

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**MICHAEL T. REYNOLDS,**  
**Bar No. 016719,**

Respondent.

**PDJ-2016-9020**

**FINAL JUDGMENT AND ORDER**

[State Bar Nos. 12-1738, 13-1621, 13-1629, 13-1701, 13-1907, 13-1928, 13-1977, 13-2015, 13-2062, 13-2342, 13-2348, 13-3165 and 14-0900]

**FILED APRIL 13, 2016**

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on February 25, 2016 and the Supplement to the Record Regarding Notice to Complainants and Restitution filed April 4, 2016, accepted the parties' proposed agreement under Rule 57(a), Ariz. R. Sup. Ct.

Accordingly:

**IT IS HEREBY ORDERED** Respondent, **Michael T. Reynolds**, is suspended for two (2) years retroactive to October 30, 2013, for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** upon reinstatement, Mr. Reynolds shall be placed on probation for two (2) years.

**IT IS FURTHER ORDERED** Mr. Reynolds shall pay the restitution, plus any accrued interest at the statutory rate, in the following principal amounts to the following individuals during his term of probation:

**Restitution**

1. Count II [SB 13-1621]: \$3,000.00 payable to Kenneth Parker and/or his next of kin.
2. Count III [SB 13-1629]: \$2,500.00 payable to John Martin.
3. Count IV [SB 13-1701]: \$1,800.00 payable to Ralph Heaton.
4. Count V [SB 13-1907]: \$4,000.00 payable to Larry Davis and/or the bankruptcy trustee.
5. Count VI [SB 13-1928]: \$5,000.00 payable to Pamela Allara.
6. Count IX [SB 13-2062]: \$1,500.00 payable to Regina Moreno.
7. Count X [SB 13-2342]: \$3,000.00 payable to John Baker.
8. Count XI [SB 13-2348]: \$3,500.00 payable to Kathy Claypatch.
9. Count XII [SB 13-3165]: \$8,800.07 payable to Harold Stapley.
10. Count XIII [SB 14-0900]: \$650.00 payable to Joseph Jakubowski.

**IT IS FURTHER ORDERED** Mr. Reynolds shall attend a half-day Trust Account Ethics Enhancement Program (TAEEP). Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from service of this Order/Agreement, to schedule attendance at the next available class. Respondent will be responsible for the cost of attending the program.

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

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**NON-COMPLIANCE**

If 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 non-compliance with the Presiding Disciplinary Judge, under 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, may issue a further 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 non-compliance by a preponderance of the evidence.

**IT IS FURTHER ORDERED** under Rule 72 Ariz. R. Sup. Ct., Mr. Reynolds shall immediately comply with the requirements relating to notification of clients and others.

**IT IS FURTHER ORDERED** Mr. Reynolds shall pay the costs and expenses of the State Bar of Arizona for \$3,194.58, within thirty (30) days from this Order. Interest shall accrue at the legal rate until paid. There are no costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge’s Office with these disciplinary proceedings.

**DATED** this 13<sup>th</sup> day of April, 2016.

*William J. O’Neil*

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

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Copies of the foregoing were e-mailed this 13<sup>th</sup> day of April, 2016, and mailed the 14<sup>th</sup> day of April, 2016, to:

Michael T. Reynolds  
12505 W. Woodland Avenue  
Avondale, Arizona 85323  
Email: [mtreynoldslaw@gmail.com](mailto:mtreynoldslaw@gmail.com)  
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  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**MICHAEL T. REYNOLDS**  
**Bar No. 016719**

Respondent.

**PDJ-2016-9020**

**DECISION ACCEPTING CONSENT  
FOR DISCIPLINE**

[State Bar Nos. 12-1738, 13-1621,  
13-1629, 13-1701, 13-1907, 13-  
1928, 13-1977, 13-2015, 13-2062,  
13-2342, 13-2348, 13-3165 and 14-  
0900]

**FILED APRIL 13, 2016**

A Probable Cause Order has not been entered and as a result, no complaint has been filed regarding any of the thirteen (13) charges, (Listed in the agreement as counts). An Agreement for Discipline by Consent ("Agreement") was filed by the parties on February 25, 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 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

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

proceeding. The parties initially failed to state in their agreement if notice of this Agreement was provided to the complainants as required under Rule 53(b)(3), Ariz. R. Sup. Ct. Each complainant must be 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. In addition, the amounts of restitution were not made clear. As a result, the parties were directed to supplement the agreement to address notice to the complainants and to specifically set forth the agreed upon restitution.

On April 4, 2016, the parties filed a supplement to the record regarding these issues. Restitution and compliance with Rule 53 was specifically set forth. On March 28, 2016, each complainant in the first, third, fourth, and ninth through thirteen charges was notified by personal conversation. Under Rule 53(b)(3), Ariz. R. Sup. Ct., written notice to the complainant is not required. Under the second charge, complainant has deceased and written notice was provided. Under the fifth and eighth charge, notice was given by separate emails dated March 28, 2016. Under charge six, notice was given by letter dated March 28, 2016. In charge seven, notice was dated March 29, 2016. Time has now passed for response by each complainant. No objection was received.

**IT IS ORDERED** incorporating the Agreement, the Supplement and, any supporting documents by this reference. The agreed upon sanctions are: a two (2) year suspension retroactive to October 30, 2013 with other specified terms within the agreement including payment of specific restitution, and two years of probation upon reinstatement. Mr. Reynolds shall pay costs of \$3,194.58, plus interest at the statutory rate in full within thirty (30) days from this order and restitution as provided in the agreement.

**IT IS FURTHER ORDERED** the Agreement is accepted. A final judgment and order is signed this date.

**DATED** 13<sup>th</sup> day of April, 2016.

*William J. O'Neil*

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

Copies of the foregoing were e-mailed this 13<sup>th</sup> day of April, 2016, and mailed the 14<sup>th</sup> day of April, 2016, 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

Michael T. Reynolds  
12505 W. Woodland Avenue  
Avondale, AZ 85323  
Email: mtreynoldslaw@gmail.com

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: AMcQueen

Craig D. Henley, Bar No. 018801  
Senior Bar Counsel  
State Bar of Arizona  
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Michael T. Reynolds  
12505 W. Woodland Avenue  
Avondale, Arizona 85323  
Email: mtreynoldslaw@gmail.com  
Respondent

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**MICHAEL T. REYNOLDS,**  
**Bar No. 016719,**

Respondent.

**PDJ 2016-**

**AGREEMENT FOR DISCIPLINE BY  
CONSENT**

[State Bar File Nos. 12-1738, 13-1621,  
13-1629, 13-1701, 13-1907, 13-1928,  
13-1977, 13-2015, 13-2062, 13-2342,  
13-2348, 13-3165 and 14-0900]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Michael T. Reynolds, 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.

Respondent conditionally admits that his conduct, as set forth below, violated the following ethical rules as set forth by Arizona Rules Supreme Court (hereinafter referred as "Ariz. R. Sup. Ct.):

**Count 1 (12-1738):**

Rule 54(e) [Violation of a condition(s) of a diversion agreement.]

**Count 2 (13-1621):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.1(b) [Failing to respond to a lawful demand for information from the disciplinary authority.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

Rule 54(d) [Evading service or refusal to cooperate with officials and staff of the State Bar.]

**Count 3 (13-1629):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.1(b) [Failing to respond to a lawful demand for information from the disciplinary authority.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

Rule 54(d) [Evading service or refusal to cooperate with officials and staff of the State Bar.]

**Count 4 (13-1701):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.1(b) [Failing to respond to a lawful demand for information from the disciplinary authority.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

Rule 54(d) [Evading service or refusal to cooperate with officials and staff of the State Bar.]

**Count 5 (13-1907):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 6 (13-1928):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 7 (13-1977):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 8 (13-2015):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 9 (13-2062):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 10 (13-2342):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such

action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 11 (13-2348):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 12 (13-3165):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 13 (14-0900):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Long-Term Suspension of Two Years, retroactive to October 30, 2013.

Respondent understands that 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>1</sup> The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

Respondent further agrees to pay the restitution amounts specified in this Order prior to the end of his twenty four (24) month probationary period with the State Bar of Arizona. In the event, the restitution amounts are not paid prior to the end of Respondent's probation with the State Bar of Arizona, such probationary period will be extended for an additional twenty four (24) month period.

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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.

## **FACTS**

### **GENERAL ALLEGATIONS**

1. On October 21, 1995, Respondent was licensed to practice law in the State of Arizona.

2. On October 30, 2013, the Presiding Disciplinary Judge accepted Respondent's voluntary transfer to disability status in PDJ 2013-9088.

#### **COUNT ONE (File No. 12-1738/Felix)**

2. In or around September 2012, Respondent was ordered to attend the Trust Account Ethics Enhancement Program ("TAEEP") as part of a diversion agreement.

3. While Respondent scheduled and paid for the TAEEP class, Respondent failed to attend the July 16, 2013, course.

4. On September 13, 2013, the State Bar filed a Notice of Unsuccessful Completion of Diversion and referred the matter to Bar Counsel for screening.

#### **COUNT TWO (File No. 13-1621/Parker)**

5. On or about September 27, 2012, Complainant retained Respondent to represent him regarding a pending bankruptcy and related pending foreclosure of a large parcel of residential property.

6. In or around April 2013, as part of a strategy to avoid an imminent eviction, Respondent agreed to file a Motion to Set Aside a Trustee's Sale, a federal court action and Chapter 13 bankruptcy. Complainant paid Respondent \$3,000.00 for these anticipated services.

7. Between April and July 2013, Complainant was unable to contact Respondent despite repeated attempts.

8. Respondent did not perform any of the agreed upon services or provide the client with any of his property or the advanced fee.

9. On July 25, 2013, the State Bar mailed an initial screening letter to Respondent at his last known address as reflected in the State Bar database requiring Respondent to respond to the State Bar within twenty (20) days.

10. On August 21, 2013, the State Bar mailed Respondent a second letter to Respondent at his last known address as reflected in the State Bar database requiring Respondent to respond to the State Bar within ten (10) days.

11. Respondent failed to provide the State Bar with the requested response.

**COUNT THREE (File No. 13-1629/Martin)**

12. On or about April 4, 2013, Complainant retained Respondent to represent his LLC in an anticipated action to collect upon a breach of a sublease.

13. Complainant paid Respondent \$2,500.00 for these anticipated services.

14. Between April and June 19, 2013, Complainant was unable to contact Respondent despite repeated attempts. On June 19, 2013, Complainant terminated the representation and requested a refund of the advanced fee.

15. Respondent did not perform any of the agreed upon services or provide the client with any of his property or the advanced fee.

16. On July 25, 2013, the State Bar mailed an initial screening letter to Respondent at his last known address as reflected in the State Bar database requiring Respondent to respond to the State Bar within twenty (20) days.

17. On August 21, 2013, the State Bar mailed Respondent a second letter to Respondent at his last known address as reflected in the State Bar database requiring Respondent to respond to the State Bar within ten (10) days.

18. Respondent failed to provide the State Bar with the requested response.

**COUNT FOUR (File No. 13-1701/Heaton)**

19. On or about January 28, 2013, Complainants retained Respondent to represent them in a forcible entry and detainer/foreclosure case and anticipated bankruptcy action.

20. Complainants paid Respondent \$1,800.00 for these anticipated services.

21. Between May and July 14, 2013, Complainants was unable to contact Respondent despite repeated attempts.

22. Respondent did not perform any of the agreed upon services or provide the clients with any of their property or the advanced fee.

23. On July 25, 2013, the State Bar mailed an initial screening letter to Respondent at his last known address as reflected in the State Bar database requiring Respondent to respond to the State Bar within twenty (20) days.

24. On August 21, 2013, the State Bar mailed Respondent a second letter to Respondent at his last known address as reflected in the State Bar database requiring Respondent to respond to the State Bar within ten (10) days.

25. Respondent failed to provide the State Bar with the requested response.

**COUNT FIVE (File No. 13-1907/Davis)**

26. In or around June 2012, Complainant hired Respondent to represent him in a corporate bankruptcy. Complainant paid Respondent \$4,000.00 for the representation.

27. During the representation, Respondent failed to timely file documents with the Court as requested by Complainant.

28. During the representation, Complainant was unable to communicate or meet with Respondent despite making several attempts to do so.

29. After being told to attend a hearing and cooperate with the bankruptcy trustee without further instruction or advice, Complainant provided the trustee with information which resulted in the unexpected taking of computers, e-book readers, files and other office equipment.

30. Despite Complainant's request that Respondent assist him in buying some of the equipment back, Respondent failed to take any action.

31. Despite Complainant's request for his file and an accounting of any legal services provided at the end of the representation, Respondent failed to respond.

32. While Respondent has indicated that he is amenable to refund the four thousand dollar fee, Respondent has been unable to determine if the fee should be paid to Complainant in his individual capacity or to the bankruptcy trustee as an asset of the company.

**COUNT SIX (File No. 13-1928/Allara)**

33. On January 8, 2013, Complainant and her husband hired Respondent to represent them in a personal bankruptcy.

34. Complainant paid Respondent \$5,000.00 for the representation.

35. While Respondent did communicate with Complainant and her husband during February and March 2013, Respondent failed to reasonably communicate with Complainant and her husband shortly after Respondent changed the name and location of his law firm.

36. On June 10, 2013, Respondent informed Complainant that Respondent's personal and professional life was unraveling but that he would try to continue the representation as long as possible.

37. After the June 10, 2013, meeting, Complainant and her husband were unable to contact Respondent and were forced to hire successor counsel to continue the representation.

**COUNT SEVEN (File No. 13-1977/Ortega)**

38. On March 28, 2013, Complainant paid Respondent \$1,500.00 to assist her resolving an outstanding debt.

39. Complainant was unable to contact Respondent throughout the representation, despite several attempts to do so.

40. In July 2013, Complainant was contacted by her bank and informed that the bank was pursuing collection efforts.

41. Despite Complainant's request for her file and an accounting of any legal services provided at the end of the representation, Respondent failed to respond.

42. Respondent agreed to refund the fees and later paid Complainant's Client Protection Fund claim for \$1,500.00.

**COUNT EIGHT (File No. 13-2015/Fuller)**

43. Respondent represented Complainant in the Maricopa County Superior Court lawsuit of *Fuller, et.al. v. Fuller, et.al.*, CV2008-030309 for approximately five years.

44. Unbeknownst to Complainant, the Court vacated the jury trial date and later reset the jury trial to September 30, 2013, through October 3, 2013.

45. Several months before the scheduled trial date, Complainant was unable to contact Respondent despite several attempts to do so.

46. As a result of Respondent's failure to communicate with Complainant or take any action in the lawsuit, Complainant hired successor counsel.

47. On September 12, 2013, successor counsel filed a Notice of Appearance and Expedited Motion to Continue the jury trial date.

48. The Court rescheduled the jury trial date and the case ultimately proceeded to a jury trial March 3, 2014, through March 11, 2014.

49. While the jury awarded Complainant a judgment of \$137,000.00, the Court only awarded Complainant the attorneys fees and costs incurred by successor counsel and specifically excluded the fees charged by Respondent.

50. Respondent later facilitated Complainant settlement of a malpractice claim (no lawsuit) against Respondent's malpractice insurer for \$65,000.00.

**COUNT NINE (File No. 13-2062/Moreno)**

51. In mid-2013, Complainant paid Respondent \$1,500.00 to represent her in a personal bankruptcy.

52. Despite numerous attempts to contact Respondent, Complainant was unable to obtain a response to her phone calls, emails and texts.

53. Complainant later discovered that Respondent closed his office and could not be found.

54. Despite Complainant's request for her file and an accounting of any legal services provided at the end of the representation, Respondent failed to respond.

**COUNT TEN (File No. 13-2342/Baker)**

55. In or around late 2010, Complainant hired Respondent's spouse to represent him in a civil lawsuit.

56. When the opposing party filed a notice of bankruptcy which stayed the civil lawsuit, Complainant paid Respondent \$3,000.00 in September 2011 to challenge the opposing party's attempt to discharge the debt in the United States Bankruptcy Court case of *In re Buck*, 2:11-bl-25963-RTB.

57. Over the next two years, Respondent failed to take reasonable actions to expedite the adjudication of the bankruptcy challenge.

58. Despite numerous attempts to contact Respondent, Complainant was unable to obtain response from Respondent.

59. In June 2013, a couple of days prior to the scheduled court trial, Respondent called Complainant and explained that he was experiencing personal and professional issues which prohibited him from continuing the representation.

60. Even though she had limited experience in the bankruptcy arena, Complainant hired Respondent's spouse as successor counsel in the bankruptcy case but ultimately lost the case.

**COUNT ELEVEN (File No. 13-2348/Claypatch)**

61. On February 1, 2013, Complainant paid Respondent \$3,500.00 to represent her company in the United States Bankruptcy Court case of *In re Farms*, 2:11-ap-02300.

62. On May 13, 2013, Complainant paid Respondent an additional \$2,500.00.

63. Despite several attempts to contact Respondent, Complainant was unsuccessful confirming Respondent's attendance at a status hearing scheduled July 19, 2013.

64. On July 18, 2013, Complainant contacted the attorney that referred Respondent to Complainant and was informed that Respondent had some sort of health issue which prevented his attendance at the July 19, 2013, hearing.

65. On July 18, 2013, the referring attorney prepared and filed a motion to continue the hearing.

66. Despite Complainant's request for her file and an accounting of any legal services provided at the end of the representation, Respondent failed to respond.

**COUNT TWELVE (File No. 13-3165/Stapley)**

67. Respondent represented Complainant in the Arizona Federal District Court lawsuit of Joe Hand Promotions v. Stapley, et.al.

68. During the representation, Respondent failed to reasonably communicate with Complainant regarding the various strategies and pleadings filed in the case.

69. During the lawsuit, Respondent failed to plead or otherwise defend the action based upon the expiration of the applicable statute of limitations, failed to respond to a dispositive motion for summary judgment and failed to file an objection to the request for attorney's fees.

70. These failures resulted in an attorney's fee award of \$8,800.07 against Complainant.

71. Despite Complainant's request for his file and an accounting of any legal services provided at the end of the representation, Respondent failed to respond.

**COUNT THIRTEEN (File No. 14-0900/Bowski)**

72. In and after September 2012, Complainant paid Respondent a \$650.00 partial payment for representation in a personal bankruptcy.

73. Despite numerous attempts to contact Respondent, Complainant was unable to obtain response from Respondent.

74. Despite Complainant's request for his file and an accounting of any legal services provided at the end of the representation, Respondent failed to respond.

**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 the following ethical rules as set forth by Arizona Rules Supreme Court (hereinafter referred as "Ariz. R. Sup. Ct."):

**Count 1 (12-1738):**

Rule 54(e) [Violation of a condition(s) of a diversion agreement.]

**Count 2 (13-1621):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.1(b) [Failing to respond to a lawful demand for information from the disciplinary authority.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

Rule 54(d) [Evading service or refusal to cooperate with officials and staff of the State Bar.]

**Count 3 (13-1629):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.1(b) [Failing to respond to a lawful demand for information from the disciplinary authority.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

Rule 54(d) [Evading service or refusal to cooperate with officials and staff of the State Bar.]

**Count 4 (13-1701):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.1(b) [Failing to respond to a lawful demand for information from the disciplinary authority.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

Rule 54(d) [Evading service or refusal to cooperate with officials and staff of the State Bar.]

**Count 5 (13-1907):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 6 (13-1928):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 7 (13-1977):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 8 (13-2015):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 9 (13-2062):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 10 (13-2342):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 11 (13-2348):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 12 (13-3165):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 3.2 [Failing to make reasonable efforts to expedite litigation consistent with the interests of the client.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**Count 13 (14-0900):**

Rule 42, Ariz. R. Sup. Ct., ER 1.2 (a) [Failing to abide by a client's decision concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.]

Rule 42, Ariz. R. Sup. Ct., ER 1.3 [Failing to act with reasonable diligence and promptness.]

Rule 42, Ariz. R. Sup. Ct., ER 1.4 [Failing to keep the client reasonably informed about the status of the matter and Failing to promptly comply with reasonable requests for information.]

Rule 42, Ariz. R. Sup. Ct., ER 1.5 [Charging and retaining an unreasonable fee.]

Rule 42, Ariz. R. Sup. Ct., ER 1.16 (d) [Failing to take steps to the extent reasonably practicable to protect a client's interests including, but not limited to, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned.]

Rule 42, Ariz. R. Sup. Ct., ER 8.4 (d) [Engaging in conduct that is prejudicial to the administration of justice.]

**CONDITIONAL DISMISSALS**

Nothing is to be dismissed as part of this agreement.

**RESTITUTION**

Restitution is an issue in the following matters:

- a. SB 14-0900: Complainant paid partial pre-paid fees of \$650.00 for bankruptcy. No work performed as balance was not paid;

- b. SB 13-3165: Respondent failed to file a response to a motion for summary judgment resulting in attorney's fee award of \$8,800.07 [case involved a bar that wrongfully televised a pay-per-view fight];
- c. SB 13-2348: Complainant paid \$3,500.00 for bankruptcy immediately before breakdown. No work performed by Respondent;
- d. SB 13-2342: Complainant paid \$3,000.00 for bankruptcy;
- e. SB 13-2062: Complainant paid \$1,500.00 for bankruptcy immediately before breakdown. No work performed by Respondent;
- f. SB 13-1928: Complainant paid \$5,000.00 for bankruptcy immediately before breakdown. No work performed by Respondent;
- g. SB 13-1907: Complainant paid \$4,000.00 for corporate bankruptcy. Respondent has requested information from trustee regarding tendering amount paid;
- h. SB 13-1701: Complainant paid \$1,800.00 for bankruptcy seven months before breakdown. No work performed by Respondent;
- i. SB 13-1629: Complainant paid \$2,500.00 for civil lawsuit two months before breakdown. No work performed by Respondent; and
- j. SB 13-1621: Complainant paid \$3,000.00 for civil foreclosure/bankruptcy two months before breakdown. While Respondent agrees to refund the full fee, the client passed away in February 2015.

### **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:

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 1.2:** [Client Authority]

*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.

**ER 1.3:[Diligence]**

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.

**ER 1.4:[Communication]**

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.

**ER 1.5:[Fees]**

Standard 4.62

Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to a client.

**ER 1.16:[Termination of Representation]**

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.

**ER 3.2:[Expedite Litigation]**

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.

**ER 8.4(d):**[Conduct Prejudicial To Administration of Justice]

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.

**Rule 8.1(b) & 54(d):**[Violation of Obligations to Disciplinary System]

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.

**The duty violated**

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

**The lawyer's mental state**

For purposes of this agreement the parties agree that Respondent knowingly and, later, negligently due to mental health issues engaged in various misconduct as outlined in the counts above and 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 client, profession, legal system, public.

**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)* a pattern of misconduct; and

*Standard 9.22(d)* multiple offense.

**In mitigation:**

*Standard 9.32(a)* absence of a prior disciplinary record;

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

*Standard 9.32 (c)* personal or emotional problems;

*Standard 9.32(d)* timely good faith effort to make restitution or to rectify consequences of misconduct;

[Respondent has facilitated payment of one client (Count 8) through his malpractice insurance carrier and also stipulated, then paid one client a full refund of fees through the Client Protection Fund (Count 7). Respondent has obtained verbal consent from his employer to obtain a loan in order to continue refunding fees to his former clients in the pending discipline matters and will pay the restitution amounts owed to his clients prior to the end of his probation]

*Standard 9.32(g)* character or reputation;

[Letters in support of Respondent's reinstatement to the active practice of law and attesting to his character and reputation from Karline Sackrider, Tahirih Amado, Jenna Carter, Deanne Adams, Steve Janssen, Richard Bellah and Cristina Perez have been provided to the Court and to State Bar of Arizona.]

*Standard 9.32(i)* mental disability when: 1) medical evidence of mental disability, 2) the mental disability caused the misconduct, 3) meaningful and sustained period of successful recovery, and 4) recovery arrested the misconduct and recurrence is unlikely;

[Dr. Michael Jordan, Respondent's treating psychiatric physician has drafted an opinion letter, which is attached to Respondent's application to reinstate from

disability in case no. PDJ-2015-9099, stating Respondent is ready and able to return to the active practice of law]

and

*Standard 9.32(l)* remorse

[Respondent has attached a letter of apology, to his application to reinstate from disability in case no. PDJ-2015-9099, detailing the circumstances that led to his hospitalization in July of 2013, and demonstrating the corrective action he has taken to implement the changes necessary to rectify his past misconduct and avoid any future violations of his ethical duties to his clients, the profession, legal system and the public]

### **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's misconduct occurred during the early to middle months of 2013, immediately prior to his mental health issues becoming debilitating during the summer of 2013.

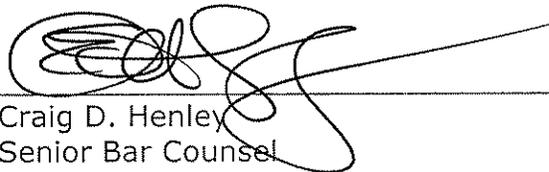
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

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

DATED this 25<sup>th</sup> day of February 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. 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 11<sup>th</sup> day of February, 2016.

  
Michael T. Reynolds

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 25<sup>th</sup> day of February, 2016.

Copy of the foregoing emailed  
this 25<sup>th</sup> day of February, 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 25<sup>th</sup> day of February, 2016, to:

Michael T. Reynolds  
12505 W. Woodland Avenue  
Avondale, AZ 85323  
Email: [mtreynoldslaw@gmail.com](mailto:mtreynoldslaw@gmail.com)  
Respondent

Copy of the foregoing hand-delivered  
this 25<sup>th</sup> day of February, 2016, to:

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

by:   
CDH/ts

# EXHIBIT A

## Statement of Costs and Expenses

In the Matter of a Disability Member of the State Bar of Arizona,  
Michael T. Reynolds, Bar No. 016719, Respondent

File No(s). 12-1738, 13-1621, 13-1629, 13-1701, 13-1907, 13-1928,  
13-1977, 13-2015, 13-2062, 13-2342, 13-2348, 13-3165 and 14-0900

### 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.

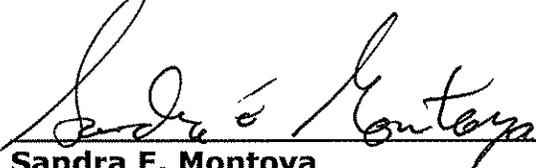
### Staff Investigator/Miscellaneous Charges

09/11/13 Investigator mileage to serve documents on Respondent \$ 74.58

Total for staff investigator charges \$ 74.58

Total Costs and Expenses for each matter over 5 cases where a violation is admitted or proven. [8 over 5 x (240.00)]: \$ 1,920.00

TOTAL COSTS AND EXPENSES INCURRED \$ 3,194.58

  
Sandra E. Montoya  
Lawyer Regulation Records Manager

2-25-16  
Date

# EXHIBIT B

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**MICHAEL T. REYNOLDS,**  
**Bar No. 016719,**

Respondent.

**PDJ**

**FINAL JUDGMENT AND ORDER**

[State Bar File Nos. 12-1738, 13-1621,  
13-1629, 13-1701, 13-1907, 13-1928,  
13-1977, 13-2015, 13-2062, 13-2342,  
13-2348, 13-3165 and 14-0900]

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, **Michael T. Reynolds**, is hereby suspended for a period of two years retroactive to October 30, 2013. 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 for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

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

**IT IS FURTHER ORDERED** that Respondent shall pay the restitution amounts as set forth in the Consent Agreement over the course of probation.

**IT IS FURTHER ORDERED** that Respondent shall attend a half-day Trust Account Ethics Enhancement Program (TAEEP). Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order/Agreement, to schedule attendance at the next available class. Respondent will be responsible for the cost of attending the program.

**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** that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ \_\_\_\_\_, within 30 days from the date of service of this Order. There are no costs and expenses incurred by the

disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

**DATED** this \_\_\_\_\_ day of February, 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 February, 2016.

Copies of the foregoing mailed/emailed this \_\_\_\_\_ day of February, 2016, to:

Michael T. Reynolds  
12505 W. Woodland Avenue  
Avondale, Arizona 85323  
Email: mtreynoldslaw@gmail.com  
Respondent

Copy of the foregoing emailed/hand-delivered this \_\_\_\_\_ day of February, 2016, to:

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)

Copy of the foregoing hand-delivered this \_\_\_\_\_ day of February, 2016 to:

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

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