

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**JAMES R. ANDREWS II,  
Bar No. 027886**

Respondent.

**PDJ-2015-9126**

**FINAL JUDGMENT AND ORDER**

[Pre-filing Consent; State Bar No. 14-3042, 15-2207, 15-2802]

**FILED DECEMBER 23, 2015**

The Presiding Disciplinary Judge (PDJ), having reviewed the Agreement for Discipline by Consent filed on December 17, 2015, under Rule 57(a), Ariz. R. Sup. Ct., accepted the parties' proposed agreement.

Accordingly:

**IT IS ORDERED** Respondent, **James R. Andrews II**, is suspended for one (1) year from the practice of law effective immediately, for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED**, if reinstated, Mr. Andrews shall be placed on probation for two (2) years upon terms and conditions ordered at his reinstatement.

**IT IS FURTHER ORDERED** Mr. Andrews shall be subject to any additional terms imposed by the PDJ as a result of reinstatement hearings held.

**IT IS FURTHER ORDERED** Mr. Andrews shall pay restitution in the amount of \$26,433.00 to Shane and Mandy Elsberry, \$9,185.90 to David and Donna Pichette, and \$628.00 to the Clerk of the Maricopa County Superior Court within thirty (30) days of this order.

**IT IS FURTHER ORDERED** Mr. Andrews 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.

**IT IS FURTHER ORDERED** Mr. Andrews shall immediately comply with the requirements relating to notification of clients and others, and provide and/or file all notices and affidavits required by Rule 72, Ariz. R. Sup. Ct.

**DATED** this 23<sup>rd</sup> day of December, 2015.

*William J. O'Neil*

---

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

Copies of the foregoing were mailed/emailed this 23<sup>rd</sup> day of December, 2015 to:

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

James R. Andrews II  
3190 S. Gilbert Road, Suite 5  
Chandler, Arizona 85286-5106  
Email: jra2esq@gmail.com; james@andrewslawplc.com  
Respondent

Lawyer Regulation Records Manager  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: lro@staff.azbar.org

by: MSmith

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**JAMES R. ANDREWS II,  
Bar No. 027886**

Respondent.

**PDJ-2015-9126**

**DECISION ACCEPTING CONSENT  
FOR DISCIPLINE**

[Pre-filing Consent; State Bar No. 14-  
3042, 15-2207, 15-2802]

**FILED DECEMBER 23, 2015**

In this pre-complaint consent for discipline, no Probable Cause Orders have issued. An Agreement for Discipline by Consent ("Agreement") was filed by the parties on December 17, 2015, and submitted under Rule 57(a), Ariz. R. Sup. Ct<sup>1</sup>. Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate."

Rule 57(a)(2) 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.

The State Bar is the complainant and notice otherwise required under Rule 53(b)(3) is unnecessary. The conditionally admitted misconduct is summarized. Mr.

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<sup>1</sup> Unless stated otherwise, all rules referenced are the Arizona Rules of the Supreme Court.

Andrews conditionally admits he violated Rule 42, ER 1.15(a), ER 8.4(d), ER 5.5, Rule 54(d)(2) and numerous subsections of Rule 43 (trust account rules). On June 23, 2015, Mr. Andrews was administratively suspended from the practice of law for non-payment of dues.

In Count One, Mr. Andrews overdrew his trust account by writing a check for \$100. This left a negative balance. During the State Bar investigation it was discovered Mr. Andrew had not paid several recorded medical liens for one client totaling more than \$27,000, in another client's case he had not paid medical liens of \$9,185.90. He represented to his clients these would be paid.

In Count Two, Mr. Andrews wrote four insufficient funds checks to the Clerk of the Superior Court of Arizona in Maricopa County. After notification of this, he failed to make them good. Three checks remain outstanding and unpaid.

In Count Three, Mr. Andrews was suspended for non-payment of dues despite multiple notifications by the State Bar and opportunities to pay his dues. In June, 2015, he knew of the suspension and requested information from the State Bar on how to transfer to "inactive status." Mr. Andrews continued to file pleadings in a Superior Court action despite his suspension. His last pleading was filed August 14, 2015.

### **Presumptive Sanction**

The *American Bar Association's Standards for Imposing Lawyer Sanctions* (*Standards*) are utilized in consideration of Mr. Andrew's most serious ethical violations. The parties agree the presumptive sanction is suspension. *Standards* 4.12, 4.42, 6.22 and 7.2 apply to Mr. Andrews' knowing misconduct.

### **Aggravation and Mitigation**

The agreed upon aggravating factors include: 9.22(c) (pattern of misconduct) and 9.22(d) (multiple offenses). In mitigation is factor: 9.32(a) (absence of a prior disciplinary record). Mr. Andrews has agreed to pay full restitution totaling over \$36,000.

The object of lawyer discipline is to protect the public, the legal profession, the administration of justice, and to deter other attorneys from engaging in unprofessional conduct. *In re Peasley*, 208 Ariz. 27, 38, 90 P.3d 764, 775 (2004). Attorney discipline is not intended to punish the offending attorney, although the sanctions imposed may have that incidental effect. *Id.*

**IT IS ORDERED** incorporating the Agreement and any supporting documents by this reference. The agreed upon sanctions are: a one (1) year suspension, two (2) years of probation upon reinstatement, restitution and costs, both of which shall be paid within thirty (30) days of the final judgment and order. These financial obligations shall bear interest at the statutory rate.

**IT IS FURTHER ORDERED** the Agreement is accepted. Costs as submitted are approved for \$1,200.00, and are to be paid within thirty (30) days. Now therefore, a final judgment and order is signed this date.

**DATED** this 23<sup>rd</sup> day of December, 2015.

*William J. O'Neil*

---

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

Copies of the foregoing were mailed/emailed this 23<sup>rd</sup> day of December, 2015 to:

Craig D. Henley  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
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James R. Andrews II  
3190 S. Gilbert Road, Suite 5  
Chandler, Arizona 85286-5106  
Email: jra2esq@gmail.com; james@andrewslawplc.com  
Respondent

Lawyer Regulation Records Manager  
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Email: lro@staff.azbar.org

by: MSmith

OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA  
DEC 17 2015  
BY OR FILED

Craig D. Henley, Bar No. 018801  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
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Email: [jra2esq@gmail.com](mailto:jra2esq@gmail.com); [james@andrewslawplc.com](mailto:james@andrewslawplc.com)  
Respondent

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**JAMES R. ANDREWS II,**  
**Bar No. 027886,**

Respondent.

**PDJ 2015-** *9124*

**AGREEMENT FOR DISCIPLINE BY  
CONSENT**

[Pre-filing Consent: SB File Nos. 14-  
3042, 15-2207 and 15-2802]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, James R. Andrews II, 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 has not be entered and a formal complaint has not been filed in this matter. 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. ..

The State Bar is the complainant in this matter, therefore no notice of this agreement is required pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct.

Respondent conditionally admits that his conduct, as set forth below, violated the following ethical rules:

**Count 1:** Rule 42, ER 1.15(a), Ariz. R. Sup. Ct., Rule 54(d)(2), Ariz. R. Sup.Ct. and numerous subsections of Rule 43, commonly referred to as the trust account rules, including, but not limited to, Rule 43(a), Ariz. R. Sup. Ct., Rule 43(b), Ariz. R. Sup. Ct., Rule 43(d), Ariz. R. Sup. Ct.<sup>1</sup>

**Count 2:** Rule 42, Ariz. R. Sup. Ct., ER 8.4(d);

**Count 3:** Rule 42, Ariz. R. Sup. Ct., ER 5.5.

Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Long-Term Suspension. A period of suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona. 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>2</sup> The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

## **FACTS**

### **GENERAL ALLEGATIONS**

5. On September 20, 2010, Respondent was licensed to practice law in Arizona.

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<sup>1</sup> A complete listing of all of the specific violations are attached hereto as Exhibit C.

<sup>2</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.

6. On June 23, 2015, Respondent was suspended from the practice of law for non-payment of dues.

**COUNT ONE** (File No. 14-3042/State Bar)

3. On or about 10/07/2014, the State Bar of Arizona received an insufficient funds notice on Respondent's client trust account.

4. On or about 9/29/2014, check number 9074 in the amount of \$100.00 attempted to pay against the account when the balance was \$0.00. The bank returned the check, and did not charge an overdraft fee leaving the account with a balance of \$0.00.

5. On or about 10/09/2014, the trust account examiner sent Respondent a copy of the overdraft notice, and requested an explanation of the overdraft and copies of the related mandatory records.

6. On or about 10/28/2014, Respondent provided the requested information with exceptions, and explained that the occurrence of overdraft was the result of a disbursement error.

7. Respondent states that he mistakenly wrote a check from the IOLTA for \$100.00 to New Canaan Missionary Church on 9/29/2014. Respondent states that he was not aware of the mistake until he received the trust account examiner's letter as the transaction did not appear on his account or bank account statement.

8. During the State Bar investigation, the State Bar discovered the following additional facts:

- a. As part of Respondent's representation of Shane Elsberry and Mandy Elsberry in the Maricopa County Superior Court case of *Elsberry v. Urquizo*, CV2014-090268, there were several medical liens recorded with the Maricopa County Recorder's Office against his clients including, but not limited to:

- a Twenty Thousand Seven Hundred Twenty Seven Dollar (\$20,727.00) lien by John C. Lincoln;
  - a Four Thousand Two Hundred Two Hundred Sixteen Dollar (\$4,216.00) lien by Banner Thunderbird; and
  - On Thousand Four Hundred Ninety Dollars (\$1,490.00) lien by Strength Training.
- b. Despite Respondent's statements that all of the medical liens would be paid and released, the four liens listed above are still valid.
- c. As part of the Respondent's representation of David and Donna Pichette in a personal injury matter, there were several medical liens recorded with the Maricopa County Recorder's Office against his clients including, but not limited to:
- A lien for three amounts totalling Nine Thousand One Hundred Eighty Five Dollars and 90/100 (\$9,185.90).
- d. Despite Respondent's statements that the above-referenced medical liens would be paid and released, the lien listed above is still valid.

**COUNT TWO** (File No. 15-2207/State Bar)

9. On or about 9/17/2014, Respondent was notified that four checks that were written to the Clerk of the Maricopa County Superior Court were returned for insufficient funds.

10. While Respondent immediately paid one check in the amount of \$344.00, checks numbered 1029 in the amount of \$26.00, 1193 in the amount of \$301.00 and 2487 in the amount of \$301.00 remain outstanding.

11. On October 24, 2014, Respondent was again notified of the three outstanding checks but failed to make a payment.

12. In 2014, the Clerk of the Maricopa County Superior Court submitted the outstanding checks to an outside collection agency.

13. In June 2015, the outside collection agency returned the three outstanding checks due to the expiration of the county's contract with the agency.

14. To date, the three outstanding checks have not been paid.

**COUNT THREE** (File No. 15-2802/State Bar)

15. Beginning December 2, 2014, Respondent received bi-weekly email notifications through the State Bar member services and/or E-legal regarding the deadline for the 2015 submission of his annual statement and dues for his membership with the State Bar of Arizona.

16. On May 22, 2015, the Supervisor of Membership Records mailed Respondent a letter pursuant to Rule 62(b), Ariz. R. Sup. Ct. informing Respondent that the State Bar of Arizona was requesting that the Board of Governors summarily suspend his membership for his failure to submit his annual statement and dues.

17. On June 24, 2015, the CEO of the State Bar of Arizona mailed Respondent a letter through certified mail/return receipt requested informing Respondent that the Board of Governors ratified his summary suspension for non-compliance with Rule 32(c)(7) and (10), Ariz. R. Sup. Ct.

18. On June 25, 2015, Respondent emailed the State Bar of Arizona membership services requesting how to transfer his status to "inactive status". On June 29, 2015, the State Bar of Arizona membership services informed Respondent that he would have to pay the 2015 membership dues and provide a written request for the transfer.

19. To date, Respondent has not paid the outstanding membership dues.

20. On July 14, 2015, Respondent caused a Motion to Withdraw as Counsel of record to be filed with his signature in the Maricopa County Superior Court case of *David Joseph Tigano v. The Big Three, LLC*, CV2014-095561.

21. On August 14, 2015, Respondent caused a pleading entitled "Motion for Attorney Fees and Affidavit of James R. Andrews II Per *China Doll*" to be filed with his signature in the Pinal County Superior Court case of *Caroline Zeller v. James Johnson, et.al.*, CV2014-02899.

### **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 ethical rules:

**Count 1:** Rule 42, ER 1.15(a), Ariz. R. Sup. Ct., Rule 54(d)(2), Ariz. R. Sup.Ct. and numerous subsections of Rule 43, commonly referred to as the trust account rules, including, but not limited to, Rule 43(a), Ariz. R. Sup. Ct., Rule 43(b), Ariz. R. Sup. Ct. and Rule 43(d), Ariz. R. Sup. Ct.<sup>3</sup>;

**Count 2:** Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 5.5 and 8.4(d);

**Count 3:** Rule 42, Ariz. R. Sup. Ct., ER 5.5.

### **CONDITIONAL DISMISSALS**

None.

### **RESTITUTION**

Respondent agrees to the following restitution orders in this matter:

**Count 1:** Shane Elsberry and Mandy Elsberry - \$26,433.00; and

David and Donna Pichette - \$9,185.90.

**Count 2:** The Clerk of the Maricopa County Superior Court - \$628.00.

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<sup>3</sup> See Exhibit C.

## **SANCTION**

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate:

### **Long Term Suspension of One Year**

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:

1. Rule 42, Ariz. R. Sup. Ct., ER 1.3:

Standard 4.42: Suspension is generally appropriate when a lawyer knowingly fails to perform services for a client or engages in a pattern of neglect and causes injury or potential injury to a client.

2. Rule 43 Trust Account Violations & Rule 42, Ariz. R. Sup. Ct., ER 1.15:

Standard 4.12: Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

3. Rule 42, Ariz. R. Sup. Ct., ER 5.5:

Standard 7.2: Suspension is generally appropriate when a lawyer knowingly 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.

4. Rule 42, Ariz. R. Sup. Ct., ER 8.4(d):

Standard 6.22: Suspension is generally appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

5. Rule 54(d), Ariz. R. Sup. Ct.:

Standard 7.2: Suspension is generally appropriate when a lawyer knowingly 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.

Respondent failed to act diligently in resolving all of the liens against his client, engaged in the practice of law while administratively suspended, engaged in conduct which was prejudicial to the administration of justice by failing to fulfill

financial obligations to the court and failed to timely respond to the lawful requests of the disciplinary authority.

**The duty violated**

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

**The lawyer's mental state**

For purposes of this agreement the parties agree that while Respondent faced hardship that caused him to abandon the practice of law, Respondent knowingly engaged in the above-listed misconduct and admits that 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 the client, the profession and the legal system.

**Aggravating and mitigating circumstances**

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

**In aggravation:**

*Standard 9.22(c) Pattern of Misconduct*

*Standard 9.22(d) Multiple Offenses*

**In mitigation:**

*Standard 9.32(a) Absence of Prior Disciplinary Record*

## **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:

Respondent faced hardship that caused him to abandon the practice of law. Respondent indicates that while actions were taken on his behalf in Count 3 in an effort to protect the interests of the clients, he acknowledges that the actions constitute the unauthorized practice of law.

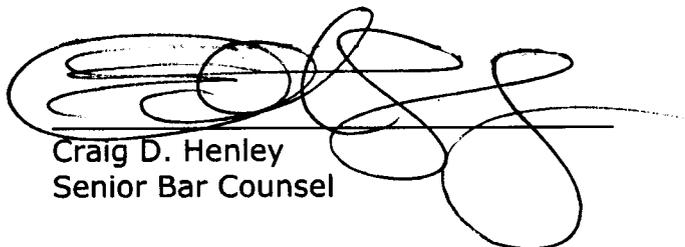
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

## **CONCLUSION**

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of a one year suspension. A period of suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 16<sup>TH</sup> day of <sup>DEC.</sup> ~~11/29~~/2015.

**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. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.**

DATED this 1 day of ~~12/04~~ 2015.



James R. Andrews II  
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 17<sup>th</sup> day of <sup>DEC.</sup> ~~11/29~~/2015.

Copy of the foregoing emailed  
this 17<sup>th</sup> day of <sup>DEC.</sup> ~~11/29~~/2015, 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/mailed  
this 17<sup>TH</sup> day of December, 2015, to:

James R. Andrews II  
3190 S. Gilbert Road, Suite 5  
Chandler, Arizona 85286-5106  
Email: [jra2esq@gmail.com](mailto:jra2esq@gmail.com)  
[james@andrewslawplc.com](mailto:james@andrewslawplc.com)  
Respondent

Copy of the foregoing hand-delivered  
this 17<sup>TH</sup> day of December, 2015, to:

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

by: Jalene Stone  
CDH/ts

**EXHIBIT A**

**Statement of Costs and Expenses**

In the Matter of a Suspended Member of the State Bar of Arizona,  
James R. Andrews II, Bar No. 027886, Respondent

File No(s). 14-3042, 15-2207, and 15-2802

**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

  
\_\_\_\_\_  
**Sandra E. Montoya**  
**Lawyer Regulation Records Manager**

11-20-15  
\_\_\_\_\_  
**Date**

**EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

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

**JAMES R. ANDREWS II,**  
**Bar No. 027886,**

Respondent.

**PDJ**

**FINAL JUDGMENT AND ORDER**

[Pre-filing Consent: SB File Nos. 14-3042, 15-2207 and 15-2802]

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, **James R Andrews II**, is hereby suspended for one year for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately. A period of suspension of more than six months will require proof of rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona.

**IT IS FURTHER ORDERED** that, if reinstated to the practice of law, Respondent shall be placed on probation for a period of two years.

**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, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

**IT IS FURTHER ORDERED** directing Respondent to pay restitution in the amounts of \$26,433.00 to Shane Elsberry and Mandy Elsberry, \$9,185.90 to David and Donna Pichette, and \$628.00 to the Clerk of the Maricopa County Superior Court, within thirty (30) days of service of this Order.

**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 December, 2015.

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

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this \_\_\_\_\_ day of December, 2015.

Copies of the foregoing mailed/mailed  
this \_\_\_\_\_ day of December, 2015, to:

James R. Andrews II  
3190 S. Gilbert Road, Suite 5  
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Email: [jra2esq@gmail.com](mailto:jra2esq@gmail.com);  
[james@andrewslawplc.com](mailto:james@andrewslawplc.com)  
Respondent

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Senior Bar Counsel - Litigation  
State Bar of Arizona  
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Phoenix, Arizona 85016-6266

by: \_\_\_\_\_

**EXHIBIT C**

**Rule 42, ER 1.15(a), Ariz. R. Sup. Ct. Failed to safekeep client property. Converted client funds. Commingled client funds. Misappropriated client funds. Failed to hold property of clients or third persons that is in the lawyer's possession in connection with a representation separate from the lawyer's own property. Failed to maintain the mandatory trust account records according to the minimum standards.**

**Rule 43(a), Ariz. R. Sup. Ct. Failed to keep funds belonging in whole or in part to a client/third person in connection with a representation separate and apart from the lawyer's personal and business accounts.**

**Rule 43(a)(4), Ariz. R. Sup. Ct. Failed to deposit funds belonging in part to the client/third person and in part presently or potentially to the lawyer or law firm.**

**Rule 43(b)(1)(A), Ariz. R. Sup. Ct. Failed to exercise due professional care in the performance of the lawyer's duties.**

**Rule 43(b)(1)(C), Ariz. R. Sup. Ct. Failed to maintain adequate internal controls under the circumstances to safeguard funds or other property held in trust.**

**Rule 43(b)(2)(A), Ariz. R. Sup. Ct. Failed to maintain on a current basis, complete records of the handling, maintenance, and disposition of all funds, securities, and other property belonging in whole or in part to a client/third person in connection with a representation. These records shall include the records required by ER 1.15 and cover the entire time from receipt to the time of final disposition by the lawyer of all such funds, securities, and other property.**

**Rule 43(b)(2)(B), Ariz. R. Sup. Ct. Failed to maintain or cause to be maintained an account ledger or the equivalent for each client, person, or entity for which funds have been received in trust, showing; (i) the date, amount, and payor of each receipt of funds; (ii) the date, amount, and payee of each disbursement; and (iii) any unexpended balance.**

**Rule 43(b)(2)(C), Ariz. R. Sup. Ct. Failed to make or cause to be made a monthly three-way reconciliation of the client ledgers, trust account general ledger or register, and the trust account bank statement.**

**Rule 43(b)(2)(D), Ariz. R. Sup. Ct. Failed to retain, in accordance with this rule, all account trust statements, cancelled pre-numbered checks (unless recorded on microfilm or stored electronically by a bank or other financial institution that maintains such records for the length of time required by this rule), other evidence of disbursements, duplicate deposit slips or the equivalent (which shall be sufficiently detailed to identify each item), client ledgers, trust account general ledger or register, and reports to clients.**

**Rule 43(b)(5), Ariz. R. Sup. Ct. Disbursed funds without using a pre-numbered check or by electronic transfer and did not maintain a record of such disbursements in accordance with the requirements of this rule.**

**Rule 43(d)(3), Ariz. R. Sup. Ct. Rebuttable Presumption. If a lawyer fails to maintain trust account records required by this rule and ER 1.15, or fails to provide trust account records to the state bar upon request or as ordered by a panelist, a hearing officer, the commission or the court, there is a rebuttable presumption that the**

**lawyer failed to properly safeguard client/third person's funds or property, as required by this rule and ER 1.15.**

**Rule 54(d)(2), Ariz. R. Sup.Ct. Failed to furnish information to or respond promptly to any inquiry or request from bar counsel, a hearing officer, the board, or commission or this court, made pursuant to these rules for information relevant to complaints, grievances or matters under investigation concerning conduct of a lawyer, or failed to assert the ground for refusing to do so.**

**Rule 54(d)(2)(A), Ariz. R. Sup. Ct. Failed to furnish in writing, or orally as requested, a full and complete response to inquiries and questions.**

**Rule 54(d)(2)(C), Ariz. R. Sup. Ct. Failed to furnish copies of requested records, files, and accounts.**