

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**STEVEN R. JOHNSON,  
Bar No. 010646**

Respondent

**PDJ 2016-9075**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 15-3347]

**FILED AUGUST 17, 2016**

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on August 10, 2016, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

**IT IS ORDERED** Respondent, **Steven R. Johnson**, is reprimanded and placed on probation for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

**IT IS FURTHER ORDERED** Mr. Johnson shall be placed on probation for a period of one (1) year.

**IT IS FURTHER ORDERED** Mr. Johnson shall participate in the State Bar's Law Office Management Assistance Program (LOMAP). Mr. Johnson shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this Order. Mr. Johnson shall submit to a LOMAP examination of his office procedures. Mr. Johnson shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Mr. Johnson shall be responsible for any costs associated with LOMAP.

**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 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.

**IT IS FURTHER ORDERED** Mr. Johnson 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 service of this Order.

**DATED** this 17th day of August, 2016.

*William J. O'Neil*

---

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

Copy of the foregoing mailed/emailed  
this 17th day of August, 2016, to:

Steven R. Johnson  
14985 W. Bell Road, Suite 125  
Surprise, Arizona 85374-3232  
Email: [gauchotche@qwest.net](mailto:gauchotche@qwest.net)  
Respondent

Craig D. Henley  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

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

by: [AMcQueen](#)

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**STEVEN R. JOHNSON,**  
**Bar No. 010646**

Respondent.

**PDJ-2016-9075**

**DECISION AND ORDER  
ACCEPTING DISCIPLINE BY  
CONSENT**

[State Bar No. 15-3347]

**FILED AUGUST 17, 2016**

A Probable Cause Order issued on June 16, 2016 and the formal complaint filed on July 20, 2016. Thereafter, an Agreement for Discipline by Consent (Agreement) was filed on August 10, 2016 and submitted under Rule 57(a)(3) Ariz. R. Sup. Ct.<sup>1</sup> 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.

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<sup>1</sup> 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 August 2, 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. Mr. Johnson worked for Fortress Documents, a certified legal document preparation company. Mr. Johnson admits he prepared estate documents for clients of Fortress Documents. The Rules governing certified legal document preparers in Arizona requires that both the company and individuals preparing documents are certified. Mr. Johnson is not an owner or officer of Fortress Documents and is not individually licensed to prepare legal documents on behalf of Fortress Documents. Mr. Johnson did not have a full understanding of his ethical obligations as an active attorney and his actions resulted in the "practice of law" and creating an attorney/client relationship.

Mr. Johnson conditionally admits he violated Rules 42, ERs 1.4 (communication), 1.5 (fees) and 5.4 (independence of a lawyer). The parties stipulate to a sanction of reprimand and one year of probation with the State Bar's law Office Management Assistance Program (LOMAP), costs. The parties agree that *Standard 4.43, Lack of Diligence*, of the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* is applicable to Mr. Johnson's violation of ER 1.4 and provides:

Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

*Standard 7.0, Violations of Duties Owed As A Professional*, is applicable to Mr. Johnson's violation of ERs 1.5 and 5.4. *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.

Mr. Johnson negligently engaged in the preparation of trust/estate documents while employed by a legal document preparation company. Mr. Johnson is not a certified legal document preparer. The parties agree there was actual harm to the client and the profession. The parties agree that the following aggravating factors are present in the record: 9.22(a) (prior disciplinary offenses); 9.22(c), (pattern of misconduct) and 9.22(i) (substantial experience in the practice of law). The parties further agree that mitigating factor 9.32(b) (absence of dishonest or selfish motive is present).

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

**IT IS ORDERED** Respondent, **Steven R. Johnson, Bar No. 010646**, is reprimanded and placed on one (1) year 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. Johnson shall be placed on probation (LOMAP) for a period of one (1) year.

**IT IS FURTHER ORDERED** Mr. Johnson 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 17<sup>th</sup> day of August, 2016.

*William J. O'Neil*

---

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

Copies of the foregoing mailed/emailed this 17th day of August, 2016, to:

Craig Henley  
Senior Bar Counsel  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: LRO@staff.azbar.org

Steven R. Johnson  
14985 W. Bell Road, Suite 125  
Surprise, AZ 85374-3232  
Email: gauchotche@qwest.net  
Respondent

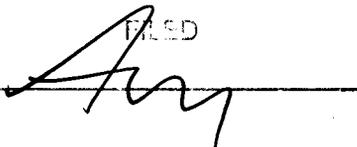
Lawyer Regulation Records Manager  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266

by: AMcQueen

Craig D. Henley, Bar No. 018801  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Telephone: (602) 340-7272  
Email: LRO@staff.azbar.org

OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

AUG 10 2016

FILED  
BY 

Steven R. Johnson, Bar No. 010646  
14985 W. Bell Road, Suite 125  
Surprise, Arizona 85374-3232  
Telephone: (602) 371-8898  
Email: [gauchotche@qwest.net](mailto:gauchotche@qwest.net)  
Respondent

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**STEVEN R. JOHNSON,  
Bar No. 010646,**

Respondent

**PDJ 2016-9075**

**AGREEMENT FOR DISCIPLINE BY  
CONSENT**

[State Bar File No. 15-3347]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Steven R. Johnson, who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on June 16, 2016, in SB No. 15-3347 and a complaint was filed on July 20, 2016.

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 letters on August 2, 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, as set forth below, violated Rule 42, Ariz. R. Sup. Ct., ER 1.4 ~ Communication, ER 1.5 ~ Fees and ER 5.4 ~ Independence of Lawyer. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand with One Year of Probation.

Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order, and if costs are not paid within the 30 days, interest will begin to accrue at the legal rate.<sup>1</sup> The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

## **FACTS**

### **GENERAL ALLEGATIONS**

1. On May 10, 1986, Respondent was licensed to practice law in the State of Arizona.
2. At all times pertinent, Respondent was not and currently is not a certified legal document preparer.

### **COUNT ONE (File No. 15-3347/Kyle)**

2. Margaret Kyle (hereinafter referred to as "Kyle") is an attorney in the State of Minnesota.

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<sup>1</sup> 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.

3. In late 2015, Kyle was contacted by Jon Koshiol (hereinafter referred to as "Koshiol") regarding estate issues related to his mother's dementia.

4. Koshiol initially discussed his mother's condition with his financial consultant, Tim Keefe of Legacy Solutions, LLC (hereinafter referred to as "Keefe"). After meeting with the mother, Keefe forwarded documents to Fortress Documents, a certified legal document preparation company.<sup>2</sup>

5. Upon completion of the initial estate documents, the documents were forwarded to the Koshiols with the instructions that they be notarized in the State of Minnesota (mother's place of residency at the time).

6. The documents created rights for various family members (particularly Koshiol) which caused significant disputes between the family members.

7. As a result of the family disputes, Kyle was hired to represent mother.

8. Kyle indicates that during her interview of Keefe, Keefe indicated that he had previously used Fortress Documents without incident and that Respondent was the attorney reviewing the documents. Keefe also provided Respondent's current phone number.

9. While Kyle attempted to contact Respondent and Fortress Documents (identified by voice message as "Premier Documents"), neither returned her phone calls.

10. Respondent admits that he prepared the documents at issue, but claims that he is merely a lawyer that has "only been doing back room document preparation for a certified legal document company. I physically merge estate

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<sup>2</sup> Fortress Documents later became and is currently operating as "Premier Documents, LLC".

planning documents, edit them, polish them, and then print them for binding. I am paid by the company for providing those services at their office on their computer."<sup>3</sup>

11. Respondent also indicates that the documents were originally prepared for execution in Arizona while she was visiting in Arizona. When Respondent learned that mother was returning to Minnesota before the documents could be executed, the documents were amended to include Minnesota notary blocks.

12. Respondent did not speak to Koshiol, mother or any other family members and has no idea how much was paid to Fortress Documents for the document preparation.

13. Respondent is the only Premier Documents employee that is an active member of the State Bar of Arizona.

14. Respondent was not and currently is not an owner or officer of Fortress Documents or Premier Documents.

#### **CONDITIONAL ADMISSIONS**

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

Respondent conditionally admits that his conduct violated Rule 42, Ariz. R. Sup. Ct., ER 1.4 ~ Communication, ER 1.5 ~ Fees and ER 5.4 ~ Independence of Lawyer.

#### **CONDITIONAL DISMISSALS**

The State Bar has conditionally agreed to dismiss no allegations.

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<sup>3</sup> The Rules governing certified legal document preparers require that, not only is the company certified to prepare legal documents, but that each individual employee of the company be licensed. Respondent is not individually licensed as a certified legal document preparer.

## **RESTITUTION**

Restitution is not an issue in this matter.

## **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: Reprimand with One Year of Probation.

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

## **LEGAL GROUNDS IN SUPPORT OF SANCTION**

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

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

The parties agree that the following *Standards* are the appropriate *Standards* given the facts and circumstances of this matter:

ER 1.4 -

Standard 4.43

Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

ER 1.5 & 5.4 -

Standard 7.3

Reprimand is generally appropriate when a lawyer 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.

While Respondent mistakenly believed that avoiding direct contact with the client and not holding himself out as an attorney would comport with his ethical obligations, Respondent preparation of the subject documents as an active lawyer caused him to be the client's attorney and trigger his ethical obligations.

**The duty violated**

As described above, Respondent's conduct violated his duty to his client and the profession.

**The lawyer's mental state**

For purposes of this agreement the parties agree that Respondent negligently prepared the subject trust documents in both cases without fully understanding his ethical obligations to the clients and the public or that his conduct was in violation of the Rules of Professional Conduct.

Respondent was unaware that his actions are the "practice of law" as defined by Rule 31(a)(2)(A)(1), *Ariz. R. Sup. Ct.* and, as an active member of the State Bar of Arizona, required Respondent to comply with all of the Supreme Court ethical rules governing attorneys.

Similarly, Respondent was unaware that his actions do not qualify for any of the exemptions contained in Rule 31(d), *Ariz. R. Sup. Ct.* and that Rule 31(d)(24) specifically requires a person (including lawyers) that perform legal document preparation to comply with the Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-208 [(t)his exemption is not subject to paragraph (c) of this rule, as long as the disbarred attorney or member has been certified as provided in § 7-208 of the Arizona Code of Judicial Administration].

**The extent of the actual or potential injury**

For purposes of this agreement, the parties agree that there was actual harm to client and profession.

**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)* prior disciplinary offenses [SB 07-0883 (2007), Respondent received an Informal Reprimand with Probation (LOMAP) for similar violations];

*Standard 9.22(c)* a pattern of misconduct; and

*Standard 9.22(i)* substantial experience in the practice of law [Approximately 30 Years].

**In mitigation:**

*Standard 9.32(b)* absence of a dishonest or selfish motive.

## **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:

While Respondent was previously informally reprimanded for the same behavior in SB 07-0883 (2007), it is clear that he did not have a full understanding of the ethical impact of his actions and believed that, by not holding himself out as an attorney and refusing to directly contact the client(s), he was complying with his ethical obligations.

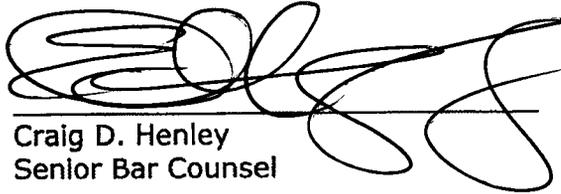
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

## **CONCLUSION**

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Reprimand with One Year of Probation and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 10TH day of August 2016

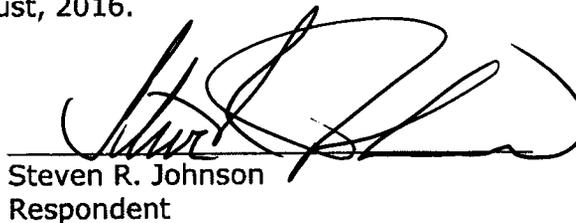
**STATE BAR OF ARIZONA**



Craig D. Henley  
Senior Bar Counsel

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

DATED this 5TH day of August, 2016.



Steven R. Johnson  
Respondent

Approved as to form and content



Maret Vessella  
Chief Bar Counsel

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 10TH day of August, 2016.

Copy of the foregoing emailed  
this 10th 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](mailto:officepdj@courts.az.gov)

Copy of the foregoing mailed/emailed  
this 10th day of August, 2016, to:

Steven R. Johnson  
14985 W. Bell Road, Suite 125  
Surprise, Arizona 85374-3232  
Email: [gauchotche@qwest.net](mailto:gauchotche@qwest.net)  
Respondent

Copy of the foregoing hand-delivered  
this 10th day of August, 2016, to:

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

by: *Jesse Stone*  
CDH/ts

**EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,  
**STEVEN R. JOHNSON**, Bar No. 010646, Respondent

File No(s). 15-3347

### **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**

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

**STEVEN R. JOHNSON,  
Bar No. 010646,**

Respondent

**PDJ 2016-9075**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 15-3347]

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, **Steven R. Johnson**, is hereby Reprimanded with Probation for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

**IT IS FURTHER ORDERED** that, upon reinstatement, Respondent shall be placed on probation for a period of one year.

**IT IS FURTHER ORDERED** that Respondent shall participate in the State Bar's Law Office Management Assistance Program (LOMAP): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 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 be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

**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 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.

**IT IS FURTHER ORDERED** that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within 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.

Copy of the foregoing mailed/mailed  
this \_\_\_\_\_ day of August, 2016, to:

Steven R. Johnson  
14985 W. Bell Road, Suite 125  
Surprise, Arizona 85374-3232  
Email: [gauchotche@qwest.net](mailto:gauchotche@qwest.net)  
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by: \_\_\_\_\_