a notepad with instructions on how to address the judge.

Respondent gave her forms that he had prepared to give the court and the Department of Homeland Security.

19. Complainant thought that all of this was part of the job audition process in which she was representing the client under Respondent's lawyerly supervision. She did not know that Respondent's license to practice law was suspended or that he submitted her name as attorney of record on the forms he prepared. The court granted the continuance and when they left the court Respondent took all of the paperwork.

20. Based on her observations and the client's communications with Respondent, Complainant saw that Mr. Cruz and his wife regarded Respondent as their lawyer. She later learned that Respondent was suspended. On February 19, 2013, Complainant filed a Motion to Withdraw as Counsel of Record and asked for expedited consideration (although the next scheduled hearing was not until March 2014).

21. An attorney who files a motion to withdraw must show evidence that she tried to inform the client at his last known address of the date, time, and place of a scheduled hearing, and must also provide the client's last known address. Complainant had no file or paperwork related to the case because Respondent took it. She tried to get the necessary information from Respondent in order to comply with the motion requirements but Respondent failed to respond to her.

22. Respondent told the bar in screening that Complainant was providing coverage for attorney Kevin Torrey. Respondent did not tell this to Complainant at

the time of her "audition." Mr. Torrey was suspended from practicing law but not until April 2014.

COUNT THREE (File no. 13-0958/Silvia S. Vazquez Rivera)

23. Complainant had been placed in immigration removal proceedings. On January 6, 2011, she hired Respondent to stop the removal and get her a work permit. The agreed fee was \$3,500, of which Complainant eventually paid \$1,700. The scope of representation is described in a written fee agreement as "deportation proceedings in the Phx Immigration Court related to . . . Illegal Entry. Representation as follows: 42B/V.D."

24. Respondent was suspended for one year on March 4, 2011, effective 30 days thereafter. Pursuant to Rule 72(d), Ariz. R. Sup. Ct., "effective" means that a suspended lawyer "shall not engage in the practice of law [other than] to complete on behalf of any client all matters that were pending on the entry date. Respondent shall refund any part of any fees paid in advance which have not been earned."

25. Not only did Respondent not refund any fees, he continued to collect fee payments from Complainant after he was suspended. Of the \$1,700 in fees that Complainant paid Respondent, she paid \$800 before the entry date of Respondent's suspension order and \$900 afterward. Of the \$900, Complainant paid and Respondent accepted \$300 on March 10 (during the 30-day completion period), and \$600 on and after April 5, 2011.

26. Respondent went with Complainant to an initial hearing and requested a continuance for one year. He also filed a work permit application for her.

Complainant's successor counsel told the bar's investigator that Respondent filed an application for a refugee, which was incorrect, and that she had to file a new one with her new attorney.

27. Complainant spoke with Respondent 4-5 times in person for 5-10 minutes each time, and maybe once on the phone. Respondent claims and Complainant denies that Respondent told her he was suspended. Complainant went to a second hearing in June or July 2012 and waited for Respondent to show up. "Kevin" appeared and told her that he was there on Respondent's behalf. He requested another continuance because he did not have a file and had not reviewed the case. This was the first and last time Complainant spoke with Kevin who later turned out to be Kevin Torrey, suspended in April 2014 for two years for abandoning clients and lying to courts.

28. After that hearing, Complainant received a letter from Respondent explaining that he was suspended. Complainant thinks that Respondent recommended that she hire a lawyer that had taken over Respondent's cases, but gave her the option to hire her own. She called Respondent's secretary about the recommended lawyer but the secretary was not helpful so Complainant hired Judy Flanagan. Complainant also asked the secretary how to get an accounting and/or refund of her fees, and for contact information for Respondent. The secretary had no contact information for Respondent.

29. Respondent's suspension file (09-1658) includes a letter dated March 23, 2011, he sent to Ms. Vasquez Rivera at a former address explaining his suspension. He did not send it by certified mail, return receipt requested. The letter

explained further that attorney Jillian N. Kong-Sivert would file a Motion to Substitute Counsel but that Complainant could select her own counsel if she chose. In either case Complainant was to furnish written authority to transfer her file to the new attorney. Complainant was given an option to pick up a copy of her file and deliver it to her attorney herself. If Complainant opted for Ms. Kong-Sivert the file would remain with Respondent's paralegal Jennifer Samaniego "at the same office and contact information."

30. Ms. Flanagan charged \$6,000 (Complainant owes \$3,150) and still represents Complainant. She tried to get Respondent's case file but was unable to locate him. She noticed on Complainant's work permit the designation "C-8" which meant that Respondent filed an asylum application when there was no ground for one. Complainant did not know that Respondent filed for asylum and a copy of the application was not in Complainant's FOIA paperwork. Respondent had not asked her if she feared returning to Mexico.

31. Ms. Flanagan renewed the C-8 permit but plans to apply for a C-10 once Complainant provides what is needed to file the 42B application (Cancellation of Removal). What Respondent did was not irremediable.

32. When Ms. Flanagan entered her appearance for Complainant she had to file a substitution of counsel. From the court record, Ms. Flanagan learned that Respondent was not counsel of record. Rather, Kevin Torrey was. She tried to reach Mr. Torrey in March 2013 but he did not return her phone calls. Mr. Torrey failed to appear for March 13, 2013 court matter. He had filed a Motion to Withdraw in

January 2013 but the court deferred acting on it pending further court activity or filings.

33. Ms. Flanagan believes that Complainant has a good chance for cancellation of removal based on her ten years of continuous presence in the U.S., and the presence of her two children. At the hearing, set for 2016, Complainant will have to show extreme and unusual hardship to the children if she is deported. There is no father in the picture; one is dead and the other is in prison.

34. Bar counsel asked Respondent to provide a copy of his file. He claimed not to have it in that he gave it to one of the attorneys to whom he referred Complainant and whom Complainant hired, Kevin Torrey or Jillian Kong-Sivert. Complainant did not retain either lawyer.

COUNT FOUR (File no. 13-1382/State Bar of Arizona)

35. In 2009, Norma, Arcadio, and Eligio Saenz retained Respondent to represent Eligio in a criminal matter. The fee was \$3,500, \$1,000 of which was paid by a different party who was deported and did not participate in the eventual fee arbitration. The amount in controversy was \$2,500.

36. Respondent substituted into the criminal court case on July 23, 2009 and appeared for a five-minute hearing in court that day. On July 30, he appeared for a two-minute hearing in court to present an oral motion to continue the trial. The court granted the motion. The court file reflects that Respondent took no further steps to defend Mr. Saenz.

37. In September 2009, Respondent was arrested for allegedly smuggling methamphetamine and heroin to a different client in court, and was taken into

custody. On September 30, after being indicted, he filed a motion to continue Mr. Saenz's trial on the ground that Respondent was incarcerated and needed time to help Saenz find a new lawyer. On October 2, the court ordered that Respondent was withdrawn as counsel for Saenz. After being released from jail, on October 22 Respondent appeared for a status conference in the Saenz case. The court reminded him that he had been removed from the case and that the judge in Respondent's criminal case ordered him not enter the courthouse for any reason unrelated to his own personal case.

38. Mr. Saenz's new attorney asked Respondent for the client file but Respondent did not respond. On November 2, 2009, new counsel filed a motion for an order directing Respondent to turn over the case file. The court granted the motion on November 5.

39. The Saenzes petitioned for fee arbitration. They claimed that in all of Respondent's court appearances he made perfunctory requests for continuances and that he did not earn \$2,500. They submitted Respondent's billing statements showing that they paid \$2,500; the statements did not describe any services.

40. Respondent agreed to arbitrate. In his responsive letter to the Fee Arbitration Coordinator, he wrote: "I have received the above captioned request for fee arbitration and accept to have a fee arbitration in this matter. I have signed the Agreement to Arbitrate. I no longer have the file in this case, but I reconstructed and have attached my Time Sheet for this matter." He did not state any substantive defense to the Saenzes' petition.

41. No one objected to the selected fee arbitrator. He sent letters to all parties asking them to return a form showing their available dates for the arbitration. None of them responded so he set the arbitration for March 14, 2012. In a letter to Respondent, he told him the date and start time of the arbitration, that he should notify the Fee Arbitration Coordinator and opposing parties if he had a scheduling conflict, and that if he did not respond by March 1, 2012, it would be presumed that he consented to the March 14 date.

42. None of the parties appeared at the hearing. The arbitrator wrote to Respondent that based on Rule VI(H), Rules of Arbitration, he would render an award based on the documentary evidence previously produced. Per Rule VI(H), "Any award rendered shall have the same force and effect as if the parties personally attended."

43. Respondent had the burden of proof to establish that his fees were reasonable. Based on the available evidence the arbitrator decided that "Respondent may have engaged in a variety of professional activities pursuant to his representation . . . but there is no evidence as to the type or nature of the work actually performed." He awarded the Saenzes \$2,500.

44. Respondent claims that he asked the arbitrator for a continuance due to a conflict with another arbitration on the same date and that the arbitrator denied his request. On the day of the arbitration he called the arbitrator and learned that the Saenzes did not appear so he attended his other arbitration. He claims that the arbitrator decided the case only on the basis of the materials that the Saenzes

submitted. "The arbitrator did not consider my response and fee itemization. This is clearly stated in the award letter."

45. There is no "award letter" that says what Respondent claims. In the Fee Arbitration Decision, however, the fee arbitrator stated: "By letter on March 19, 2012, the parties were given notice that the arbitrator would render a decision based upon the materials then currently on file. . . . The Respondent filed no response to the petition **but did provide copies of receipts for monies paid by Petitioners**. . . . The Arbitrator having reviewed the petition **and the submitted exhibits and after review thereof**, finds as follows: [emphasis added]." In the award, the arbitrator made it clear that he did consider whatever documents Respondent provided. He told bar counsel that the only materials he was given are reflected in his award.

COUNT FIVE (File no. 14-2218/Charles Downs)

46. On June 11, 2006, Complainant Charles Downs was arrested for DUI-related offenses including extreme DUI (.249) and speeding. He paid the law firm of Phillips & Associates ("PA") \$7,590 to represent him.

47. Respondent was employed by PA at the time and Complainant's case was assigned to him. Because Complainant resided in Illinois, Respondent tried to continue the court proceedings. The judge, however, denied Respondent's motion to continue an August 2006 pretrial conference and issued a bench warrant for Complainant's arrest for failure to appear.

48. The Arizona Department of Transportation ("ADOT") initiated administrative proceedings to suspend Complainant's driver's license due to his DUI

offenses. Respondent communicated with Complainant by mail and warned him of the consequences of not appearing at his trial or administrative hearing. He also warned Complainant that his driver's license might get suspended.

49. Respondent appeared for Complainant at the ADOT hearing but Complainant did not attend. ADOT suspended Complainant's license for 90 days. Respondent sent a copy of ADOT's order to Complainant.

50. In June 2014, the Illinois Secretary of State, Driver Services Department, notified Complainant that his Illinois driver's license was suspended. To regain his driving privileges, that office told him to provide evidence from ADOT that his driving privileges were no longer suspended or revoked. Complainant charged that Respondent did not tell him that his license had been suspended in Arizona in 2006, and that in all of their communications Respondent promised that he would "take care of everything."

51. Respondent left PA in approximately September 2007. By then, all of his activities on Complainant's behalf had concluded. Respondent did not send to Complainant a termination of representation letter confirming that the representation ended or advising Complainant regarding the ramifications of his license suspension in other states.

COUNT SIX (File no. 14-2322/Maria Scaramelli)

52. In May 2010, Complainant Maria Scaramelli paid Respondent \$1,500 to file a United States immigration form I-130, Petition for Alien Relative. Complainant wanted to gain entry into the U.S. for her husband who lived in Uruguay.

53. Respondent's secretary gave Complainant a copy of a receipt ostensibly issued by the U.S. Customs and Immigration Service ("USCIS") purporting to show that her I-130 was filed on June 13, 2010. The receipt reflects that a \$355.00 filing fee was paid. Complainant and her husband's names were printed on the form but in fonts different than those that USCIS used on its forms. Also, Complainant's husband's name was misspelled. The receipt number ended in 271.

54. Respondent was suspended from practicing law in April 2011. For a considerable time Complainant was unable to determine what the status was of her I-130 petition. In early 2014 she contacted USCIS and learned that the I-130 form bearing the 271 receipt number pertained to someone else.

55. In May 2014 Complainant hired new counsel, Jillian Kong-Sivert. Ms. Kong-Sivert investigated and confirmed with USCIS officers that the receipt Complainant obtained from Respondent's office for her I-130 petition in fact pertained to a similar petition for a different person. Ms. Kong-Sivert initiated several Freedom of Information Act requests and obtained information from the U.S. government. There was no I-130 form on file for Complainant or her husband, and there was no document on file that Respondent prepared or filed for either one of them.

56. USCIS officers confirmed to Ms. Kong-Sivert that Respondent or someone in his office edited a legitimate I-130 receipt, probably pertaining to a different client, to create the appearance that he had filed an I-130 for

Complainant. In response to the bar's screening investigation, Respondent denied that he or his former legal assistant falsified the receipt.

57. Ms. Kong-Sivert filed an I-130 petition for Complainant and took steps to obtain expedited processing. However, Complainant and her husband were delayed approximately four years by Respondent's failure to file the I-130 petition in 2010.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that his conduct violated Rule 42, specifically ERs 1.3-Failure to Exercise Reasonable Diligence, 1.4(a) and (b)-Failure to Communicate Reasonably with Clients, 1.5(a)-Unreasonable Fees, 1.6(a)-Confidential Information, 1.15(d)-Safekeeping Property, 1.16(d)-Duties on Termination of Representation, 3.3(a)-Candor Toward the Tribunal, 3.4(c)-Violation of Court Order or Rule, 5.5(a) and (b)-Unauthorized Practice of Law, 8.1(a)-False Statement in a Disciplinary Matter, 8.4(b)-Criminal Act, 8.4(c)-Misconduct Involving Dishonesty, 8.4(d)-Misconduct Prejudicial to the Administration of Justice, and Rule 72-Duties of Notification and Recordkeeping Upon Suspension.

RESTITUTION

Respondent agrees to pay restitution of \$1,700 to Silvia S. Vazquez Rivera in 13-0958, \$2,500 (total) to Norma, Arcadio, and Eligio Saenz in 13-1382, and

\$1,500 to Maria Scaramelli in 14-2322, within 180 days of the date of the final Judgment and Order.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: Long-Term Suspension for four (4) years, and payment of restitution and costs as described above. If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The duty violated

As described above, Respondent's conduct violated his duties to his clients, the profession, the legal system, and the public.

The lawyer's mental state

The parties agree that Respondent acted variously with an intentional, knowing, and negligent mental state.

The extent of the actual or potential injury

The parties agree that there was actual and potential serious harm to Respondent's clients, the profession, the legal system, and the public.

Aggravating and mitigating circumstances

The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation: *Standard 9.22—*

- (a) prior disciplinary offenses;
- (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) multiple offenses;
- (f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process;
- (h) vulnerability of victims;
- (i) substantial experience in the practice of law;
- (j) indifference to making restitution;
- (k) illegal conduct.

In mitigation: *Standard 9.32—*

- (e) full and free disclosure to a disciplinary board or cooperative attitude toward proceedings;
- (l) remorse.

The parties agree that the following *Standards* are appropriate for consideration in this matter:

ER 1.3-Failure to Exercise Reasonable Diligence

ER 1.4(a) and (b)-Failure to Communicate Reasonably with Clients

Standard 4.41-Disbarment is generally appropriate when: . . . (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client

ER 1.5(a)-Unreasonable Fees

ER 8.4(c)-Misconduct Involving Dishonesty

Standard 4.61-Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to a client.

ER 1.6(a)-Confidential Information

Standard 4.22-Suspension is generally appropriate when a lawyer knowingly reveals information relating to the representation of a client not otherwise lawfully permitted to be disclosed, and this disclosure causes injury or potential injury to a client.

ER 1.15(d)-Safekeeping Property

Standard 4.11-Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.

ER 1.16(d)-Duties on Termination of Representation

ER 5.5(a) and (b)-Unauthorized Practice of Law

Rule 72 - Duties of Notification and Recordkeeping Upon Suspension

Standard 7.1-Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

ER 3.3(a)-Candor Toward the Tribunal

ER 3.4(c)-Violation of Court Order or Rule

ER 8.4(d)-Misconduct Prejudicial to the Administration of Justice

Standard 6.12-Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

ER 8.1(a)-False Statement in a Disciplinary Matter

Standard 5.11-Disbarment is generally appropriate when: . . . (b) a lawyer engages in any intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

ER 8.4(b)-Criminal Act

ER 8.4(c)-Misconduct Involving Dishonesty

Standard-5.11 Disbarment is generally appropriate when: (a) a lawyer engages in serious criminal conduct, a necessary element of which includes . . . misrepresentation, fraud, . . . , misappropriation, or theft
. . . .

Discussion

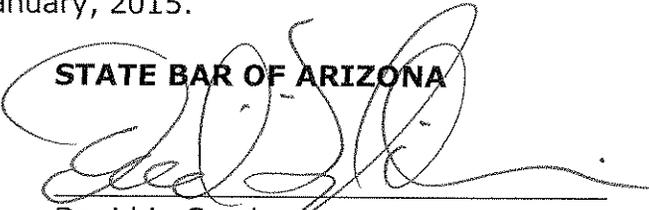
The presumptive sanction for Respondent's most egregious conduct is disbarment. The parties conditionally agree, however, that the principal sanction should be reduced to a long-term suspension of four years. Of the six counts included in this consent, only two have been examined by ADPCC. Respondent conditionally admits the allegations contained in the remaining four counts even though ADPCC may have rejected some of them, in order to conclude all pending cases against him. The State Bar is willing to enter into this consent agreement in order to achieve predictability and finality. Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent

believe that the objectives of discipline will be met by the imposition of the proposed sanction of a Long-Term Suspension of four years, Restitution as described above, and the imposition of costs and expenses. A period of suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona. A proposed form of order is attached hereto as Exhibit B.

DATED this 23rd day of January, 2015.

STATE BAR OF ARIZONA

David L. Sandweiss
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this _____ day of January, 2015.

David P. De Costa
Respondent

Approved as to form and content


Maret Vessella
Chief Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this 16th day of January, 2015.

David P. De Costa

David P. De Costa
Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of January 2015.

Copies of the foregoing mailed/emailed
this _____ day of January 2015, to:

David P. De Costa
1514 W. Encanto Blvd.
Phoenix, AZ 85007-1203
dcde_costa@yahoo.com
Respondent

Copy of the foregoing emailed
this _____ day of January, 2015, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov

Copy of the foregoing hand-delivered
this _____ day of January, 2015, to:

Lawyer Regulation Records Manager

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 23rd day of January, 2015.

Copies of the foregoing mailed/emailed
this 23rd day of January, 2015, to:

David P. De Costa
1514 W. Encanto Blvd.
Phoenix, AZ 85007-1203
Email: dcde_costa@yahoo.com
Respondent

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this 23rd day of January, 2015, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov

Copy of the foregoing hand-delivered
this 23rd day of January, 2015, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: Jackie Derafer
DLS: jld

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Suspended Member of the State Bar of Arizona,
David P. De Costa, Bar No. 020139, Respondent

File Nos. 13-0454, 13-1382, 13-0743, 13-0958,
14-2218, and 14-2322

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

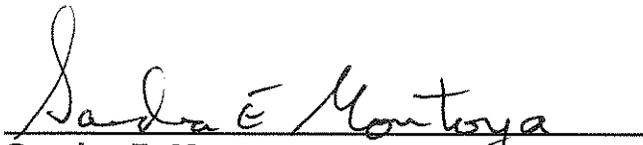
Staff Investigator/Miscellaneous Charges

Total for staff investigator charges \$ 0.00

Total Costs and Expenses for each matter over 5 cases where a violation is admitted or proven.

(1 over 5 x (\$240.00)): \$ 240.00

TOTAL COSTS AND EXPENSES INCURRED \$1,440.00


Sandra E. Montoya
Lawyer Regulation Records Manager

1-8-15
Date

EXHIBIT B

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

**IN THE MATTER OF A
SUSPENDED MEMBER OF
THE STATE BAR OF ARIZONA,**

**David P. De Costa,
Bar No. 020139,**

Respondent.

PDJ

FINAL JUDGMENT AND ORDER

State Bar File Nos. 13-0454, 13-0743,
13-0958, 13-1382, 14-2218, and
14-2322

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on _____, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **David P. De Costa**, is hereby suspended for four years for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective 30 days from the date of this order or _____. A period of suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona.

IT IS FURTHER ORDERED that Respondent shall pay Restitution within 180 days of the date of the final Judgment and Order in the sums of \$1,700 to Complainant Silvia S. Vazquez Rivera in 13-0958, \$2,500 (total) to Norma, Arcadio,

and Eligio Saenz in 13-1382, and \$1,500 to Complainant Maria Scaramelli in 14-2322.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, within 180 days from the date of the final Judgment and Order, and if costs are not paid within the 180 days, interest will begin to accrue at the legal rate.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within 30 days from the date of service of this Order.

DATED this _____ day of January, 2015.

**William J. O'Neil, Presiding Disciplinary
Judge**

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of January, 2015.

Copies of the foregoing mailed/mailed
this _____ day of January, 2015, to:

David P. De Costa
1514 W. Encanto Blvd.
Phoenix, AZ 85007-1203
Email: dcde_costa@yahoo.com
Respondent

Copy of the foregoing emailed/hand-delivered
this _____ day of January, 2015, to:

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this _____ day of January, 2015, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: _____