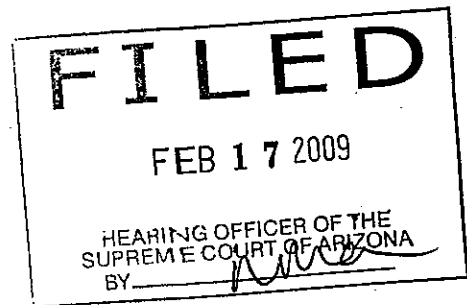


1 **DAVID H. LIEBERTHAL**
2 ATTORNEY AT LAW
3 2 E. CONGRESS STREET
4 SUITE 900
5 TUCSON, ARIZONA 85701
6 (520) 547-7740



5 COMPUTER NO. 34404
6 STATE BAR NO. 002154
7 **Hearing Officer**

8 **BEFORE A HEARING OFFICER OF**
9 **THE SUPREME COURT OF ARIZONA**

10 IN THE MATTER OF A MEMBER OF)
11 THE STATE BAR OF ARIZONA,)
12)
13 **LAURA ANNE VALADE PRICHARD,**)
14 **Bar No. 017069**)
Respondent.)

File No. 07-1808

HEARING OFFICER'S REPORT

15 Pursuant to Rule 56(e) of the Rules of the Supreme Court, the Hearing Officer reports that he
16 has reviewed the Tender of Admissions and Agreement for Discipline by Consent (Exhibit A,
17 attached hereto), and the Joint Memorandum in Support of Tender of Admissions and Agreement for
18 Discipline by Consent (Exhibit B, attached hereto). Both filings are sufficiently detailed in their
19 presentations so that an opinion may be formed as to their content. Additionally, the attorneys for the
20 parties met with the undersigned at a hearing on February 11, 2009 for oral presentations regarding
21 the underlying facts, and the proportionality of the sanctions.

22 By clear and convincing evidence, the State Bar has alleged and proven the charges against
23 the Respondent. She has voluntarily admitted the violations and accepted the sanctions proposed by
24 the State Bar. The admitted charges in their entirety are sufficiently serious to justify the agreed-upon
25 thirty day suspension and Respondent shall pay all costs and expenses of the disciplinary proceedings.
26 The recommended sanctions and proportionality are supported fully by the American Bar Association

David H. Lieberthal
Attorney At Law
2 E. CONGRESS STREET, SUITE 900
TUCSON, ARIZONA 85701
(520) 547-7740

1 Standards for Imposing Lawyer Sanctions and cited Arizona case law. Due consideration has been
2 given to aggravating and mitigation factors as required in such matters.

3 Accordingly, the Hearing Officer accepts the Agreement for Discipline by Consent filed in
4 this matter in its entirety.

5 DATED this 11th day of February, 2009.



David H. Lieberthal
Hearing Officer 9(H)

6
7
8
9
10 Original filed with the Disciplinary Clerk
11 this 17th day of February, 2009.

12 Copy of the foregoing mailed this
same date, to:

13 Jason B. Easterday, Esq.
14 Staff Bar Counsel
15 State Bar of Arizona
4201 N. 24th Street, Suite 200
Phoenix, AZ 85016-6288

16 Mark Rubin, Esq.
17 4574 North First Avenue
18 Suite 150
Tucson, AZ 85718
Attorney for Respondent

EXHIBIT

A

1 Jason B Easterday, Bar No. 023191
2 Staff Bar Counsel
3 State Bar of Arizona
4 4201 N. 24th Street, Suite 200
5 Phoenix, Arizona 85016-6288
6 Telephone (602) 340-7250

7 Mark Rubin, Esq., Bar No. 007092
8 Counsel for Respondent
9 Law Office of Mark Rubin, P.L.C.
10 4574 North First Avenue, Suite 150
11 Tucson, Arizona 85718
12 Telephone (520) 408-2700

13 **BEFORE A HEARING OFFICER OF**
14 **THE SUPREME COURT OF ARIZONA**

15 **IN THE MATTER OF A MEMBER**
16 **OF THE STATE BAR OF ARIZONA,**

17 **LAURA ANNE VALADE PRICHARD,**
18 **Bar No. 017069**

19 **Respondent.**

No. 07-1808

TENDER OF ADMISSIONS AND
AGREEMENT FOR DISCIPLINE
BY CONSENT

(Assigned to Hearing Officer 9H
David H. Lieberthal)

20 The State Bar of Arizona, through undersigned Bar Counsel, and
21 Respondent, Laura Anne Valade Prichard, who is represented by attorney Mark
22 Rubin in this matter, hereby submit their Tender of Admissions and Agreement
23 for Discipline by Consent. It is submitted pursuant to Rule 56(a),
24 Ariz.R.Sup.Ct., and the Guidelines for Discipline by Consent issued by the
25 Disciplinary Commission of the Arizona Supreme Court.

1 Respondent conditionally admits she engaged in a conflict of interest by
2 having a consensual romantic and sexual relationship with a client. There is no
3 issue of restitution in the matter. Complainant has been notified of this consent
4 agreement in compliance with Rule 52(b)(3), Ariz.R.Sup.Ct.
5

6 Subject to review and acceptance by the Hearing Officer, the
7 Disciplinary Commission, and the Supreme Court of Arizona, the State Bar
8 and Respondent agree to the imposition of a thirty (30) day suspension and
9 payment of all costs and expenses of the disciplinary proceedings.¹ The State
10 Bar's Statement of Costs is attached hereto as Exhibit "A."
11

12 **FACTS**
13

14 1. At all times relevant, Respondent was a lawyer licensed to
15 practice law in the state of Arizona having been first admitted to practice in
16 Arizona on May 18, 1996.
17

18 **COUNT ONE (File no. 07-1808)**
19

20 2. In or around early 1998 Respondent began her legal representation
21 of Mr. Elton Dean Prichard ("Mr. Prichard") relating to the creation of two
22 educational trusts for Mr. Prichard's daughter and granddaughter at Mr.
23 Prichard's request.
24

25 ¹ 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 Disciplinary Commission, and the Supreme Court.

1 3. On or about October 4, 1998, Respondent completed the work and
2 the educational trust instruments were executed.

3 4. By letter dated February 9, 2000, addressed to Ms. Cheryl
4 Prichard LaSota ("Ms. Lasota"), Mr. Prichard referred to Respondent as his
5 attorney.
6

7 5. On or about February 14, 2000, Respondent began work on
8 drafting the Buffalo Bill Cody High Jinks Ranch National Historic Trust
9 ("Ranch Trust") for Mr. Prichard at Mr. Prichard's request. Mr. Prichard
10 domiciled at the ranch.
11

12 6. Beginning in or around March 2000, while Respondent was Mr.
13 Prichard's attorney, Respondent and Mr. Prichard began an ongoing romantic
14 and sexual relationship.
15

16 7. Respondent and Mr. Prichard never married.

17 8. On or about March 20, 2000, Respondent began cohabitating with
18 Mr. Prichard at Mr. Prichard's home on the ranch.
19

20 9. In or around June 2000, Respondent began drafting Mr. Prichard's
21 Last Will and Testament at Mr. Prichard's request.
22

23 10. In or around June 2000, Respondent began drafting a durable
24 power of attorney for Mr. Prichard at Mr. Prichard's request.
25

1 11. On or about June 16, 2000, Respondent completed her work on
2 the Ranch Trust and the instrument was executed.

3 12. Respondent was a named beneficiary in the Ranch Trust,
4 receiving the named right to reside at the ranch as Respondent's primary
5 residence.
6

7 13. On or about June 16, 2000, Respondent completed her work on
8 the durable power of attorney and the instrument was executed.
9

10 14. The durable power of attorney named Respondent as Mr.
11 Prichard's "attorney-in-fact."

12 15. On or about June 2000, Respondent was appointed as successor
13 trustee of the two educational trusts she drafted.
14

15 16. On or about December 22, 2000, Respondent completed her work
16 on Mr. Prichard's last will and testament ("2000 Will") and the instrument was
17 executed.
18

19 17. The 2000 Will named Respondent as the personal representative
20 of the estate and devised Mr. Prichard's personal and real property to the
21 Ranch Trust.
22

23 18. In or around March 2001 Respondent began to prepare a notice of
24 eviction and termination of tenancy for Mr. Prichard at the request of Mr.
25 Prichard.

1 19. On or about March 22, 2001, Respondent completed work on the
2 notice of eviction and termination of tenancy and the notice was served.

3 20. On or about March 15, 2002, Respondent and Mr. Prichard jointly
4 purchased a home in Patagonia, Arizona.

5 21. Beginning in or around 2003, Respondent, at Mr. Prichard's
6 request began to prepare Mr. Prichard's health care power of attorney and
7 living will.
8

9 22. In or around 2003, Respondent completed her work on the health
10 care power of attorney and living will. Respondent was named as Mr.
11 Prichard's primary health care agent "for all matters relating to [Mr.
12 Prichard's] health care, including without limitation, full power to give or
13 refuse consent to all medical, surgical, hospital and related health care."
14

15 23. In or around 2003 Respondent began work on a first amendment
16 to the Ranch Trust at Mr. Prichard's request.
17

18 24. In or around 2003, Respondent concluded her work on the first
19 amendment to the Ranch Trust, however the instrument was never finalized or
20 executed.
21

22 25. In or around 2003, Respondent and Mr. Prichard jointly borrowed
23 a total of \$32,134 from the educational trusts while Respondent was a trustee
24 of the two trusts.
25

1 26. On or about April 10, 2003, Respondent and Mr. Prichard formed
2 Stanton Publishing Company, L.L.C. ("Stanton Publishing") to publish Mr.
3 Prichard's book. Respondent and Mr. Prichard funded Stanton Publishing.
4

5 27. Beginning in or around August 2003, Respondent, at Mr.
6 Prichard's request, began work on the First Codicil to Mr. Prichard's 2000
7 Will.
8

9 28. On or about August 24, 2003, Respondent completed her work on
10 the First Codicil to the 2000 Will and the instrument was executed.

11 29. The First Codicil to the 2000 Will increased Respondent's
12 inheritance to include Mr. Prichard's personal property contained in the
13 Patagonia home, all intellectual property interests held by Mr. Prichard, the
14 right to occupy the studio building on the ranch, and the right to reside
15 anywhere on the ranch for the duration of her lifetime for so long as the ranch
16 remains in the Ranch Trust.
17

18 30. In or around October 2004, Respondent began work on a new last
19 will and testament for Mr. Prichard at Mr. Prichard's request.
20

21 31. In or around October 2004, Respondent completed her work on
22 Mr. Prichard's new last will and testament ("2004 Will") and the instrument
23 was executed.
24
25

1 32. Under the 2004 Will, Respondent's inheritance increased.
2 Respondent was appointed as personal representative of the estate, received a
3 specific bequest of Mr. Prichard's entire interest in Stanton Publishing
4 Company, L.L.C., a specific bequest of all intellectual property held by Mr.
5 Prichard, and a twenty (20) percent interest in Mr. Prichard's residuary estate.
6

7 33. Respondent began work on drafting Mr. Prichard's codicil to the
8 June 2006 Will drafted by Eugene Lane, Esq., at Mr. Prichard's request.
9

10 34. On or about July 3, 2006, Respondent completed her work on Mr.
11 Prichard's first codicil to the June 2006 Will drafted by Eugene Lane, Esq., and
12 the instrument was executed on or about July 6, 2006.
13

14 35. In the codicil to the June 2006 Will, Respondent was a named
15 beneficiary and was bequeathed the right to reside and remain at the Ranch
16 until the property was sold and was granted the power to act as primary
17 caretaker of the ranch.
18

19 36. Beginning in or around June 2006, Respondent, at Mr. Prichard's
20 request, began work on drafting a revocation of a 2006 durable power of
21 attorney and a health care power of attorney and living will for Mr. Prichard.
22

23 37. Mr. Prichard executed the revocation of durable power of
24 attorney and the health care power of attorney and living will.
25

1 38. The July 2006 health care power of attorney and living will
2 designated Respondent as Mr. Prichard's agent "for all matters relating to [Mr.
3 Prichard's] health care, including, without limitation, full power to give or
4 refuse consent to all medical, surgical, hospital, and related health care."
5

6 39. On or about August 3, 2006, Respondent accepted \$25,000 as a
7 gift from Mr. Prichard.
8

9 40. On or about January 23, 2007, Stanton Publishing was dissolved.

10 41. On or about March 18, 2007, Mr. Prichard died.

11 **CONDITIONAL ADMISSIONS**

12 Respondent conditionally admits her conduct violates Rule 42,
13 Ariz.R.Sup.Ct., specifically ERs 1.7²
14

15 Respondent's admissions are being tendered in exchange for the form
16 of discipline stated below.

17 **SANCTION**

18 Respondent and the State Bar of Arizona agree that based on the
19 conditional admissions contained herein the appropriate disciplinary sanctions
20 are as follows:
21
22

23 ² The version of ER 1.7 at issue in this matter is the version in effect prior to December 1,
24 2003. At the pertinent time, ER 1.7 stated, in pertinent part, that "A lawyer shall not
25 represent a client if the representation of that client may be materially limited by the
lawyer's responsibilities to another client or to a third person, or by the lawyer's own
interests unless (1) the lawyer reasonably believes the representation will not be adversely
affected; and (2) the client consents after consultation."

1 1. Respondent shall be suspended from the practice of law for thirty (30)
2 days;

3 2. Respondent shall pay all costs incurred by the State Bar in bringing
4 these disciplinary proceedings. In addition, Respondent shall pay all
5 costs incurred by the Disciplinary Commission, the Supreme Court of
6 Arizona, and the Disciplinary Clerk's Office in this matter. The State
7 Bar's Itemized Statement of Costs and Expenses is attached as Exhibit
8 "A," and is incorporated herein by reference.
9

10
11 Respondent conditionally admits that, in exchange for the form of
12 discipline set forth above, she has engaged in the conduct described above and
13 the rule violations indicated.
14

15 Respondent, by entering into this agreement, waives her right to a formal
16 disciplinary hearing that she would otherwise be entitled to pursuant to Rule
17 57(i), Ariz.R.Sup.Ct., and the right to testify or present witnesses on her behalf
18 at a hearing.
19

20 Respondent has received the assistance of counsel in these proceedings.
21 Respondent waives all motions, defenses, objections or requests that she has
22 made or raised, or could assert, if the conditional admissions and stated form of
23 discipline are approved. Respondent has read this agreement and has received a
24 copy of this agreement.
25

1 This Tender of Admissions and Agreement for Discipline by Consent
2 will be submitted to a Hearing Officer and the Disciplinary Commission for
3 approval. Respondent realizes that the hearing Officer and/or Disciplinary
4 Commission may request her presence at a hearing for the presentation of
5 evidence and/or argument in support of this agreement. Respondent further
6 recognizes that the Hearing Officer and/or Disciplinary Commission may
7 recommend rejection of this agreement. Respondent further understands that if
8 this agreement is approved by the Disciplinary Commission, the matter will be
9 submitted to the Arizona Supreme Court for final approval or rejection. If the
10 agreement is rejected by the Arizona Supreme Court, the parties' conditional
11 admissions and dismissals are withdrawn.
12
13
14
15
16
17

18 DATED this 6th day of February, 2009.

19
20 
21 Jason B Easterday
22 Staff Bar Counsel
23
24
25

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

DATED this 6th day of February, 2009.


Laura Anne Valade Prichard
Respondent

DATED this 6th day of February, 2009.

y of February, 2004.


Mark Rubin, Esq.
Counsel for Respondent

Approved as to form and content:


John Furlong
Acting Chief Bar Counsel

1 Original filed this 6th day
2 of February, 2009, with:
3 Disciplinary Clerk of the Supreme Court of Arizona

4
5 Copies of the foregoing mailed this 6th day
6 of February, 2009, to:

7
8 Mark Rubin, Esq., 007092
9 Counsel for Respondent
10 Law Office of Mark Rubin, P.L.C.
11 4574 North First Avenue, Suite 150
12 Tucson, Arizona 85718

13
14 Copies of the foregoing mailed this 6th day
15 of February, 2009, to:

16
17 David H. Liberthal
18 Hearing Officer 9H
19 3900 East Broadway, Suite 210
20 Tucson, Arizona 85711

21
22 Copy of the foregoing hand-delivered this
23 6th day of February, 2009, to:

24
25 Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 200
Phoenix, Arizona 85016-6288

by: José M. Casablanca

EXHIBIT A

1 **Statement of Costs and Expenses**

2 In the Matter of a Member of the State Bar of Arizona,
3 Laura Anne Valade Prichard, Bar No. 017069, Respondent

4 File No(s). 07-1808

5 **Administrative Expenses**

6
7 The Board of Governors of the State Bar of Arizona has adopted a schedule of
8 administrative expenses to be assessed in disciplinary proceedings, depending on at which
9 point in the system the matter concludes. The administrative expenses were determined to
10 be a reasonable amount for those expenses incurred by the State Bar of Arizona in the
11 processing of a disciplinary matter. An additional fee of 20% of the administrative expenses
12 is also assessed for each separate matter over and above five (5) matters due to the extra
13 expense incurred for the investigation of numerous charges.

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

19 ***General Administrative Expenses for above-numbered proceedings = \$600.00***

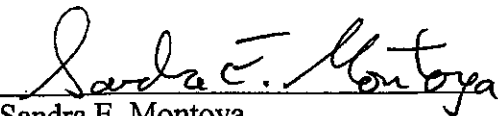
20 Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary
21 matter, and not included in administrative expenses, are itemized below.

22 **Staff Investigator/Miscellaneous Charges**

23 07/31/08 Draft and fax letter to Oracle Justice Court \$26.25
24 08/05/08 Review Oracle Justice Court file; Prepare memo to Bar Counsel \$26.25

25 Total for staff investigator charges \$52.50

TOTAL COSTS AND EXPENSES INCURRED \$652.50

26
27 
28 Sandra E. Montoya
29 Lawyer Regulation Records Manager

1-15-09
Date

EXHIBIT

B

1 Jason B Easterday, Bar No. 023191
2 Staff Bar Counsel
3 State Bar of Arizona
4 4201 N. 24th Street, Suite 200
5 Phoenix, Arizona 85016-6288
6 Telephone (602) 340-7250

7 Mark Rubin, Esq., Bar No. 007092
8 Counsel for Respondent
9 Law Office of Mark Rubin, P.L.C.
10 4574 North First Avenue, Suite 150
11 Tucson, Arizona 85718
12 Telephone (520) 408-2700

13 **BEFORE A HEARING OFFICER OF**
14 **THE SUPREME COURT OF ARIZONA**

15 **IN THE MATTER OF A MEMBER**
16 **OF THE STATE BAR OF ARIZONA,**

17 **LAURA ANNE VALADE PRICHARD,**
18 **Bar No. 017069**

19 **Respondent.**

No. 07-1808

JOINT MEMORANDUM IN
SUPPORT OF TENDER OF
ADMISSIONS AND
AGREEMENT FOR DISCIPLINE
BY CONSENT

(Assigned to Hearing Officer 9H
David H. Lieberthal)

20
21 The State Bar of Arizona, through undersigned Bar Counsel, and
22 Respondent, Laura Anne Valade Prichard, who is represented by attorney Mark
23 Rubin in this matter, hereby submit their Joint Memorandum in Support of the
24 Agreement for Discipline by Consent filed contemporaneously herewith.
25

1 **CONDUCT**

2 As reflected in the Tender of Admissions and Agreement for Discipline
3 by Consent, Respondent conditionally admits she engaged in professional
4 misconduct that violated the duty to avoid a conflict of interest by entering into
5 a consensual romantic and sexual relationship with a client. Respondent
6 conditionally admits her conduct violated Rule 42, Ariz.R.Sup.Ct., specifically
7 ERs 1.7 (pre-2004 version).
8
9

10 **SANCTION**

11 The State Bar of Arizona and Respondent have conditionally agreed that
12 Respondent shall be subject to the following sanction for her conduct:
13 Respondent will be suspended from the practice of law for thirty (30) days and
14 Respondent shall pay all costs and expenses of the disciplinary proceedings.¹
15

16 The parties conditionally agree that this agreement serves the purposes
17 of discipline in that it protects the public, insures the integrity of the profession,
18 and will deter other lawyers from engaging in similar misconduct. There is no
19 issue of restitution in this case. The Tender of Admissions and Agreement for
20 Discipline by Consent is filed contemporaneously herewith.
21
22
23
24

25 ¹ The costs and expenses of the disciplinary proceedings include the costs and expenses incurred by the State Bar, the Disciplinary Commission, the Supreme Court, and the Disciplinary Clerk.

1 In determining the appropriate sanction, the parties considered the facts
2 of this matter, the American Bar Association's *Standards for Imposing Lawyer*
3 *Sanctions* ("Standards") and proportional Arizona case law.
4

5 ABA Standards

6 The *Standards* are designed to promote consistency in the imposition of
7 sanctions by identifying relevant factors that courts should consider and then
8 applying these factors to situations where lawyers have engaged in various types
9 of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance
10 with respect to an appropriate sanction in this matter. The Court and Commission
11 consider the *Standards* a suitable guideline. *In re Rivkind*, 164 Ariz. 154, 157, 791
12 P.2d 1037, 1040 (1990); *In re Kaplan*, 179 Ariz. 175, 177, 877 P.2d 274, 276
13 (1994).
14
15

16 In determining an appropriate sanction, both the Court and the
17 Commission consider the duty violated, the lawyer's mental state, the actual or
18 potential injury caused by the misconduct and the existence of aggravating and
19 mitigating factors. *In re Tarletz*, 163 Ariz. 548, 789 P.2d 1049 (1990);
20 *Standard* 3.0.
21

22 In the instant case, Respondent conditionally admits that she violated the
23 duty to avoid a conflict of interest. The parties conditionally agree that the
24 Respondent acted with a knowing mental state. Lastly, the parties
25

1 conditionally agree the client suffered no actual injury, but that the potential for
2 injury existed.

3 Given the conduct in this matter, the most applicable *Standard* is
4
5 *Standard* 4.3, "Failure to Avoid Conflicts of Interest." Specifically, *Standard*
6 4.32, provides: "Suspension is generally appropriate when a lawyer knows of a
7 conflict of interest and does not fully disclose to a client the possible effect of
8 that conflict, and causes injury or potential injury to a client." Therefore, the
9 presumptive sanction in this case is suspension.
10

11 Having determined the presumptive sanction is suspension, the parties next
12 considered the applicable aggravating and mitigating circumstances, as set forth
13 in the *Standards* and agree that the following apply in this matter.
14

15 **Aggravating Factors:**

16 None.

17 **Mitigating Factors:**

18
19 *Standard* 9.33(a) absence of a prior disciplinary record: Respondent has no
20 prior formal or informal discipline.

21 *Standard* 9.33(e) full and free disclosure to a disciplinary board or cooperative
22 attitude toward proceedings: Respondent provided full and complete answers
23 and outlines of all pertinent events and supporting documentary evidence
24 during the investigation.
25

1 Standard 9.33(j) delay in disciplinary proceedings: As outlined in the Tender
2 of Admissions, the misconduct began in the year 2000.

3
4 The parties conditionally agree that the mitigating factors do not remove
5 the instant case from the presumptive sanction of suspension.

6 PROPORTIONALITY REVIEW

7
8 In the past, the Supreme Court has consulted similar cases in an attempt
9 to assess the proportionality of the sanction recommended. *See In re Struthers*,
10 179 Ariz. 216, 226, 887 P.2d 789, 799 (1994). The Supreme Court has
11 recognized that the concept of proportionality review is "an imperfect process."
12 *In re Owens*, 182 Ariz. 121, 127, 893 P.3d 1284, 1290 (1995). This is because
13 no two cases "are ever alike." *Id.*

14
15 To have an effective system of professional sanctions, there must be
16 internal consistency, and it is appropriate to examine sanctions imposed in
17 cases that are factually similar. *Peasley, supra*, 208 Ariz. at ¶ 33, 90 P.3d at
18 772. However, the discipline in each case must be tailored to the individual
19 case, as neither perfection nor absolute uniformity can be achieved. *Id.* at 208
20 Ariz. at ¶ 61, 90 P.3d at 778 (citing *In re Alcorn*, 202 Ariz. 62, 76, 41 P.3d 600,
21 614 (2002); *In re Wines*, 135 Ariz. 203, 207, 660 P.2d 454, 458 (1983)).

22
23
24 The Supreme Court "has long held that 'the objective of disciplinary
25 proceedings is to protect the public, the profession and the administration of

1 justice and not to punish the offender.” *In re Alcorn*, 202 Ariz. 62, 74, 41 P.3d
2 600, 612 (2002) (quoting *In re Kastensmith*, 101 Ariz. 291, 294, 419 P.2d 75,
3 78 (1966)). The State Bar and Respondent conditionally agree that the
4 sanction proposed here is consistent with these principles.

5
6 In *In re Spence*, SB-05-0026-D (2005), Spence was suspended from the
7 practice of law for thirty days after he made inappropriate and sexually explicit
8 comments to clients. Spence also disobeyed an obligation under the rules of a
9 tribunal and willfully violated a court order. There were five aggravating
10 factors: 9.22(b) dishonest or selfish motive, 9.22(c) pattern of misconduct,
11 9.22(d) multiple offenses, 9.22(h) vulnerability of the victim, and 9.22(i)
12 substantial experience in the practice of law. There were two mitigating
13 factors: 9.32(a) absence of a prior disciplinary record and 9.32(e) full and free
14 disclosure to disciplinary board or cooperative attitude toward proceedings.
15 Spence was sanctioned for violations of Rule 42, Ariz.R.Sup.Ct., specifically
16 ERs 1.7, 3.4(c), 8.4, Rules 41(g) and 51(e), Ariz.R.Sup.Ct.

17
18
19
20 In *In re Pearlstein*, SB-03-155, (2004), Pearlstein was suspended for sixty
21 days and placed on two years of probation upon reinstatement. Pearlstein
22 subjected a client to unwelcome commentary of a sexual nature. In a second
23 matter, Pearlstein failed to keep his client informed as to the matter, failed to act
24 with diligence, and failed to properly supervise his staff. There were five
25

1 aggravating factors: 9.22(b) dishonest or selfish motive, 9.22(c) pattern of
2 misconduct, 9.22(g) refusal to acknowledge wrongful nature of conduct, 9.22(h)
3 vulnerability of victim, and 9.22(i) substantial experience in the practice of law.
4 There were five mitigating factors: 9.32(a) absence of a prior disciplinary record,
5 9.32(d) timely good faith effort to make restitution or to rectify consequences of
6 misconduct, 9.32(e) full and free disclosure to disciplinary board or cooperative
7 attitude toward proceedings, 9.32(k) imposition of other penalties or sanctions,
8 and 9.32(l) remorse. Pearlstein was sanctioned for violations of Rule 42,
9 Ariz.R.Sup.Ct., specifically ERs 1.4, 1.7(b), 1.15(b), 1.16(d) and 5.3.

12 In *In re Marquez*, SB-03-0072-D (2003), Marquez was suspended for
13 thirty days and placed on one year of probation upon reinstatement. Marquez
14 made unwelcome sexual comments and unwelcome touching of an opposing
15 party, who was representing herself. Marquez denied his conduct until
16 confronted with a tape recording of the incident. There were seven aggravating
17 factors: 9.22(b) dishonest or selfish motive, 9.22(c) pattern of misconduct,
18 9.22(d) multiple offenses, 9.22(f) submission of false evidence, false
19 statements, or other deceptive practices during the disciplinary process, 9.22(g)
20 refusal to acknowledge wrongful nature of conduct, 9.22(h) vulnerability of
21 victim, 9.22(i) substantial experience in the practice of law. There were three
22 mitigating factors: 9.32(b) absence of a dishonest or selfish motive, 9.32(g)
23
24
25

1 character or reputation, and 9.32(I) remorse. Marquez was sanctioned for
2 violations of Rule 42, Ariz.R.Sup.Ct., specifically ERs 1.7, 8.1 and 8.4.

3
4 The parties conditionally agree that under the specific facts of this case the
5 agreed-upon sanction is proportionate and appropriate. Although probation upon
6 reinstatement was imposed in the cases reviewed for proportionality, the parties
7 conditionally agree that given the specific facts and circumstances of this matter,
8 probation is not necessary. A thirty day suspension and payment of all costs of the
9 disciplinary proceedings will serve to protect the public, instill confidence in the
10 public, deter other lawyers from similar misconduct, and maintain the integrity of
11 our self-regulated profession.
12

13
14 The parties conditionally agree that this agreement provides for a sanction
15 that meets the goals of the disciplinary system.

16 Conclusion

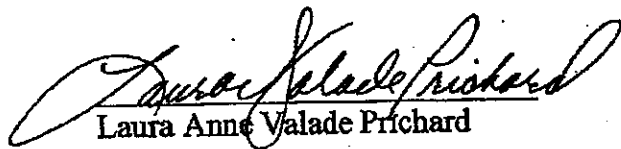
17 The objective of lawyer discipline is not to punish the lawyer, but to protect
18 the public, the profession, and the administration of justice. *In re Neville*, 147 Ariz.
19 106, 708 P.2d 1297 (1985). Recognizing it is the prerogative of the Hearing
20 Officer, the Disciplinary Commission and the Supreme Court to determine the
21 appropriate sanction, the State Bar and Respondent conditionally agree that the
22 objectives of discipline will be met by the discipline as set forth in the Tender of
23
24
25

1 Admissions, the terms of which are incorporated herein by reference including a
2 thirty day suspension and payment of all costs and expenses of these proceedings.
3

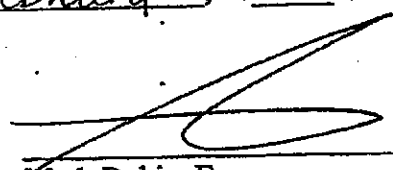
4 DATED this 6th day of February, 20 09.

5
6
7 
8 Jason B. Easterday
9 Staff Bar Counsel

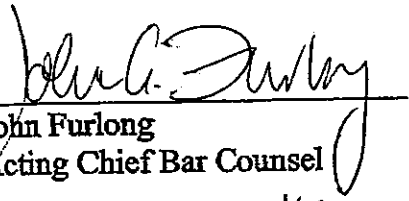
10 DATED this 6th day of February, 20 09.

11
12 
13 Laura Anne Valade Prichard
14 Respondent

15 DATED this 6th day of February, 20 09.

16
17 
18 Mark Rubin, Esq.
19 Counsel for Respondent
20

21 Approved as to form and content:

22 
23 John Furlong
24 Acting Chief Bar Counsel

25 Original filed this 6th day
of February, 2009, with:

1
2 Disciplinary Clerk of the
3 Supreme Court of Arizona

4 By: Jose M. Carablanca

5
6 Copies of the foregoing mailed this 6th day
7 of February, 2009, to:

8
9 Mark Rubin, Esq.,
10 Counsel for Respondent
11 Law Office of Mark Rubin, P.L.C.
12 4574 North First Avenue, Suite 150
13 Tucson, Arizona 85718

14 David H. Liberthal
15 Hearing Officer 9H
16 3900 East Broadway, Suite 210
17 Tucson, Arizona 85711

18 Copy of the foregoing hand-delivered this
19 6th day of February, 2009, to:

20 Lawyer Regulation Records Manager
21 State Bar of Arizona
22 4201 N. 24th St., Suite 200
23 Phoenix, Arizona 85016-6288

24 by: Jose M. Carablanca

25 JBE/lmc