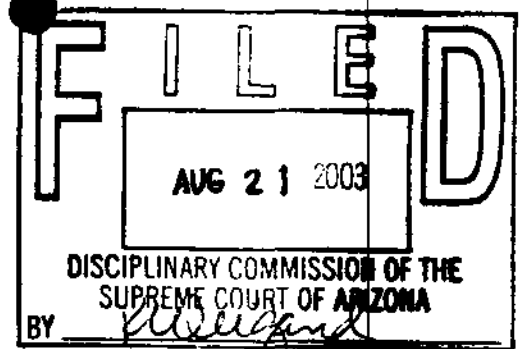


Christine M. Powell, Bar No. 010260
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State Bar of Arizona
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**BEFORE THE DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ARIZONA**

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

File Nos. 02-1473, 03-0042
and 03-0440

MARK F. BRINTON,
Bar No. 007674

**TENDER OF ADMISSIONS
AND AGREEMENT FOR
DISCIPLINE BY CONSENT**

Respondent.)

(Assigned to Hearing Officer 8Z,
Christopher D. Thomas)

The State Bar of Arizona and Respondent, through his counsel Nancy A. Greenlee, submit this Tender of Admission and Agreement for Discipline by Consent ("Agreement"), pursuant to Rule 56(a), Ariz.R.S.Ct., and the Guidelines for Discipline by Consent issued by the Disciplinary Commission of the Supreme Court of Arizona. Subject to review and acceptance by the Disciplinary Commission and the Arizona Supreme Court, Respondent agrees to accept the imposition of a thirty (30) day suspension; two (2) years probation (to include participation in the Law Office Management Assistance ("LOMAP") and Membership Assistance Program ("MAP")), and the payment

1 of costs and expenses of these disciplinary proceedings. Restitution is not
2 appropriate in this case for the reasons discussed herein.

3
4 **FACTS**

- 5 1. Respondent is, and was at all times relevant hereto, a member of the State
6 Bar of Arizona, having been admitted to practice law in Arizona on May 14,
7 1983.

8
9 **COUNT ONE (FORMAL FILE NO. 02-1473)**

- 10 2. Respondent represented the plaintiffs in a case before the Maricopa County
11 Superior Court entitled *Wayne and Evelyn Seyfert, et al., v. Superstition*
12 *Springs Enterprises*, case number CV 2001-092182. The case was
13 subsequently re-numbered as CV 2001-022546.
- 15 3. On February 14, 2002, Respondent sent a proposed stipulation to defense
16 counsel to add eight plaintiffs to the case. Respondent did not attach a
17 proposed amended complaint to the proposed stipulation.
- 19 4. Defense counsel subsequently signed the stipulation and returned it to
20 Respondent. However, neither party filed the stipulation with the court.
- 21 5. On June 14, 2002, Respondent filed a Motion to Set and Certificate of
22 Readiness in the case avowing that the issues in the case had been joined.
- 24 6. On June 20, 2002, without conferring with opposing counsel, Respondent
25 filed a stipulation to add seven plaintiffs.

1 7. The stipulation and order that was filed had been unilaterally altered to
2 delete one of the proposed plaintiffs. The signature page of the original
3 stipulation signed by opposing counsel in February was attached to the
4 stipulation and "February" had been crossed off the signature page and
5 "June" and the date was written in. There was also an amended complaint
6 attached that defense counsel had not previously seen. Respondent then
7 sent a copy of the modified stipulation to both the court and to opposing
8 counsel, with the appearance that opposing counsel had agreed to the
9 proposed amended complaint.
10
11

12 8. On June 24, 2002, the court entered an order adding the seven additional
13 plaintiffs to the action based on the stipulation submitted to the court.
14

15 9. On July 2, 2002, defense counsel filed a motion to vacate the June 24, 2002,
16 order regarding the addition of the seven plaintiffs.
17

18 10. On November 29, 2002, the court granted defendant's motion to vacate the
19 June order adding the new plaintiffs.

20 11. Respondent's conduct, as set forth above, violates Rule 42, Ariz.R.S.Ct.,
21 specifically ERs 3.3, 4.1, 8.4(c) and (d) and Rule 41(c), Ariz.R.S.Ct.
22

23 **COUNT TWO (SCREENING FILE NO. 03-0042)**

24 12. On or about December 12, 2002, Respondent notified the State Bar that his
25 client trust account had become overdrawn by \$4,275.00 due to a bank

1 error. The bank had erroneously processed a transfer of \$4,275.00 from
2 Respondent's trust account to his operating account twice on the same day,
3 resulting in an overdraft.
4

5 13. According to Respondent, the transaction was related to settlement
6 proceeds he had received on behalf of a particular client. Respondent, by
7 pre-numbered check had attempted to transfer \$4,275.00 from his trust
8 account to his operating account. Later that same day, however,
9 Respondent discovered that the bank teller had deposited the \$4,275.00
10 back into his trust account. Therefore, Respondent called the bank and
11 authorized an electronic transfer from his trust account to correct the
12 depositing error. The bank, however, did not void the initial transfer by
13 check and thus, it subsequently deducted the \$4,275.00 twice from his trust
14 account.
15
16

17 14. A subsequent investigation of Respondent's trust account records revealed
18 that he failed to maintain a client ledger for the client receiving the
19 settlement funds, and failed to disburse funds from the account with pre-
20 numbered checks, instead, for the reason set forth above, having
21 electronically transferred funds from the account.
22
23

24 15. Respondent's conduct, as set forth above, violates Rule 42, Ariz.R.S.Ct.,
25 specifically ER 1.15 and Rules 43 and 44, Ariz.R.S.Ct.

COUNT THREE (SCREENING FILE NO. 03-0440)

16. On or about January 23, 2003, the State Bar received a charge from Respondent's former client, Will Murphy ("Murphy"). Mr. Murphy alleged that Respondent failed to follow his directives, failed to diligently pursue the collection of two judgments Respondent had obtained on Mr. Murphy's behalf, and failed to adequately communicate with Mr. Murphy during the course of the representation.
17. On April 21, 1987, Mr. Murphy was viciously assaulted by three men and sustained significant injuries. After criminal proceedings were concluded in the matter, Mr. Murphy retained Respondent in 1991 to obtain civil judgments against two of the defendants, the third having committed suicide.
18. In 1994, Respondent successfully obtained judgments of approximately \$18,000.00 each against the two remaining defendants.
19. According to Mr. Murphy, he had great difficulty communicating with Respondent and became very concerned that Respondent was not diligently pursuing the collection of the judgments. Respondent attempted to locate the two defendants by sending letters to their last know addresses. In 1997, one of the defendants moved to set aside the default judgment and Respondent was successful in defeating this attempt. Respondent filed garnishment proceedings with regard to this particular defendant, however, Respondent

1 does admit that he missed a garnishment hearing in the matter. His attempts
2 to appeal the dismissal of that matter were unsuccessful. Ultimately,
3 Respondent's efforts at collection of both judgments were unsuccessful.
4

5 20. Respondent failed to preserve the judgments, thus precluding Mr. Murphy
6 from any further collection efforts.

7 21. Respondent's conduct, as set forth above, violates Rule 42, Ariz.R.S.Ct.,
8 specifically ERs 1.2, 1.3, and 1.4.
9

10 CONDITIONAL ADMISSIONS

11 COUNT ONE (FORMAL FILE NO. 02-1473)

12 Respondent conditionally admits that his conduct, by filing an altered stipulation
13 and a Motion to Set and Certificate of Readiness, demonstrates a lack of candor to
14 the court and a lack of truthfulness in statements to the opposing party, involves
15 misrepresentation, is prejudicial to the administration of justice, and demonstrates a
16 lack of respect due to courts and judicial officers. Respondent conditionally admits
17 his conduct violates Rule 42, Ariz.R.S.Ct., specifically ERs 3.3, 4.1 and 8.4(c) and
18 (d) and Rule 41(c), Ariz.R.S.Ct.
19

20 COUNT TWO (SCREENING FILE NO. 03-0042)

21 Respondent conditionally admits that he failed to maintain individual client
22 ledger cards and that he disbursed funds from his client trust account by means
23 other than pre-numbered checks, resulting in an overdraft, on or about
24
25

1 December 5, 2002. Respondent conditionally admits that his conduct violates
2 Rule 42, Ariz.R.S.Ct., specifically ER 1.15 and Rules 43(d)(Guidelines 2c and d)
3 and 44, Ariz.R.S.Ct.
4

5 **COUNT THREE (SCREENING FILE NO. 03-0440)**

6 Respondent conditionally admits that he failed to follow the client's
7 directions concerning the scope of representation, failed to diligently represent his
8 client, and failed to adequately communicate with his client regarding the status of
9 the client's case. Respondent conditionally admits he failed to renew two
10 judgments Respondent had obtained on behalf of his client, thereby precluding his
11 client from the opportunity to collect on said judgments. Respondent conditionally
12 admits that his conduct violates Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3 and
13 1.4.
14
15

16 **DISMISSED ALLEGATIONS**

17 No alleged violations are being dismissed.
18

19 **SANCTION**

20 Respondent and the State Bar agree that on the basis of the conditional
21 admissions contained herein, the following disciplinary sanctions will be
22 imposed:
23

- 24 1. Respondent will be suspended for a period of thirty (30) days.
25

1 2. Upon reinstatement, Respondent will be placed on probation
2 for a period of two (2) years, commencing upon the signing of
3 the Memorandum of Understanding by Respondent, as set
4 forth below. The terms of probation will be as follows:

5
6 a. Respondent will, within thirty (30) days of the Supreme
7 Court's final judgment and order, contact the director of
8 the State Bar's Law Office Management Assistance
9 Program (LOMAP) to schedule an audit of his law
10 office. The LOMAP director or his/her designee will
11 conduct an audit of Respondent's law office no later
12 than sixty (60) days thereafter. Following the audit,
13 Respondent will enter into a Memorandum of
14 Understanding that will be effective for a period of two
15 years from the date upon which all parties have signed
16 the Memorandum. Respondent will comply with all
17 recommendations of the LOMAP director or his/her
18 designee.
19

20
21
22 b. Respondent will, within thirty (30) days of the Supreme
23 Court's final judgment and order, contact the director of
24 the State Bar's Membership Assistance Program (MAP)
25

1 to schedule an assessment of his condition to practice
2 law. The MAP director or his/her designee will
3 schedule the assessment of Respondent to take place no
4 later than sixty (60) days thereafter.
5

6 c. Respondent will be responsible for the costs and
7 expenses associated with his participation in the MAP
8 and LOMAP programs.
9

10 d. In the event Respondent fails to comply with any of the
11 foregoing terms, and the State Bar receives such
12 information, bar counsel will file with the Hearing
13 Officer a Notice of Non-Compliance. The Hearing
14 Officer will conduct a hearing at the earliest possible
15 date, but in no event less than thirty (30) days following
16 receipt of notice, to determine whether a condition of
17 probation has been breached and, if so, to recommend
18 an appropriate sanction.
19

20 e. In the event there is an allegation that any of these terms
21 have been breached, the burden will be on the State Bar
22 to prove non-compliance by a preponderance of the
23 evidence.
24
25

1 3. Respondent will pay the costs incurred in these disciplinary
2 proceedings. Attached hereto is a statement of costs and
3 expenses incurred by the State Bar in these disciplinary
4 proceedings.
5

6 4. Respondent does not owe any restitution in this case. In Count
7 One, the charge was forwarded by the judicial officer presiding
8 over the civil suit and did not contain any allegation that
9 Respondent owed restitution. In Count Two, the overdraft in
10 Respondent's trust account did not result in the loss of client
11 funds. In Count Three, although Respondent negligently failed
12 to re-new two judgments obtained on behalf of his client, the
13 damages are speculative at best. Undersigned counsel has
14 verified with Respondent that he currently has malpractice
15 insurance and the Complainant, now an attorney himself, will
16 pursue a malpractice claim against Respondent.
17
18
19

20 Respondent conditionally admits that he has engaged in the conduct
21 set forth above and the rule violations indicated, in exchange for the form of
22 discipline as set forth above.
23

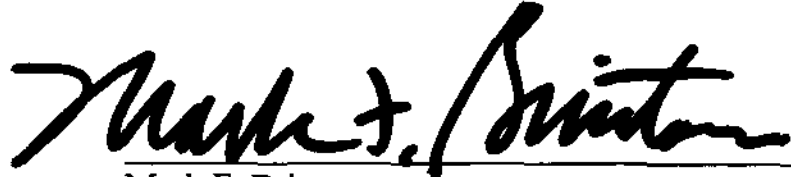
24 Respondent, by entering into this agreement, waives his right to a formal
25 disciplinary hearing that he would otherwise be entitled to pursuant to

1 Rule 53(c)(6), Ariz.R.S.Ct., and the right to testify or present witnesses on his
2 behalf at a hearing. Respondent further waives all motions, defenses, objections,
3 or requests which he has made or raised, or could assert hereinafter, if the
4 conditional admissions and stated form of discipline are approved. Respondent is
5 represented by counsel in these proceedings and acknowledges that he has read
6 this Agreement and has received a copy of it. Respondent submits this Agreement
7 with conditional admissions freely and voluntarily, and without coercion or
8 intimidation, and is specifically aware of his need to comply with Rule 63,
9 Ariz.R.S.Ct., and his need to apply for reinstatement pursuant to Rule 71,
10 Ariz.R.S.Ct., and possibly Rule 72, Ariz.R.S.Ct.

11
12
13
14 This Tender of Admissions and Agreement for Discipline by Consent will
15 be submitted to the Disciplinary Commission for review. Respondent understands
16 that the Disciplinary Commission may request his presence at a hearing for
17 presentation of evidence and/or argument in support of this Agreement.
18 Respondent further recognizes that the Disciplinary Commission may reject this
19 Agreement and the Arizona Supreme Court may accept or reject the Disciplinary
20 Commission's recommendations. If the Agreement is rejected at any time,
21 Respondent's conditional admissions are withdrawn.
22
23
24
25

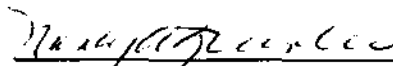
1 This agreement, with conditional admissions, is submitted freely and
2 voluntarily and not under coercion or intimidation. I am aware of the Rules
3 of the Supreme Court with respect to discipline and reinstatement.
4

5 DATED this 20th day of August, 2003.

6
7 

8 Mark F. Brinton
9 Respondent

10 DATED this 20th day of August, 2003.

11
12 

13 Nancy A. Greenlee
14 Attorney for Respondent

1 DATED this 21 day of August, 2003.

2
3 Maritessa
4 Christine M. Powell
5 Staff Bar Counsel
6

7 Approved as to form and content:

8 Robert Van Wyck
9 Robert Van Wyck
10 Chief Bar Counsel
11

12 Original filed this 21st day of
13 August, 2003 with:

14 Disciplinary Clerk of the Supreme Court
15 Certification and Licensing Division
16 1501 W. Washington, #104
Phoenix, Arizona 85007-3329

17 Copy of the foregoing mailed this
18 21st day of August, 2003 to:

19 Nancy A. Greenlee
20 Attorney At Law
21 821 East Fern Drive North
22 Phoenix, Arizona 85014-3248
Attorney for Respondent

23 Copy of the foregoing hand delivered this
24 21st day of August, 2003 to:
25

1 Dee Steadman
2 Lawyer Regulation Records Manager
3 State Bar of Arizona
4 111 West Monroe Street, Suite 1800
5 Phoenix, Arizona 85003

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by: Lynn Boardman
CMP:lb

Statement of Costs and Expenses
In the Matter of a Member of the State Bar of Arizona
MARK F. BRINTON, Respondent. State Bar No. 007674

Files No. 02-1473, 03-0442, 03-0440

Administrative Expenses

The Board of Governors of the State Bar of Arizona has adopted a schedule of administrative expenses to be assessed in disciplinary proceedings. The administrative expenses were determined to be a reasonable amount for those expenses incurred by the State Bar of Arizona in the processing of a disciplinary matter. An additional fee of 20% of the administrative expense is also assessed for each separate matter over and above five (5) matters due to extra expenses incurred in the investigation of multiple charges.

Factors considered in the administrative expenses 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.

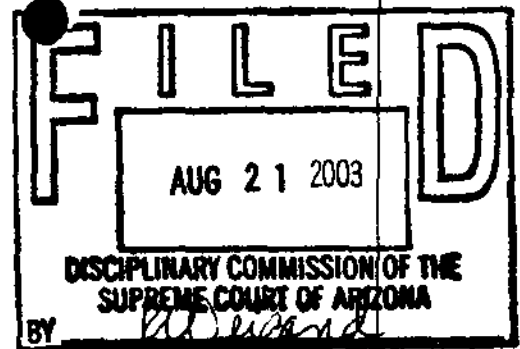
General Administrative Expenses for above proceedings	\$ 600.00
Investigator Costs	
10/29/02 Review file	<u>13.65</u>
Total costs and expenses incurred by the State Bar of Arizona	\$ 613.65 *

*Preliminary State Bar costs and expenses only. Actual final costs and expenses may vary depending on final resolution of these proceedings. Do not pay costs until final Judgment and Order is issued.

Prepared by: Dee Steadman
Dee Steadman, Lawyer Regulation Records Manager

8/20/03
Date

Christine M. Powell, Bar No. 010260
Staff Bar Counsel
State Bar of Arizona
111 West Monroe, Suite 1800
Phoenix, Arizona 85003-1742
Telephone (602) 340-7244



**BEFORE THE DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ARIZONA**

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

File Nos. 02-1473, 03-0042
and 03-0440

MARK F. BRINTON,)
Bar No. 007674)

**JOINT MEMORANDUM IN
SUPPORT OF AGREEMENT
FOR DISCIPLINE BY CONSENT**

Respondent.)

(Assigned to Hearing Officer 8Z,
Christopher D. Thomas)

The State Bar and Respondent, through his counsel Nancy A. Greenlee, submit this Joint Memorandum in support of the Agreement for Discipline by Consent filed contemporaneously herewith.

As reflected in the Tender of Admissions and Agreement for Discipline by Consent, Respondent made a false statement to a tribunal; was not truthful in statements he made to others and engaged in conduct involving a misrepresentation. His conduct was prejudicial to the administration of justice. Respondent also failed to maintain the respect due to courts and judicial officers. In another matter, Respondent failed in his obligations to his client in that he failed to act in accordance with the goals of the representation, failed to

1 act diligently, and failed to communicate adequately. In the third matter,
2 Respondent failed to meet requirements as established in the trust account rules.
3 Respondent's conduct violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3,
4 1.4, 1.15, 3.3, 4.1 and 8.4(c) and (d); Rule 41(c), Ariz.R.S.Ct and Rule 43,
5 Ariz.R.S.Ct.
6

7 Respondent has agreed to the imposition of a thirty-day suspension and
8 the assessment of costs related to this matter. Respondent will be placed on
9 probation for a term of two years, to include terms as set forth in the Tender of
10 Admissions and Agreement for Discipline by Consent. Restitution is not
11 required in this case.
12

13 STANDARDS

14
15 In determining the appropriate sanction, the parties considered both the
16 American Bar Association's *Standards for Imposing Lawyer Sanctions*
17 ("*Standards*") and Arizona case law.
18

19 The *Standards* provide guidance with respect to an appropriate sanction in
20 this matter. The Court and Commission consider the *Standards* a suitable
21 guideline. *In re Rivkind*, 164 Ariz. 154, 157, 791 P.2d 1037, 1040 (1009); *In re*
22 *Kaplan*, 179 Ariz. 175, 177, 877 P.2d 274 (1994).
23

24 In determining an appropriate sanction, both the Court and the Commission
25 consider the duty violated, the lawyer's mental state, the actual or potential injury

1 caused by the misconduct and the existence of aggravating and mitigating factors.

2 *In re Tarlitz*, 163 Ariz. 548, 789 P.2d 1049 (1990); ABA *Standard* 3.0.

3
4 Concerning the violations involving Respondent's lack of candor to the court,
5 truthfulness in statements to others and conduct prejudicial to the administration
6 of justice, *Standard* 6.1 is applicable. *Standard* 6.12 states that suspension is
7 generally appropriate when a lawyer knows that false statements or documents are
8 being submitted to the court or that material information is improperly being
9 withheld, and takes no remedial action, and causes injury or potential injury to a
10 party to the legal proceeding, or causes an adverse or potentially adverse effect on
11 the legal proceedings.
12

13
14 In the present case, Respondent knew that the filing of the Motion to Set
15 was based on the false statement that the issues were joined, as the stipulation to
16 add seven additional plaintiffs had not been filed. Further, Respondent knew
17 that the stipulation originally sent to opposing counsel did not have the
18 amended complaint attached and knew that the filing of the stipulation made it
19 appear that opposing counsel had agreed to the amended complaint.
20

21 File No. 03-0042 was not charged in the formal complaint; however, the
22 parties have agreed that the charges would be included in this agreement. With
23 respect to File No. 03-0042, Respondent failed to maintain a client ledger in
24 violation of the Supreme Court Rules relating to lawyer trust accounts.
25

1 Respondent attended and completed the State Bar Trust Account Ethics
2 Enhancement Program approximately one year prior to this particular violation.
3 As such, Respondent knew or should have known that a failure to maintain
4 individual ledgers for each client was a violation of the Supreme Court Rules.
5 Respondent also knew or should have known that a failure to maintain client
6 ledgers increases the potential that client funds could be jeopardized subjecting
7 the client to injury.
8
9

10 File No. 03-0440 was also not charged in the original complaint. Again,
11 the parties have agreed that this matter would be included in this tender. With
12 respect to the allegations, Respondent agreed that he did not diligently pursue
13 collection of two judgments he obtained on a client's behalf and failed to
14 adequately communicate with his client regarding the status of the collection.
15 Respondent also admitted that the judgment liens became invalid when he
16 failed to file and record judgment renewal affidavits.
17
18

19 Suspension is also appropriate when (a) a lawyer knowingly fails to
20 perform services for a client and causes injury or potential injury to a client; or
21 (b) a lawyer engages in a pattern of neglect and causes injury or potential injury
22 to a client. *Standard 4.42.*
23

24 Based on these facts, the most applicable *Standards* are 4.4 and 6.1.
25 Suspension is, thus, the presumptive sanction for the admitted conduct.

1 Following determination of the presumptive sanction, it is appropriate to
2 evaluate factors which are enumerated under the Standards as justifying an
3 increase or decrease in the presumptive sanction.
4

5 There is only one applicable aggravating factor which should be
6 considered in this matter. Respondent has been admitted to practice law since
7 1983. He has substantial experience in the practice of law and in light of his
8 misconduct, his years of experience should be considered in aggravation. See
9 *Standard 9.22(i)*.
10

11 Several mitigating factors should also be considered in this matter.
12 Respondent has not been the subject of prior discipline. See Standard 9.32(a).
13 Additionally, Respondent's conduct was not the product of a selfish or dishonest
14 motive. *Standard 9.32(b)*. At the time the misconduct occurred, Respondent was
15 involved in counseling for problems involving the inability to focus and prioritize
16 his work as well as the propensity to procrastinate. *Standard 9.32(c)*. Throughout
17 the course of the investigation and formal process, Respondent has been
18 forthcoming and cooperative. He has made full and free disclosure and his
19 actions should be considered as mitigating the misconduct. *Standard 9.32(e)*.
20 Respondent has also demonstrated remorse for his actions and the consequences
21 thereof. Respondent is willing to take the necessary steps to improve his practice
22 through full participation in LOMAP. *Standard 9.32(l)*.
23
24
25

PROPORTIONALITY

To have an effective system of professional sanctions, there must be internal consistency, and it is appropriate to examine sanctions imposed in cases that are factually similar. *In re Shannon*, 179 Ariz. 52, 71, 876 P.2d 548, 567 (1994), (quoting *In re Wines*, 135, Ariz. 203, 207 (1983)). However, the discipline in each case must be tailored to the individual case, as neither perfection nor absolute uniformity can be achieved. *In re Riley*, 142 Ariz. 604, 615 (1984). Where there are multiple acts of misconduct, the Respondent should receive one sanction consistent with the most serious instance of misconduct, and the other acts should be considered as aggravating factors. *In re Cassalia*, 173 Ariz. 372, 843 P.2d 654 (1992).

The most serious instance of misconduct in this case involves Respondent's lack of candor to a tribunal, lack of truthfulness in statements to others and conduct prejudicial to the administration of justice. The following cases are instructive concerning these types of misconduct.

In *In re Coffee*, 2001 Ariz. LEXIS 79, SB-01-0095-D (May 31, 2001), Coffee agreed to accept a thirty-day suspension for violation of ERs 3.3, 4.1 and 8.4(c) and (d). Coffee was found to have willfully failed to update his pleadings relating to the spousal support reduction request and supporting financial affidavit. When specifically asked by the judge if there were any

1 financial assets that were not listed, Coffee stated there were none when he
2 knew he had \$50,000 in an out of state bank account.

3
4 In *In re Brown*, SB 86-0039-D (1986), the lawyer failed to act with
5 diligence, failed to keep clients informed, failed to consult with a client, failed
6 to comply promptly with request for information, failed to abide by a client's
7 decision and allowed an adverse judgment to be entered against a client without
8 the client's knowledge. Brown had no prior discipline. He was suspended for
9 sixty days for his conduct.
10

11 In *In re Ziman*, 174 Ariz. 61, 847 P.2d 106 (1993), the lawyer was the
12 subject of a four count complaint which included prior discipline.¹ Ziman
13 received a ninety-day suspension and one-year probation, including LOMAP,
14 for violation of ERs 1.2, 1.3, 1.4, 3.3, 3.4 and 8.4. Specifically, Ziman entered
15 into a stipulation without his client's knowledge or consent; failed to respond to
16 discovery requests and a court order requiring a response; failed to file a pre-
17 hearing statement and failed to attend an arbitration hearing which resulted in
18 the case being dismissed. The Disciplinary Commission reviewed *Standard*
19 6.1 and concluded that a suspension was the appropriate sanction. In
20 determining the appropriate length of suspension, both aggravating and
21
22
23
24
25

¹ Ziman received an informal reprimand in 1991 for failure to communicate with a client and the failure to respond timely to inquiries from the State Bar.

1 mitigating factors were considered. Although there were three aggravating
2 factors present, Ziman did not act with a selfish or dishonest motive; was fully
3 cooperative during the proceedings and he fully recognized the need to take
4 remedial actions which he did prior to the imposition of discipline. Ziman was
5 also willing to undergo counseling to prevent similar problems in the future.
6

7 In the present matter, Respondent engaged in conduct which is similar in
8 many ways to the cases cited above. The facts most relevant to supporting the
9 imposition of a suspension revolve around the lack of candor and
10 misrepresentations to the court as well as his failure to discharge his duties to
11 his clients. To Respondent's credit he self-reported the overdraft on his trust
12 account and has recognized the need to take substantial remedial efforts to
13 resolve his current issues. The cases cited demonstrate that a short-term
14 suspension is appropriate for the misconduct herein.
15
16

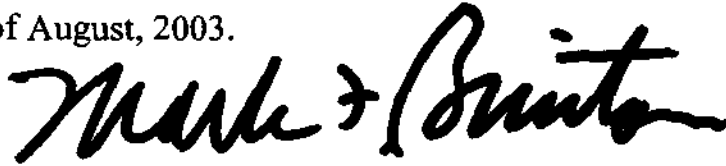
17 Based on the foregoing, it appears that the recommended sanction is within
18 the range of appropriate sanctions for the admitted conduct. The recommended
19 sanction serves to instill confidence in the public and maintain the integrity of the
20 Bar.
21

22 CONCLUSION

23 The objective of lawyer discipline is not to punish the lawyer, but to protect
24 the public, the profession, and the administration of justice. *In re Neville*, 147
25

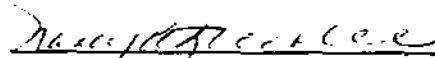
1 Ariz. 106, 708 P.2d 1297 (1985). Recognizing that it is the prerogative of the
2 Disciplinary Commission to determine the appropriate sanction, the State Bar and
3 Respondent assert the objectives of discipline will be met by the imposition of the
4 proposed sanction of a thirty-day suspension, two years probation, and costs.
5

6
7 DATED this 20th day of August, 2003.

8 

9
10 Mark F. Brinton
Respondent

11 DATED this 20th day of August, 2003.

12
13 

14 Nancy A. Greenlee
15 Attorney for Respondent
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1 DATED this 21 day of August, 2003.

2
3 Christine M. Powell
4 Christine M. Powell
5 Bar Counsel
6

7 Approved as to form and content:

8
9 Robert Van Wyk
10 Robert Van Wyk
11 Chief Bar Counsel

12 Original filed this 21st day of
13 August, 2003 with:

14 Disciplinary Clerk of the Supreme Court
15 Certification and Licensing Division
16 1501 W. Washington, #104
Phoenix, Arizona 85007-3329

17 Copy of the foregoing mailed this
18 21st day of August, 2003 to:

19 Nancy A. Greenlee
20 Attorney At Law
21 821 East Fern Drive North
22 Phoenix, Arizona 85014-3248
Attorney for Respondent

23 Copy of the foregoing hand-delivered this
24 21st day of August, 2003 to:
25

1 Dee Steadman
2 Lawyer Regulation Records Manager
3 State Bar of Arizona
4 111 West Monroe Street, Suite 1800
5 Phoenix, Arizona 85003

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by:

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