

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**CHRISTOPHER H. ARIANO,
Bar No. 026915**

Respondent.

PDJ-2016-9080

FINAL JUDGMENT AND ORDER

[State Bar Nos. 15-2108 & 16-0493]

FILED AUGUST 24, 2016

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on August 18, 2016, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED Respondent, **Christopher H. Ariano**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents effective the date of this order.

IT IS FURTHER ORDERED Mr. Ariano shall be placed on probation for a period of two (2) years effective the date of this order.

IT IS FURTHER ORDERED Mr. Ariano shall not utilize Rule 38 limited practice students for the term of his probation.

IT IS FURTHER ORDERED Mr. Ariano shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this order. Mr. Ariano shall submit to a LOMAP examination of his office procedures. Mr. Ariano shall sign terms and conditions of participation, including reporting requirements, which

shall be incorporated herein. Mr. Ariano shall be responsible for any costs associated with LOMAP.

IT IS FURTHER ORDERED Mr. Ariano shall pay \$8,500.00 in restitution to Judy King within ninety (90) days of this final judgment and order.

IT IS FURTHER ORDERED Mr. Ariano shall participate in fee arbitration if Katherine Kroetsch applies for the program and shall timely pay any award entered against him that results from the process.

IT IS FURTHER ORDERED Mr. Ariano shall pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,200.00, within thirty (30) days from the date of this 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.

DATED this 24th day of August, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed this 24th day of August, 2016, to:

Nancy A. Greenlee
821 East Fern Drive North
Phoenix, Arizona 85014-3248
Email: nancy@nancygreenlee.com
Respondent's Counsel

Bradley F. Perry
Staff Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

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

Fee Arbitration Coordinator
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**CHRISTOPHER H. ARIANO,
Bar No. 026915**

Respondent.

PDJ-2016-9080

**DECISION AND ORDER
ACCEPTING DISCIPLINE BY
CONSENT**

[State Bar Nos. 15-2108 & 16-0493]

FILED AUGUST 24, 2016

In Count One, a Probable Cause Order issued on June 17, 2016. In Count Two, no probable cause order issued and no formal complaint has been filed in this matter. An Agreement for Discipline by Consent (Agreement) was filed on August 10, 2016 and submitted under Rule 57(a)(3) Ariz. R. Sup. Ct.¹ Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject, or recommend the agreement be modified." Rule 57(a)(3)(b).

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.

¹ Unless otherwise stated, all rule references are to the Rules of the Supreme Court of Arizona.

Under Rule 53(b)(3), notice of this Agreement was provided to the complainant(s) by letter dated July 21, 2016 and the opportunity to file a written objection within five (5) days. No objection has been received.

The Agreement details a factual basis to support the admissions to the charges and is briefly summarized. In Count One, Mr. Ariano hired Eric Raymon, a third year law student as a legal assistant. Mr. Raymon applied as a Rule 38 limited practice certification and was certified to limited practice on September 4, 2016. Overall, Mr. Ariano, as his supervising attorney, failed to independently verify the Rule 38 application and failed adequately supervise Mr. Raymon. Mr. Ariano failed to identify Mr. Raymon as a Rule 38 student in his firm's fee agreements and failed to file a Notice of Rule 38 limited practice Notice of Appearance with the court. On August 19, 2014 Mr. Raymon attended a pre-trial conference and held himself out as an attorney. Mr. Ariano did not appear at the conference. The client ultimately terminated the representation and asked for a refund of unearned fees. Mr. Raymon then met with the client, refused to return any unused fees, and made false statements to the client about conducting witness interviews. Mr. Ariano was not informed of the meeting. Mr. Ariano believed that Mr. Raymon and the contract attorney announced to the court before any hearings/conferences that Mr. Raymon was a Rule 38 limited practice student.

In Count Two, Mr. Raymon met with a potential client and conducted an interview without a licensed attorney present. Mr. Ariano represented the client for the entire pendency of her matter but failed to adequately communicate with the client. Mr. Raymon was the designated point of contact for the client, however Mr. Ariano was unaware that Mr. Raymon provided legal advice to the client.

Mr. Ariano conditionally admits he violated in Count One, Rules 42, ERs 1.3 (diligence), 1.4 (communication), 1.5 (fees), 3.2 (expediting litigation), 5.1 (responsibilities of partners, managers, and supervisory lawyers), 5.3 (responsibilities regarding non-lawyer assistants), 5.5 (unauthorized practice of law), and 8.4(d) (conduct prejudicial to the administration of justice). In Count two, Mr. Ariano conditionally admits he violated ERs 1.4, 5.3, 5.5, and 8.4(d).

The parties stipulate to a sanction of reprimand and two (2) years of probation with the State Bar's law Office Management Assistance Program (LOMAP), restitution, fee arbitration if sought by the complainant, and costs of these proceedings. Mr. Ariano further agrees not to utilize Rule 38 limited practice students during the period of probation

The parties agree that *Standard 7.0, Violations of Duties Owed As A Professional*, of the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* is applicable to Mr. Ariano's ethical violations and provides:

Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

Mr. Ariano negligently engaged in the unauthorized practice of law by failing to supervise non-lawyer Eric Raymon resulting in actual and potential harm to clients. Mr. Ariano negligently believed that if a licensed coverage attorney accompanied Mr. Raymon that would demonstrate to the court that he was a Rule 38 limited practice student and not a licensed attorney. The parties agree that the following aggravating factors are present in the record: 9.22(c) (pattern of misconduct), 9.22(d), (multiple offenses), and 9.22(h) (vulnerability of the victim). The parties further agree that

mitigating factors 9.32(a) (absence of prior disciplinary record) and 9.32(d) (timely good faith effort to rectify consequences of misconduct) present.

The PDJ finds that the proposed sanctions of reprimand, probation, restitution and fee arbitration meet the objectives of attorney discipline and is accepted and incorporated herein by this reference.

IT IS ORDERED Respondent, **Christopher H. Ariano, Bar No. 026915**, is reprimanded and placed on two (2) years of probation (LOMAP) for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective the date of this order.

IT IS FURTHER ORDERED Mr. Ariano shall pay \$8,500.00 in restitution to Judy King (Count One) within ninety (90) days of the final judgment and order.

IT IS FURTHER ORDERED Mr. Ariano shall participate in fee arbitration if initiated by Katherine Kroetsch (Count Two) and shall timely pay any arbitration award.

IT IS FURTHER ORDERED Mr. Ariano shall not utilize Rule 38 limited practice students during his term of probation.

IT IS FURTHER ORDERED Mr. Ariano shall pay the costs and expenses of the State Bar of Arizona for \$1,200.00, within thirty (30) days from the date of this order. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office with these disciplinary proceedings.

DATED this 24th day of August, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 24th day of August, 2016, to:

Nancy A. Greenlee
821 East Fern Drive North
Phoenix, Arizona 85014-3248
Email: nancy@nancygreenlee.com
Respondent's Counsel

Bradley F. Perry
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

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

Fee Arbitration Coordinator
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: AMcQueen

Bradley F. Perry, Bar No. 025682
Staff Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7247
Email: LRO@staff.azbar.org

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

AUG 18 2016

FILED

BY



Nancy A. Greenlee, Bar No. 010892
821 East Fern Drive North
Phoenix, Arizona 85014-3248
Telephone 602-264-8110
Email: nancy@nancygreenlee.com
Respondent's Counsel

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**CHRISTOPHER H. ARIANO,
Bar No. 026915,**

Respondent.

PDJ 2016-9080

State Bar File Nos. **15-2108**
16-0493

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Christopher H. Ariano, who is represented in this matter by counsel, Nancy A. Greenlee, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. In Count 1, a probable cause order was entered on June 17, 2016, but no formal complaint has been filed. In Count 2, no probable cause order has been entered. 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 admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant(s) by letter on July 21, 2016. Complainant(s) 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 in Count 1, as set forth below, violated Rule 38, Ariz. R. Sup. Ct., and Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.5, 3.2, 5.1, 5.3, 5.5, and 8.4(d). Respondent conditionally admits that his conduct in Count 2, as set forth below, violated Rule 42, Ariz. R. Sup. Ct., ERs 1.4, 5.3, 5.5, and 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand with two (2) years probation, LOMAP, and Respondent's agreement not to utilize Rule 38 limited practice students during his probation; restitution made payable to Judy King within ninety (90) days of the order imposing sanctions, and fee arbitration if Complainant Kroetsch applies to the program.

Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within thirty (30) days from the date of this order, and if costs are not paid within the thirty (30) days, interest will begin to accrue at the legal rate.¹ 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 April 22, 2009.

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 Probable Cause Committee, the Presiding Disciplinary Judge, and the Supreme Court of Arizona.

COUNT ONE (File No. 15-2108/ King)

2. In May 2014, Respondent's firm hired Eric Raymon, a third-year law student at the Arizona Summit School of Law, as a legal assistant.

3. Starting in June 2014, Mr. Raymon applied for a limited practice certification pursuant to Rule 38, Ariz. R. Sup. Ct. Mr. Raymon was certified to limited practice on September 4, 2014. Respondent was Mr. Raymon's supervising attorney.

4. In late July 2014, Complainant Judy King contacted Respondent's firm to discuss representation for a DUI matter. Eric Raymon conducted the intake interview under the Respondent's supervision. In July 2014, Raymon had yet to be certified as a Rule 38 limited practice student.

5. During the intake interview, Ms. King explained she suffered from PTSD stemming from the killing of her husband by police and asked if the firm had experience dealing with PTSD. Mr. Raymon indicated he had "first-hand experience" from his past military service. Ms. King informed the firm she preferred to deal with Raymon due to his experience with PTSD.

6. On July 26, 2014, Mr. Raymon emailed Ms. King a copy of the proposed fee agreement. His email reads "Good Afternoon Ms. King, Attached is the fee agreement we discussed. Please let me know if you have any questions. Thank you."

7. Ms. King signed the agreement on the same day and transmitted the completed copy electronically to Mr. Raymon. Ms. King hired Respondent's firm to represent her for a flat fee of \$3,000.00. The fee agreement did not contain any language regarding refund of unearned fees.

8. The fee agreement did contain a provision alerting clients that a Rule 38 limited practice student or an attorney other than the assigned attorney may, without

prior approval, render any legal services necessary to assist in the resolution of the legal matter. Ms. King placed her initials next to the provision. The agreement does not identify Mr. Raymon as a Rule 38 student, does not identify who would act as Mr. Raymon's supervising attorney, and does not indicate that a Rule 38 student would be Ms. King's primary point of contact, or act as lead attorney in Ms. King's case.

9. On August 15, 2014, Respondent filed his Notice of Appearance in Tucson City Court number TR 14084963. No Rule 38 limited practice Notice of Appearance was filed for Mr. Raymon. A Notice of Rule 38 limited practice Notice of Appearance was prepared and signed by Respondent who was told by Mr. Raymon that it was filed in court on the date of the initial pre-trial conference; however, the court docket does not show it was actually filed.

10. Had a Rule 38 Notice been filed on August 15, 2014, it would have been invalid as Mr. Raymon's application was not signed by Summit School of Law until August 20, 2014, and Mr. Raymon was not certified by the Supreme Court until September 4, 2014. Respondent believed Mr. Raymon was certified to practice pursuant to Rule 38 based on statements made to him by Mr. Raymon, but Respondent failed to independently verify the certification.

11. On August 19, 2014, Raymon attended Complainant's first pre-trial conference during which he held himself out as a licensed attorney. The minute entry for the August 19 hearing states "[Defendant] has retained Eric Raymon W. Ariano & Reppucci private counsel - P/D is granted withdrawal. Counsel needs time for their investigation. [Defense] MTC - no obj by State - reset above." Respondent was not present at the hearing.

12. Mr. Raymon contacted the Tucson City Attorney in late August or early September 2014, to obtain discovery. The prosecutor informed Mr. Raymon a standard DUI plea was being offered, but Mr. Raymon rejected the offer based on Ms. King's previous assertion that she wanted to proceed to trial. Mr. Raymon did not discuss the specific plea agreement with Complainant before rejecting it.

13. On September 5, 2014, Ms. King was arrested for assault and disorderly conduct. Ms. King contacted Mr. Raymon via email on September 6, 2014, at 6:33 a.m. asking for his help. Mr. Raymon sent Ms. King a new fee agreement the same day, attached to an email reading "Here is the fee agreement for your newest charges. I look forward to aggressively representing you with these criminal matters."

14. Complainant hired Respondent's firm to represent her in the new matter for \$5,500.00.

15. On September 7, 2014, Respondent sent Ms. King an email stating "My name is Chris Ariano. I am the supervising attorney for your DUI charges. Eric has informed me that you will be retaining our firm this week for additional charges (Assault/Disorderly Conduct) filed against you. I look forward to aggressively defending you, if you have any questions feel free to e-mail us at any time." This is the only direct contact Ms. King had with Respondent. Billing records show one additional email sent to Ms. King on 10/13/2014, identified as "Chris Ariano Advising," although the email was sent from Mr. Raymon's email address. While communication between Mr. Raymon and Ms. King was common, these were Respondent's only contacts with Ms. King.

16. Sometime in September 2014, misdemeanor criminal charges arising from Complainant's September 5, 2014 arrest were consolidated with the pending DUI under CR-14105713 (misdemeanor matter).

17. On September 25, 2014, Respondent filed his Notice of Appearance in Pima County Superior Court for the felony charges arising from the September 5 arrest (felony matter). A Rule 38 limited practice notice was not filed in the felony matter.

18. Respondent's firm represented Ms. King in her felony matter until December 29, 2014. During that time, Mr. Raymon attended four hearings. Mr. Raymon was accompanied by a licensed contract attorney working for Respondent's firm during three of the hearings, but was never accompanied by Respondent. Mr. Raymon attended one of the hearings without a supervising attorney. Mr. Raymon misrepresented to Respondent that the coverage attorney announced to the Court that Mr. Raymon was a Rule 38 student before each appearance.

19. Mr. Raymon and the coverage attorney requested a continuance at each hearing in the felony matter. Respondent never physically appeared in court and Mr. Raymon and the coverage attorney requested the matter be continued at each hearing. At the final hearing held while Respondent was attorney of record, Ms. King told the court she wanted a new lawyer because her lawyer provided no information to her about her case. The court relieved Respondent from the matter and appointed the Public Defender's office.

20. On December 30, 2014, Ms. King emailed Mr. Raymon and terminated his services in the felony matter. Ms. King requested a refund of unearned funds for the felony matter. Ms. King met with Mr. Raymon on January 23, 2015. Mr. Raymon refused to refund any money and stated that the firm earned their fee, in part by

conducting witness interviews. This statement was false as no interviews were conducted in the matter. Respondent was unaware this meeting occurred or that Mr. Raymon might have provided incorrect information to Ms. King.

21. Respondent's firm represented Ms. King in the misdemeanor matter until the January 28, 2015, hearing, when the court granted Respondent's motion to withdraw and appointed the Public Defender's office. Respondent never personally appeared in court for any of Ms. King's hearings.

COUNT TWO (File No. 16-0493/Kroetsch)

22. On March 3, 2015, Complainant Katherine Kroetsch met with Eric Raymon at Respondent's Tucson office to discuss hiring the firm to assist her with a DUI. Mr. Raymon's Rule 38 certification had expired and he was working for Respondent as a legal assistant.

23. Mr. Raymon conducted Ms. Kroetsch's intake interview without the assistance of a licensed attorney.

24. On March 5, 2015, Respondent emailed Ms. Kroetsch a copy of the fee agreement which called for a flat fee of \$4,000.00 for representation for the DUI. Ms. Kroetsch paid the firm \$2,850.00 of the agreed \$4,000.00 flat fee.

25. Respondent entered his Notice of Appearance on March 16, 2015.

26. Respondent represented Ms. Kroetsch for the entire pendency of her case, which concluded by way of plea agreement and sentencing.

27. Respondent did not personally appear at any of Ms. Kroetsch's hearings; the hearings were handled by coverage attorney Tom Piccioli.

28. Mr. Raymon was Ms. Kroetsch's point of contact at the firm. Ms. Kroetsch would speak with Mr. Raymon when she called for updates on her matter.

Unbeknownst to Respondent, Mr. Raymon provided legal advice during some of these calls.

29. Respondent admits he failed to adequately communicate with Ms. Kroetsch during the representation.

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 in Count 1, as set forth above, violated Rule 38, Ariz. R. Sup. Ct., and Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.5, 3.2, 5.1, 5.3, 5.5, and 8.4(d). Respondent conditionally admits that his conduct in Count 2, as set forth above, violated Rule 42, Ariz. R. Sup. Ct., ERs 1.4, 5.3, 5.5, and 8.4(d).

RESTITUTION

Count 1 / King: Respondent shall pay \$8,500.00 to Ms. King within ninety (90) days of the order imposing sanctions.

Count 2 / Kroetsch: Respondent shall participate in fee arbitration if Ms. Kroetsch applies for the program and shall pay any award entered against him that results from the process.

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:

Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand with two (2) years probation, LOMAP, and Respondent's agreement not to utilize Rule 38 limited practice students during his probationary period; restitution made payable to Judy King within ninety (90) days of the order imposing sanctions, and fee arbitration if Complainant Kroetsch applies to the program.

If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within thirty (30) days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

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 parties agree that Standard 7.3 applies in both King 15-2108 and Kroetsch 16-0493. Standard 7.3 provides: "Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system."

In both matters Respondent failed to adequately supervise non-lawyer Eric Raymon, resulting in the unauthorized practice of law. In Ms. King's matter, Mr. Raymon did not specifically inform her of a plea agreement, did not properly investigate the case, and did not move litigation forward which resulted in the court removing Respondent's firm from Ms. King's case. In Ms. Kroetsch's matter, Mr. Raymon provided legal advice in Respondent's stead when Ms. Kroetsch contacted Respondent's firm. In both matters, Respondent failed to adequately communicate directly with his clients.

The duty violated

As described above, Respondent's conduct violated his duties as a professional.

The lawyer's mental state

For purposes of this agreement, the parties agree that Respondent was negligent in his supervision of non-lawyer Eric Raymon. Respondent negligently believed that sending a licensed coverage attorney with Eric Raymon would make clear to the court and his client that Eric Raymon was not attorney of record, but a Rule 38 limited practice student. Respondent admits his conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was actual harm to Ms. King and potential harm to Ms. Kroetsch.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is reprimand. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Standard 9.22(a) a pattern of misconduct.

Standard 9.22(d) multiple offenses.

Standard 9.22(h) vulnerability of the victim.

In mitigation:

Standard 9.32(a) absence of a prior disciplinary record.

Standard 9.32(d) timely good faith effort to rectify consequences of misconduct. Respondent made changes to his website to remove images and reference to Eric Raymon and Mr. Raymon is no longer employed by Respondent's firm.

Standard 9.32(e) full and free disclosure to disciplinary board and cooperative attitude toward proceedings.

Standard 9.32(l) remorse. Upon receipt of the Bar charges, Respondent began to recognize the problems with Mr. Raymon and made changes to his website and ultimately terminated Mr. Raymon when it became apparent that he had not been accurately apprised by Mr. Raymon of his actions while in his employment. Respondent has contacted all of his clients and clarified with them that he is handling their cases and he will provide all legal advice about their cases.

Discussion

The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction is appropriate.

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This agreement was based on the following: Mr. Ariano's conduct does not constitute an isolated instance of negligence requiring admonition, but does not rise to the level of knowing violations which would necessitate a suspension. Mr. Ariano placed his trust in Mr. Raymon and that trust was betrayed when Mr. Raymon held himself out as a lawyer and engaged in certain actions without the permission or supervision of Mr. Ariano. Mr. Ariano admits that he is not faultless, as closer supervision would likely have prevented Mr. Raymon's actions.

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 sanctions and the Imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 18th day of August, 2016.

STATE BAR OF ARIZONA



Bradley F. Perry
Staff Bar Counsel

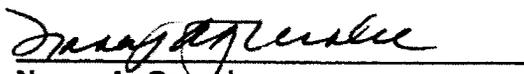
This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this 18th day of August, 2016.



Christopher H. Ariano
Respondent

DATED this 18th day of August, 2016.



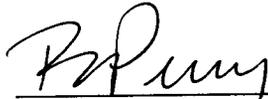
Nancy A. Greenlee
Counsel for Respondent

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 sanctions and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 18th day of August, 2016.

STATE BAR OF ARIZONA



Bradley F. Perry
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this _____ day of August, 2016.

Christopher H. Ariano
Respondent

DATED this _____ day of August, 2016.

Nancy A. Greenlee
Counsel for Respondent

Approved as to form and content

Maret Vessella
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 18th day of August, 2016.

Copy of the foregoing emailed
this 18th day of August, 2016, to:

The Honorable William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
E-mail: officepdj@courts.az.gov

Copy of the foregoing mailed/emailed
this 18th day of August, 2016, to:

Nancy A. Greenlee
821 E Fern Dr North
Phoenix, AZ 85014-3248
Email: nancy@nancygreenlee.com
Respondent's Counsel

Copy of the foregoing hand-delivered
this 18th day of August, 2016, to:

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

by: Robert Wesley
BFP: SAB

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
CHRISTOPHER H. ARIANO Bar No. 026915, Respondent

File No(s). 15-2108, 16-0493

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 INCURRED **\$1,200.00**

EXHIBIT B

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**CHRISTOPHER H. ARIANO,
Bar No. 026915,**

Respondent.

PDJ

FINAL JUDGMENT AND ORDER

State Bar Nos. 15-2108 & 16-0493

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, **Christopher H. Ariano**, is hereby reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent shall be placed on probation for a period of two (2) years effective the date of this Order.

IT IS FURTHER ORDERED that Respondent shall not utilize Rule 38 limited practice students for the term of his probation.

IT IS FURTHER ORDERED that Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of service of this Order. Respondent shall submit to a LOMAP examination of his office procedures. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.

IT IS FURTHER ORDERED that Respondent shall pay \$8,500.00 in restitution to Judy King within ninety (90) days of the order imposing sanctions.

IT IS FURTHER ORDERED that Respondent shall participate in fee arbitration if Katherine Kroetsch applies for the program and shall pay any award entered against him that results from the process.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, within thirty (30) days from the date of service of this Order.

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 August, 2016.

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 August, 2016.

Copies of the foregoing mailed/emailed
this _____ day of August, 2016, to:

Nancy A. Greenlee
821 East Fern Drive North
Phoenix, Arizona 85014-3248
Email: nancy@nancygreenlee.com
Respondent's Counsel

Copy of the foregoing emailed/hand-delivered
this ____ day of August, 2016, to:

Bradley F. Perry
Staff Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this ____ day of August, 2016 to:

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

by: _____

FILED

JUN 16 2016

STATE BAR OF ARIZONA

BY

Christine Parrie

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**

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

**CHRISTOPHER H. ARIANO,
Bar No. 026915,**

Respondent.

No. 15-2108

PROBABLE CAUSE ORDER

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on May 13, 2016, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 5-0-4¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 15-2108.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 15th day of June, 2016.

Daisy Flores

Daisy Flores, Vice Chair
Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona

¹ Committee members Judge Lawrence F. Winthrop, Karen Osborne, Ben Harrison and Ella Johnson did not participate in this matter.

Original filed this 16th day
of June, 2016, with:

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

Copy mailed this 17th day
of June, 2016, to:

Nancy A. Greenlee
821 E. Fern Drive North
Phoenix, Arizona 85014-3248
Respondent's Counsel

Copy emailed this 17th day
of June, 2016, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

by:

