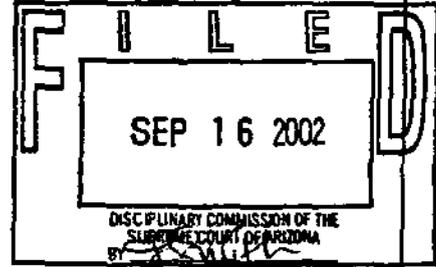


1 James D. Lee, Bar No. 011586  
2 Senior Bar Counsel  
3 State Bar of Arizona  
4 111 West Monroe, Suite 1800  
5 Phoenix, Arizona 85003-1742  
6 Telephone (602) 340-7247



7 **BEFORE THE DISCIPLINARY COMMISSION**  
8 **OF THE SUPREME COURT OF ARIZONA**

9 IN THE MATTER OF A MEMBER ) Nos. 00-0309, 01-1296  
10 OF THE STATE BAR OF ARIZONA, )  
11 **JOHN G. GLIEGE,** ) **TENDER OF ADMISSIONS AND**  
12 No. 003644 ) **AGREEMENT FOR DISCIPLINE**  
13 Respondent. ) **BY CONSENT**  
14 ) (Assigned to Hearing Officer 7K,  
15 Michael L. Rubin)

16 This agreement is entered into between the State Bar of Arizona, which is  
17 represented by undersigned bar counsel, and respondent, who is not represented  
18 by counsel. It is submitted pursuant to Rule 56(a), Ariz.R.S.Ct., and the  
19 guidelines for discipline by consent issued by the Disciplinary Commission of  
20 the Supreme Court of Arizona. Respondent conditionally admits he engaged in  
21 conduct that violated ER 1.15, and Rules 43 and 44, Ariz.R.S.Ct., as more fully  
22 set forth below.

23 Subject to review and acceptance by the Disciplinary Commission and the  
24 Supreme Court of Arizona, respondent agrees to accept imposition of censure,  
25

1 one (1) year of probation and payment of the costs and expenses of the  
2 disciplinary proceedings. Restitution is not an issue because respondent returned  
3 funds to his trust account when he became aware that he had inappropriately  
4 utilized client funds. Furthermore, no client was harmed as a result of  
5 respondent's trust account violations.  
6

## 7 FACTS

### 8 General Allegations

- 9
- 10 1. At all times relevant hereto, respondent was an attorney licensed to practice  
11 law in the State of Arizona, having been admitted to practice law in  
12 Arizona on April 27, 1974.  
13

### 14 Count One (File No. 00-0309)

- 15 2. On or about October 7, 1999, respondent issued trust account check #1051  
16 for \$61.50 to U.P.S. for a deposition videotape. Respondent's trust account  
17 records, however, do not reveal any deposit for the \$61.00 he received  
18 from a client for the deposition videotape.  
19
- 20 3. On or about February 8, 2000, respondent issued trust account check #1042  
21 to AT&T for \$1,232.88, check #1044 to Allstate Insurance Company for  
22 \$339.75, and check #1046 to Apco for \$600.00. Checks #1042 and #1044  
23 were issued to pay office bills directly from respondent's trust account.  
24 Check #1046 was issued to pay parking fees for respondent's office.  
25

- 1 4. On or about February 11, 2000, respondent's trust account became  
2 overdrawn by \$1,443.28. As a result, checks #1042 and #1044 were  
3 returned to respondent unpaid due to insufficient funds. Respondent's  
4 account was charged a \$54.00 service (overdraft) fee on or about February  
5 14, 2000.
- 6  
7 5. On or about February 22, 2000, respondent's trust account was overdrawn  
8 by \$274.99. As a result, check #1044 was returned unpaid due to  
9 insufficient funds. Respondent's trust account was charged a \$27.00  
10 service (overdraft) fee on or about February 23, 2000.
- 11  
12 6. On or about March 1, 2000, respondent's trust account was overdrawn by  
13 \$590.46. As a result, check #1046 was returned unpaid due to insufficient  
14 funds. Respondent's trust account was charged a \$27.00 service  
15 (overdraft) fee.
- 16  
17 7. Sometime prior to May 5, 2000, respondent deposited a \$500.00 check  
18 from a client into his trust account. The check, which had been credited to  
19 respondent's trust account, was dishonored due to insufficient funds, and  
20 on or about May 5, 2000, respondent's trust account was debited \$505.00  
21 (the \$500.00 amount of the check and a \$5.00 service charge), causing his  
22 trust account to become overdrawn by \$266.54. Respondent's trust  
23 account was charged a \$27.00 service (overdraft) fee on or about May 8,  
24  
25

1 balance in respondent's trust account was \$115.00, and remained at that  
2 amount through March 26, 2000.

3  
4 11. Respondent, on occasion, deposited earned fees and reimbursed costs into  
5 his trust account, from which he occasionally issued trust account checks  
6 for personal and law office purposes.

7  
8 12. In the past, when respondent received a check made payable to a client and  
9 himself, respondent either endorsed it over to the client or went to the bank  
10 with the client. On those occasions when respondent went to the bank with  
11 a client, he cashed the check and disbursed the funds in cash or some type  
12 of financial instrument (e.g., money order or cashier's check).

13  
14 13. In the past, when respondent received a check issued on a bank in Flagstaff,  
15 Arizona, he took the check to the bank, cashed the check and then  
16 converted it into a cashier's check.

17  
18 14. In the past, when respondent received a check made out solely to a client,  
19 respondent gave the check to the client without depositing it into his trust  
20 account.

21  
22 15. Respondent's conduct, as set forth above, violated the Rules of  
23 Professional Conduct and/or the Rules of the Supreme Court and/or the  
24 Trust Account Guidelines promulgated pursuant to Supreme Court Rule  
25 43(d), as follows: (a) respondent failed to hold property of clients or third

1 persons associated with his representation of one or more clients separate  
2 and apart from his personal funds, business funds and/or funds not  
3 associated with the representation of a client; (b) respondent failed to  
4 maintain complete records of the handling, maintenance and disposition of  
5 all funds, securities and/or other assets of a client that came into his  
6 possession at any time; (c) respondent failed to preserve complete client  
7 trust account records (including, but not limited to, the following: duplicate  
8 deposit slips and client account ledgers or the equivalent) for a period of  
9 five years after termination of the representation and/or completion of  
10 respondent's fiduciary obligations and/or five years after final disposition  
11 of the funds, securities and/or other assets; (d) respondent failed to  
12 maintain complete client trust account records that covered the entire time  
13 from receipt of client funds, securities and/or other assets to the time of  
14 final disposition by respondent; (e) respondent failed to exercise due  
15 professional care in the performance of his duties under the Trust Account  
16 Guidelines; (f) respondent failed to have and/or use internal controls in his  
17 office that were adequate under the circumstances to safeguard funds or  
18 property held in trust; (g) respondent failed to promptly and completely  
19 record all client trust account transactions; (h) respondent failed to create  
20 and/or maintain, on a current basis, records complying with ER 1.15 and  
21  
22  
23  
24  
25

1 the Trust Account Guidelines adopted by the Board of Governors of the  
2 State Bar of Arizona, and failed to preserve them for at least five years  
3 following completion of his fiduciary obligations; (i) respondent failed to  
4 deposit intact into his trust account all funds received on behalf of a client  
5 or a third person related to his representation of a client; (j) respondent  
6 failed to retain a duplicate deposit slip or the equivalent for each deposit  
7 into his trust account, which was sufficiently detailed to identify each item;  
8 (k) respondent, on one or more occasions, failed to maintain an account  
9 ledger or the equivalent for each person or entity from whom he received  
10 monies in trust, showing the date of receipt, the amount received, the date  
11 of any disbursements, the amount disbursed, and any unexpended balance;  
12 (l) respondent failed to perform a monthly reconciliation of the trust  
13 account records and the bank statements; (m) respondent deposited into his  
14 trust account funds belonging solely to him; and (n) respondent failed to  
15 deposit into his trust account funds belonging in part to a client and in part  
16 or potentially in part or whole to him or his law firm.

- 17  
18  
19  
20  
21 16. Respondent's conduct, as set forth above, violated Rule 42, Ariz.R.S.Ct.,  
22 specifically ER 1.15(a), Rule 43(a) & (d), Ariz.R.S.Ct. (including Trust  
23 Account Guidelines 1.a., 1.c., 1.d., 1.e., 2.b., 2.d. and 2.e.), and Rule 44(a)  
24 & (b)3, Ariz.R.S.Ct.  
25

Count Two (Prior Discipline)

- 1  
2 17. Respondent has previously been sanctioned for violations of the Rules of  
3 Professional Conduct. Specifically, in file number 96-0045, respondent  
4 received a censure by order dated April 5, 1999, for violation of ER 1.5.  
5

Screening File No. 01-1296

- 6  
7 18. On or about May 29, 2001, respondent received a \$2,000.00 check from  
8 David Lewis of Realty Executives for legal fees that he had previously  
9 billed for completed work.  
10  
11 19. On or about May 31, 2001, respondent deposited that \$2,000.00 check for  
12 earned fees into his trust account at Fifth Third Bank.  
13  
14 20. On or about June 5, 2001, respondent issued trust account check #1120 to  
15 himself for \$1,350.00, and transferred \$625.00 to his law office general or  
16 operating account without using a trust account check. After conducting  
17 those transactions, respondent's trust account should have had a balance of  
18 \$25.00; in actuality, it had a balance of only \$24.48.  
19  
20 21. Due to inaccurate records kept by respondent and a mathematical error,  
21 respondent transferred another \$100.00 from his trust account to his  
22 general account on June 7, 2001, without using a trust account check. The  
23 bank honored the transfer, resulting in an overdraft of \$75.52. The bank  
24 thereafter imposed a returned item fee of \$29.00.  
25

1 22. When respondent learned about the overdraft situation, he deposited  
2 \$150.00 into his trust account.

3  
4 23. Respondent failed to retain copies of deposit slips for deposits into his trust  
5 account.

6 24. Respondent's conduct, as set forth above, violated the Rules of  
7 Professional Conduct and/or the Rules of the Supreme Court and/or the  
8 Trust Account Guidelines promulgated pursuant to Supreme Court Rule  
9 43(d), as follows: (a) respondent failed to hold property of clients or third  
10 persons associated with his representation of one or more clients separate  
11 and apart from his personal funds, business funds and/or funds not  
12 associated with the representation of a client; (b) respondent failed to  
13 maintain complete records of the handling, maintenance and disposition of  
14 all funds, securities and/or other assets of a client that came into his  
15 possession at any time; (c) respondent failed to maintain complete client  
16 trust account records that covered the entire time from receipt of client  
17 funds, securities and/or other assets to the time of final disposition by  
18 respondent; (d) respondent failed to exercise due professional care in the  
19 performance of his duties under the Trust Account Guidelines; (e)  
20 respondent failed to have and/or use internal controls in his office that were  
21 adequate under the circumstances to safeguard funds or property held in  
22  
23  
24  
25

1 trust; (f) respondent failed to promptly and completely record all client  
2 trust account transactions; (g) respondent failed to create and/or maintain,  
3 on a current basis, records complying with ER 1.15 and the Trust Account  
4 Guidelines adopted by the Board of Governors of the State Bar of Arizona;  
5 (h) respondent failed to retain a duplicate deposit slip or the equivalent for  
6 each deposit into his trust account, which was sufficiently detailed to  
7 identify each item; (i) respondent failed to perform a monthly  
8 reconciliation of the trust account records and the bank statements; and (j)  
9 respondent deposited into his trust account funds belonging solely to him.  
10

11  
12 25. Respondent's conduct, as set forth above, violated Rule 42, Ariz.R.S.Ct.,  
13 specifically ER 1.15(a), Rule 43(a) & (d), Ariz.R.S.Ct. (including Trust  
14 Account Guidelines 1.a., 1.c., 1.d., 1.e., 2.b., and 2.e.), and Rule 44(b)3,  
15 Ariz.R.S.Ct.  
16

### 17 CONDITIONAL ADMISSIONS

18  
19 Respondent conditionally admits that his conduct, as set forth above,  
20 violated the following Rules of Professional Conduct and the Rules of the  
21 Supreme Court:

22 ER 1.15(a) – 2 violations;

23 Rule 43(a), Ariz.R.S.Ct. – 2 violations;

24 Rule 43(d) (including Trust Account Guidelines 1.a., 1.c., 1.d., 1.e.,  
25 2.b., 2.d. and 2.e.) – 2 violations, except for Guideline 2.d.;

1 Rule 44(a) – 1 violation; and

2  
3 Rule 44(b)3, Ariz.R.S.Ct. – 2 violations.

4 **SANCTIONS**

5 Respondent and the State Bar agree that based upon the conditional  
6 admissions contained herein, the following disciplinary sanctions will be  
7 imposed:  
8

- 9 1. Respondent will receive a censure for violation of ER 1.15(a), Rule  
10 43(a) & (d), Ariz.R.S.Ct. (including Trust Account Guidelines 1.a.,  
11 1.c., 1.d., 1.e., 2.b., 2.d. and 2.e.), and Rule 44(a) & (b)3,  
12 Ariz.R.S.Ct.  
13  
14 2. Respondent will be placed on probation for a period of one (1) year.

15 The terms of probation will be as follows:

- 16  
17 a. Respondent will, within thirty (30) days of the issuance of a  
18 judgment and order by the Supreme Court of Arizona, contact  
19 the director of the Law Office Management Assistance  
20 Program (LOMAP) at the State Bar of Arizona to schedule a  
21 trust account review. The LOMAP director or her designee  
22 will complete a review of respondent's trust account no later  
23 than ninety (90) days after issuance of a judgment and order  
24 by the Supreme Court of Arizona. Following the audit,  
25

1           respondent will enter into a Memorandum of Understanding,  
2           which will include the use of a Practice Monitor.

3           b.    Respondent will be responsible for the costs and expenses  
4           associated with his participation in the LOMAP program.

5  
6           c.    Respondent will, within twenty (20) days of the issuance of a  
7           judgment and order by the Supreme Court of Arizona, notify  
8           all then-existing clients in writing that he received a censure  
9           for violation of the trust account rules and guidelines (the  
10          written notice will include the date of the Court's judgment  
11          and order), and will promptly provide bar counsel with a copy  
12          of the written notification to his clients (if the same written  
13          notice is sent to all clients, respondent may submit a copy of  
14          the uniform notice and a list of the names and addresses of all  
15          clients so notified).

16  
17  
18          3.    Respondent will pay all costs and expenses incurred in the  
19          disciplinary proceedings in this matter. Attached hereto is a  
20          statement of costs and expenses incurred by the State Bar in this  
21          disciplinary proceeding.

22  
23  
24          4.    Restitution is not an issue because respondent returned funds to his  
25          trust account when he became aware that he had inappropriately

1 utilized client funds. Furthermore, no client was harmed as a result  
2 of respondent's trust account violations.

3 5. In the event respondent fails to comply with any of the foregoing  
4 terms, and information thereof is received by the State Bar, bar  
5 counsel will file a Notice of Non-Compliance with the hearing  
6 officer previously assigned to this matter.<sup>1</sup> The hearing officer will  
7 conduct a hearing at the earliest practical date, but in no event later  
8 than thirty (30) days following receipt of said notice, and will  
9 determine whether the terms of probation have been breached and, if  
10 so, to recommend appropriate action and response to such breach. If  
11 there is an allegation that respondent failed to comply with any of  
12 the foregoing terms, the burden of proof will be on the State Bar to  
13 prove non-compliance by a preponderance of the evidence.  
14  
15  
16  
17

18 Respondent conditionally admits he engaged in the conduct set forth  
19 above, and the rule violations indicated, in exchange for the form of discipline set  
20 forth above.  
21  
22  
23

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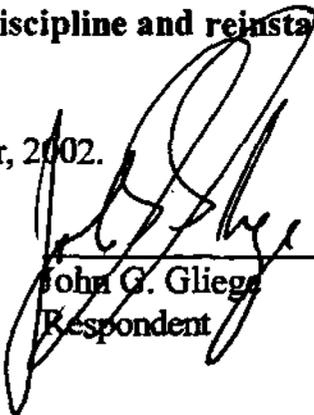
24 <sup>1</sup> Although Rule 52(a)6.C., Ariz.R.S.Ct., states that the report shall be to the  
25 "imposing entity," this Commission has previously indicated that it prefers that  
such report be provided to the previously assigned hearing officer.

1            Respondent, by entering into this agreement, waives his right to a formal  
2 disciplinary hearing that he would otherwise be entitled to pursuant to Rule  
3 53(c)(6), Ariz.R.S.Ct., and the right to testify and present witnesses on his behalf  
4 at a hearing. Respondent further waives all motions, defenses, objections or  
5 requests that he has made or raised, or could assert hereafter, if the conditional  
6 admissions and stated forms of discipline are approved. Respondent has chosen  
7 not to seek the assistance of counsel in these proceedings, but acknowledges that  
8 he has read this agreement and received a copy of it. Respondent submits this  
9 agreement with conditional admissions freely and voluntarily, and without  
10 coercion or intimidation, and is aware of the Rules of the Supreme Court with  
11 respect to discipline.  
12  
13  
14

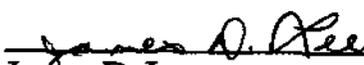
15            This tender of admissions and agreement for discipline by consent will be  
16 submitted to the Disciplinary Commission for review and approval. Respondent  
17 realizes that the Disciplinary Commission may request his presence at a hearing  
18 for presentation of evidence and/or oral argument in support of this agreement.  
19 Respondent further recognizes that the Disciplinary Commission may  
20 recommend rejection of this agreement, and that the Arizona Supreme Court may  
21 accept or reject the Commission's recommendation. Respondent further  
22 understands that if this agreement is rejected at any time, his conditional  
23 admissions are withdrawn.  
24  
25

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

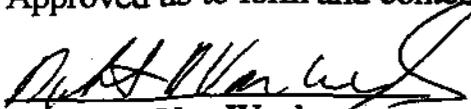
4           DATED this 8 day of September, 2002.

5   
6 \_\_\_\_\_  
7 John G. Gliege  
8 Respondent

9           DATED this 16<sup>th</sup> day of September, 2002.

10   
11 \_\_\_\_\_  
12 James D. Lee  
13 Senior Bar Counsel

14  
15  
16  
17  
18 Approved as to form and content:

19   
20 \_\_\_\_\_  
21 Robert B. Van Wyck  
22 Chief Bar Counsel  
23  
24  
25

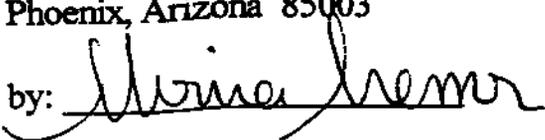
1 Original filed with the Disciplinary Clerk  
2 and copies of the foregoing mailed/  
3 \*hand-delivered this 16<sup>th</sup> day of  
4 September, 2002, to:

5 Michael L. Rubin, Esq.  
6 Hearing Officer 7K  
7 230 Anderson Road  
8 Prescott, Arizona 86303-3755

9 John G. Gliege  
10 P.O. Box 1388  
11 Flagstaff, Arizona 86002-1388  
12 Respondent

13 and

14 \*Linda Perkins  
15 Lawyer Regulation Records Manager  
16 State Bar of Arizona  
17 111 W. Monroe, Suite 1800  
18 Phoenix, Arizona 85003

19 by: 

**FILED**

OCT 19 2001

STATE BAR OF ARIZONA

BY *Gaine Parris*

BEFORE THE PROBABLE CAUSE PANELIST

OF THE STATE BAR OF ARIZONA

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

**JOHN G. GLIEGE,**  
Bar No 003644

Respondent.

No. 00-0309

**PROBABLE CAUSE ORDER**

The Probable Cause Panelist of the State Bar, having reviewed this matter pursuant to Rule 53(b), Ariz.R.S.Ct., finds that probable cause exists to issue a complaint against respondent for violations of Rule 42, Ariz.R.S.Ct., including but not limited to ER 1.15(a), Rule 43(a) & (d) (Trust Account Guidelines 1.a, 1.c., 1.d., 1.e., 2.b., 2.d., 2.e.), Ariz.R.S.Ct., and Rule 44(a) & (b)3, Ariz.R.S.Ct.

IT IS THEREFORE ORDERED that the State Bar prepare and file a complaint with the Disciplinary Clerk.

DATED this 15 day of October, 2001.

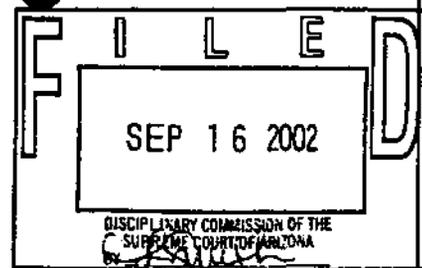


Pamela A. Treadwell-Rubin  
Probable Cause Panelist  
State Bar of Arizona

Copies mailed/hand-delivered this 24<sup>th</sup> day of October, 2001, to:

John G. Gliege  
Attorney at Law  
Six E. Aspen Avenue, Suite 220  
Flagstaff, AZ 86001-5260

by: *Mirva Jemur*  
JDL:mm



1 James D. Lee, Bar No. 011586  
2 Senior Bar Counsel  
3 State Bar of Arizona  
4 111 West Monroe, Suite 1800  
5 Phoenix, Arizona 85003-1742  
6 Telephone (602) 340-7247

7 **BEFORE THE DISCIPLINARY COMMISSION**  
8 **OF THE SUPREME COURT OF ARIZONA**

9 IN THE MATTER OF A MEMBER ) Nos. 00-0309, 01-1296  
10 OF THE STATE BAR OF ARIZONA, )  
11 **JOHN G. GLIEGE,** ) **JOINT MEMORANDUM IN**  
12 No. 003644 ) **SUPPORT OF AGREEMENT**  
13 Respondent. ) **FOR DISCIPLINE BY CONSENT**  
14 )  
15 ) (Assigned to Hearing Officer 7K,  
16 ) Michael L. Rubin)

17 The State Bar of Arizona, which is represented by undersigned bar counsel,  
18 and respondent, who is not represented by counsel, hereby submit this Joint  
19 Memorandum in support of the Tender of Admissions and Agreement for  
20 Discipline by Consent filed contemporaneously herewith.

21 **CONDUCT**

22 As reflected in the Tender of Admissions and Agreement for Discipline by  
23 Consent, respondent's misconduct involved violations of the Supreme Court Rules  
24 and Trust Account Guidelines, all of which pertained to the operation of his trust  
25

1 account. Respondent conditionally admits the facts as set forth in the Tender of  
2 Admissions.

### 3 SANCTIONS

4  
5 Respondent agrees to accept the following as the appropriate sanctions in  
6 this matter: censure and probation for one (1) year, including a LOMAP  
7 component pertaining to trust accounts. An additional term of probation requires  
8 respondent to notify all existing clients of the imposition of censure for trust  
9 account violations. Respondent must also pay the costs and expenses of the  
10 disciplinary proceedings. Restitution is not an issue because respondent returned  
11 funds to his trust account when he became aware that he had inappropriately  
12 utilized client funds. Furthermore, no client or third person was injured as a  
13 result of respondent's trust account violations. The State Bar and respondent  
14 believe these sanctions are appropriate under the circumstances.  
15  
16

17 In determining the appropriate sanctions, the State Bar considered both the  
18 American Bar Association's *Standards for Imposing Lawyer Sanctions* (hereafter  
19 "Standards") and Arizona case law.  
20

#### 21 American Bar Association's *Standards for Imposing Lawyer Sanctions*

22 The A.B.A. *Standards for Imposing Lawyer Sanctions* provide guidance with  
23 respect to an appropriate sanction in this matter. The Supreme Court and the  
24 Disciplinary Commission are consistent in utilizing the Standards to determine  
25

1 appropriate sanctions for attorney discipline. *In re Kaplan*, 179 Ariz. 175, 877 P.2d  
2 274 (1994).

3 Standard 4.12 states, "Suspension is generally appropriate when a lawyer  
4 knows or should know that he is dealing improperly with client property and  
5 causes injury or potential injury to a client." Standard 4.13 states, "Reprimand  
6 [censure in Arizona] is generally appropriate when a lawyer is negligent in  
7 dealing with client property and causes injury or potential injury to a client."  
8 Standard 4.14 states, "Admonition [informal reprimand in Arizona] is generally  
9 appropriate when a lawyer is negligent in dealing with client property and causes  
10 little or no actual or potential injury to a client."  
11  
12

13 The facts of this case implicate all three of the above Standards.  
14 Respondent was negligent in failing to maintain sufficient trust account records.  
15 Had he complied with the trust account rules and Guidelines, he would have been  
16 able to determine whether he was dealing improperly with client property.  
17 Finally, there was potential harm but no actual harm because respondent returned  
18 funds to his trust account when he became aware that he had inadvertently  
19 utilized client funds. Furthermore, the potential harm was minimal because the  
20 amount of funds inappropriately utilized at any one time was no more than  
21 several hundred dollars.  
22  
23  
24  
25

1 An analysis of the relevant aggravating and mitigating factors is also  
2 necessary. A review of Standard 9.22 reveals that the following aggravating  
3 factors are present:

- 4 (1) Standard 9.22(a), prior disciplinary offenses. Respondent received a  
5 censure in 1999 for violation of ER 1.5.
- 6 (2) Standard 9.22(c), a pattern of misconduct.
- 7 (3) Standard 9.22(d), multiple offenses.
- 8 (4) Standard 9.22(i), substantial experience in the practice of law.

9 Respondent was admitted to practice law in Arizona on April 27,  
10 1974. Respondent's substantial experience is offset, however, by the  
11 fact that during most of the period from 1974 to 1994, respondent was  
12 a contract attorney for various governmental entities and, therefore,  
13 was not required to handle client funds or maintain a trust account.  
14

15 A review of Standard 9.32 reveals that the following mitigating factors are  
16 present:

- 17 (1) Standard 9.32(b), absence of a dishonest or selfish motive.
- 18 (2) Standard 9.32(c), personal or emotional problems. See Exhibit 2  
19 attached hereto for an explanation of the applicability of this factor.
- 20 (3) Standard 9.32(d), timely good faith effort to make restitution or to  
21 rectify the consequences of his misconduct. Respondent returned  
22  
23  
24  
25

1 funds to his trust account when he became aware that he had  
2 inadvertently utilized client funds.

3 (4) Standard 9.32(e), full and free disclosure to a disciplinary board or  
4 cooperative attitude toward the proceedings. Respondent not only  
5 responded to bar counsel's inquires during the screening investigation,  
6 but cooperated with bar counsel in negotiating this consent agreement.

7 (5) Standard 9.32(g), character or reputation. Attached hereto as Exhibit 1  
8 are letters from individuals attesting to respondent's good character and  
9 reputation.  
10

11 (6) Standard 9.32(h), physical disability. See Exhibit 2 attached hereto for  
12 an explanation of the applicability of this factor.  
13

14 (7) Standard 9.32(l), remorse. Respondent regrets his failure to comply  
15 with all the trust account rules and guidelines, and is willing to  
16 incorporate procedures that will ensure future compliance.  
17

18 (8) Standard 9.32(m), remoteness of the prior offense. Respondent's prior  
19 censure was imposed for conduct that occurred in or about 1993.  
20

21 A non-A.B.A. factor to consider in mitigation is respondent's decision to  
22 reduce his practice. Respondent considers himself to be "virtually retired from  
23 the practice of law." Respondent's reduction of his practice has reduced the  
24 possibility that he might hereafter engage in conduct harmful to the public.  
25

1 Proportionality Analysis

2 In *In re Leiber*, SB-01-01222-D (2001), the Arizona Supreme Court  
3 imposed a censure and one year probation. Leiber issued an \$8,000.00 trust  
4 account check when the balance in his trust account was \$5,859.51. That  
5 occurred because respondent's long-time friend and lawyer deposited only  
6 \$5,000.00 into Leiber's trust account rather than the \$8,000.00 he had agreed to  
7 deposit. Leiber also deposited earned funds into his trust account over a period  
8 of years, resulting in commingling. The Disciplinary Commission found no  
9 actual harm, dishonesty or self-dealing. The Commission found the presence of  
10 two aggravating factors and six mitigating factors.  
11

12  
13 In the instant case, respondent issued checks for amounts in excess of the  
14 balance in his trust account and commingled client funds with his personal or law  
15 firm funds. Like Leiber, there was no actual harm, no dishonesty and no self-  
16 dealing.  
17

18  
19 *In re Lancaster*, SB-01-0119-D (2001), is instructive on this point. For a  
20 period of five months, attorney Wendy Lancaster withdrew funds from her trust  
21 account prior to earning those funds, disbursed funds from her trust account for  
22 clients who had no funds in her trust account, and failed to maintain accurate  
23 trust account records. Lancaster received a censure and one-year probation. The  
24  
25

1 only factor in aggravation was pattern of misconduct, while there were seven  
2 factors in mitigation.

3 In the instant case, respondent withdrew funds prior to earning them and  
4 failed to maintain accurate trust account records. The mitigating factors in the  
5 instant case outnumber the aggravating factors, as was the case in *In re*  
6 *Lancaster*.

7  
8 In a similar case, *In re Kirkland*, SB-02-0018-D (2002), attorney Charles  
9 Saint George Kirkland received a censure and two years probation for using his  
10 trust account as an operating account for Arizona Casualty Claim Authority, Inc.,  
11 making inappropriate trust account deposits and transfers, making a negligent  
12 misrepresentation to the bar, using a trade name, filing a frivolous pleading and  
13 making a misrepresentation to the court. There were two aggravating factors and  
14 four mitigating factors present.

15  
16 Respondent herein utilized his trust account as an operating account and  
17 made inappropriate trust account deposits and transfers.

18  
19 The Supreme Court imposed a censure and two years probation in *In re*  
20 *Goff*, SB-01-0152-D (2001). Goff's misconduct included the issuance of two  
21 trust account checks that resulted in a negative trust account balance and the  
22 issuance of another trust account check that was returned unpaid due to  
23 insufficient funds. Goff failed to properly identify his trust account, did not  
24  
25

1 maintain a running balance on his general ledger, and did not have individual  
2 client ledgers, except in personal injury cases. In addition, Goff issued business  
3 and personal checks directly from his trust account. All of Goff's transgressions  
4 resulted from negligence, there was no actual harm to clients, and there was no  
5 misappropriation or conversion of client funds. The Commission found the  
6 existence of two aggravating factors and four mitigating factors.  
7

8  
9 Respondent in the instant case issued trust account checks that resulted in a  
10 negative balance and checks that were returned due to insufficient funds. Like  
11 Goff, respondent issued business and personal checks directly from his trust  
12 account. Also like Goff, respondent's violations were a result of negligence and  
13 there was no actual harm.  
14

15 The Supreme Court imposed a censure and one year probation on attorney  
16 Peter Van Baalen for violating several trust account rules. *In re Van Baalen*, SB-  
17 01-0160-D (2001). Van Baalen's office issued two trust account checks for  
18 which there were insufficient funds and commingled his business and personal  
19 funds with his trust account funds. The commingling occurred when Van Baalen  
20 deposited business and personal funds into his trust account in an attempt to  
21 protect his clients from harm that could have arisen due to problems with his  
22 trust account. In addition, Van Baalen failed to consistently reconcile his trust  
23 account, record all transactions promptly and completely, or maintain individual  
24  
25

1 client ledgers. The Commission found the presumptive sanction to be  
2 suspension. Two aggravating factors and five mitigating factors were found.  
3 The Commission labeled the mitigation "substantial."  
4

5 In the instant case, respondent commingled client funds with personal or  
6 business funds, and failed to maintain all the records required by the rules and  
7 Trust Account Guidelines.

8 A 30-day suspension and one-year of probation were found to be  
9 appropriate in a case where a lawyer commingled funds, failed to have individual  
10 client ledgers or duplicate deposit slips, failed to maintain adequate information  
11 on his trust account check register and checks, and failed to respond to bar  
12 counsel. *In re Buffenstein*, SB-01-0171-D (2002). The Commission found two  
13 mitigating and two aggravating factors were present.  
14

15 In the instant case, there are four aggravating factors and nine mitigating  
16 factors present. Additionally, respondent has fully cooperated with bar counsel.  
17

18 Attorney Arthur Frost received a 30-day suspension and two years  
19 probation for having a negative trust account balance, commingling funds, failing  
20 to have adequate internal controls regarding his trust account, and failing to  
21 maintain current trust account records. *In re Frost*, SB-01-0146-D (2001). The  
22 Disciplinary Commission found the presence of three aggravating factors and  
23 two mitigating factors.  
24  
25

1 Although the conduct of respondent herein was quite similar to that  
2 engaged in by Frost, the mitigating factors in the instant case outweigh the  
3 aggravating factors.  
4

### 5 CONCLUSION

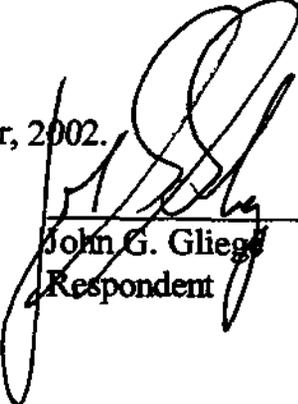
6 Based upon the A.B.A. Standards and relevant case law, the State Bar and  
7 respondent believe that imposition of censure, probation and payment of the  
8 costs and expenses of the disciplinary proceedings is appropriate. Even if the  
9 presumptive sanction is suspension, the facts indicate that a mitigated sanction of  
10 censure and probation is warranted.  
11

12 The Court and the Disciplinary Commission have repeatedly stated that the  
13 purpose of lawyer discipline is not to punish the offender but to protect the public,  
14 the profession, and the administration of justice. *In re Neville*, 147 Ariz. 106, 708  
15 P.2d 1297 (1988). The imposition of a censure, one (1) year of probation, and  
16 payment of the costs and expenses of the disciplinary proceedings will accomplish  
17 these goals. There was no actual harm to any client and the potential harm was  
18 minimal. Furthermore, the Arizona Supreme Court disfavors suspensions of less  
19 than six months, *see In re Alcorn*, SB-01-0075-D (2002) (citing and quoting the  
20 A.B.A. *Standards for Imposing Lawyer Sanctions*), and thirty-day suspensions  
21 are often disruptive and costly to the lawyer's clients. Probation with the terms  
22  
23  
24  
25

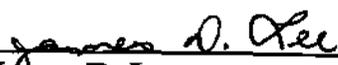
1 set forth above will protect the public and ensure future compliance by  
2 respondent.

3 For all of the above reasons, respondent and the State Bar respectfully  
4 request the Disciplinary Commission to accept this Agreement for Discipline by  
5  
6 Consent.

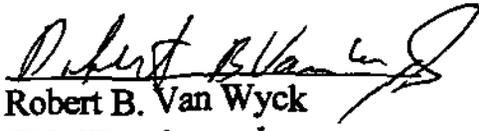
7  
8 DATED this 8 day of September, 2002.

9  
10   
11 \_\_\_\_\_  
12 John G. Giege  
13 Respondent

14 DATED this 16<sup>th</sup> day of September, 2002.

15   
16 \_\_\_\_\_  
17 James D. Lee  
18 Senior Bar Counsel

19  
20  
21 Approved as to form and content:

22  
23   
24 \_\_\_\_\_  
25 Robert B. Van Wyck  
Chief Bar Counsel

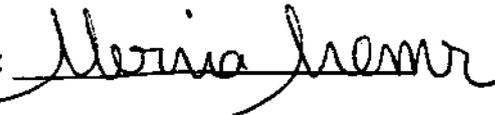
1 Original filed with the Disciplinary Clerk  
2 and copies of the foregoing mailed/  
3 \*hand-delivered this 16<sup>th</sup> day of  
September, 2002, to:

4 Michael L. Rubin, Esq.  
5 Hearing Officer 7K  
6 230 Anderson Road  
Prescott, Arizona 86303-3755

7 John G. Gliege  
8 P.O. Box 1388  
9 Flagstaff, Arizona 86002-1388  
Respondent

10 and

11  
12 \*Linda Perkins  
13 Lawyer Regulation Records Manager  
14 State Bar of Arizona  
15 111 W. Monroe, Suite 1800  
16 Phoenix, Arizona 85003

17  
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by: 

# Exhibit 1

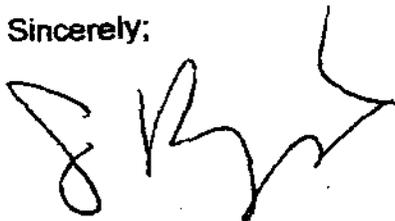
Grand Canyon Ballet Company  
P.O. Box 792  
Grand Canyon, AZ 86023  
928-638-9788

March 3, 2002

Dear Board Members;

We need to have a board meeting as soon as possible to discuss the changes that have taken place for the Ballet Academy and Ballet Company plus vote on our board members who have served their term and would like to renew. I would also like to vote in a new board member as Paul Glazer has resigned. I have not yet found this board member but i have someone in mind. I am shooting for Saturday, April 13, 2002 . We can meet at the usual place, the Quality Inn restaurant at 10:00 a.m. for breakfast. Please let me know as soon as possible if you can not attend this meeting as it is very important for the board to be fully aware of the changes that have taken place and what we can do to ensure our future as a ballet school and company. I would like to thank vice president John Gliege for his outstanding work in negotiations with the Squire Inn . I would also like to thank Clarinda Vail for all of her support and email help ! I look forward to seeing you all and planning the future of the ballet by putting our heads together on April 13<sup>th</sup>.

Sincerely;

A handwritten signature in black ink, appearing to read 'S. Rojas', with a stylized flourish at the end.

Sonja Rojas  
Artistic Director

# Kateri Services

P.O. Box 2455 Flagstaff, Arizona 86003 (520) 779-7141  
FAX (520) 522-7007 KateriServices@aol.com www.kateri.org

March 25, 2002

State Bar of Arizona  
111 West Monroe, Ste 1800  
Phoenix, Arizona 85003-1742

Re: John G. Gliedge, Bar Number 003644

Ladies and Gentlemen:

Peace and all good.

This letter is being written to provide you with information concerning the *pro bono* activities of Mr. John G. Gliedge as it relates to Kateri Services. Kateri Services is a non-profit organization which provides social, counseling and advocate services to women and children who are victims of domestic abuse and are in transition.

Mr. Gliedge has been involved with our organization since the summer of 2000. During that time, he has served as a member of our board of directors and for a substantial portion of the time, from then until February 2002, he acted as chairperson of the board of directors. In addition to the immeasurable time he spent aiding in the mission of the organization, Mr. Gliedge performing all types of tasks from fund raising and meeting with potential funding sources. He also provided services in reconstructing our office configuration.

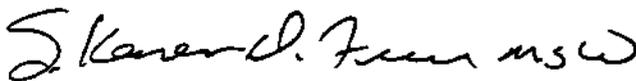
Mr. Gliedge has also acted as our *pro bono* attorney. His contributions include not only direct services to our clients, but also he assisted the staff members of the agency in the preparation of necessary documentation and other work as a part of the judicial process in which some of our clients are involved.

The agency's records show that Mr. Gliedge contributed the following *pro bono* hours of legal services to this agency:

2000	14	hours
2001	172	hours
2002	47.3	hours to date

Additionally, his office contributed 81.5 hours of paralegal services. Should you require any additional information regard this gentleman, please contact me.

Sincerely,



Sister Karen D. Furr sfp/MSW  
Executive Director

*Bringing Support and Hope to Women and Children*



Flagstaff Unified School District  
**Sinagua High School**

3950 E. Butler Avenue, Flagstaff, Arizona 86004

Ute Salisbury, Principal • Charles DeWitt, Assistant Principal  
Jim Davis, Assistant Principal • Steve Floyd, Assistant Principal

April 1, 2002

Ladies and Gentlemen:

This letter is on behalf of John Gliege. Mr. Gliege has worked with the *You and the Law* Class at Sinagua High School for four years. We started working together when the Arizona Bar Foundation, Law-Related Education Program initiated the "Mentor Program." What that program did was team up an attorney with a law-related class in the schools so that he/she could bring updated law-related information into the classroom thus enhancing textbook information. When John first came to Sinagua, the class was called *Business and Personal Law*.

Since then, Mr. Gliege has taken time from his own practice to visit my class or classes at least every other week if not every week. He has not only shared his knowledge and expertise with the students, but has also brought in other resource people to speak on topics such as Homelessness and Battered Women and Children issues. He brings in newspaper articles and items from the Internet that he feels will emphasize a point or give a real-life example to students of something that they have studied in class. He has been a definite asset to our law-related program here at Sinagua High School.

John shows that he cares about people in the way that he presents his material and the students like and learn from his visits. It has been a very positive approach to helping students learn about the law. Currently, the class began this semester and meets daily. John has come on a weekly basis since January 21, 2002 and the semester will end on June 7, 2002.

If you should need to contact me, I can be reached at (928) 527-5557. Thank you.

Sincerely,

Mary Vasquez-Powell  
Business Education Teacher

mvp



SUPERIOR COURT OF ARIZONA, COCONINO COUNTY



Judge J. Michael Flournoy  
Superior Court Division 1

February 25, 2002

Dear John:

Please be advised that I intend to retire this year. I have a problem with my eyes which is known as Macular Degeneration. My eyes will not permit me to continue as Judge. I plan to take a disability retirement this year. I want to thank you for all the courtesies shown to me during my ten (10) years as Judge.

On April 5<sup>th</sup>, I will be sixty-five years of age. In fact, I have even applied for "Social Security" and received my "Medicare Card". Yes, I am an old man! I wanted to let you know of my decision so there would be an opportunity for individuals who wanted to be Judge to announce their candidacy.

When I started practice forty (40) years ago in 1962, there were approximately twenty (20) or so attorneys in Coconino County. Now we are approaching 200. To show you how much the Bar has grown, let me submit the following. I start with retired Court of Appeals Judge J. Thomas Brooks, who started practicing in Flagstaff in 1956 with Bar No. 823.

The list of those who are still around this area, or in Arizona, in their bar admittance order, are as follows:

1)	Judge J. Thomas Brooks (Bar No 823)	1956	Bar Members since
2)	Douglas J. Wall	1956	Statehood: 21,415
3)	Robert W. Warden	1957	Flournoy 1,394
4)	Jerry L. Smith	1959	20,021
5)	Daniel J. Stoops	1959	additional
6)	Judge Richard K. Mangum	1961	
7)	J. Michael Flournoy (Bar No. 1394)	1962	

Five Hundred and Seventy-one (571) lawyers were admitted to the Bar from Judge Brooks (Bar No. 823) to when I was admitted six years later, in 1962, (Bar No. 1394). Since I was admitted, 20,021 additional attorneys have been admitted to the State Bar, for a total of 21,415 (the latest figure as of last week) as shown above. There are presently 17,037 licensed attorneys with 4,378 either not

renewing their licenses or having passed away.

Jerry Smith and Dan Stoops are the only full time practicing attorneys, to my knowledge, that were here when I began practicing law in 1962.

When Judge Brooks came to Flagstaff he was only the tenth or eleventh lawyer in active practice at that time in Coconino County. The lawyers that were in practice were: H. Karl Mangum (Dick's father), Neil Christensen, Jack Anderson, C.B. Wilson, Orinn Compton, Charles Wilson, Jr., Ted Flick (Bill's father), Frank Gold, Bill McQuatters, Bill Stevenson and J. Thomas Brooks.

~~As for Division 1, the following is a list of the Judges since I first came to~~ Flagstaff in 1942. H. Karl Mangum, H.L. Russell, Laurance T. Wren, J. Thomas Brooks, William Garbarino and myself. Of course, there were other Judges in Division 2, Division 3 and Division 4. I remember them all from the time I played football and baseball on our Courthouse lawn, as well as basketball behind the Jail.

Other attorneys who were practicing prior to my arrival were: William R. Preston, Sr. (Bill Jr.'s dad), Jack Grace, Leonard Sharman (remember when he landed his plane with his landing gear up), Joe Babbitt, Jr. and Larry Mills, among others. Most are now deceased. Soon after my arrival came Bill Egan, Jerry Thomas, Bill Flick, Bill Garbarino, among others. I'm sure I missed some. All of these individuals mentioned are wonderful individuals who is or was a friend of mine. I do appreciate them all very much. One of my best associations was with W.R. "Bill" Preston, Sr. (passed on in 1978) and Bill Flick when we were Preston, Flournoy and Flick. I also enjoyed being County Attorney with Bill Flick and the other County Attorney Deputies for eight (8) years. We have many stories, some not being able to be told. Enough of the nostalgia.

I do plan on doing some mediation after my retirement and, who knows, maybe even attempt to try a few cases in an advisory capacity if my eyes will allow same. This probably is wishful thinking.

My beloved wife, Sally and I will continue to maintain our residence in Flagstaff, although we do have a home in Scottsdale where Sally resides much of the time. She is presently the manager of a woman's store known as "April

Cornell" which is located in Kierland Commons near Greenway and Scottsdale Road. The same shopping center has Cheesecake, P.F. Changs, Restoration Hardware and others. If you are in the area, stop by and visit her.

My beloved daughter, Tami and her husband, Nick, also reside in Scottsdale but have a summer home in Flagstaff which makes it very convenient for me to visit with my beloved grandchildren, Michael, Nicholas and Kyla. I love them all very much. Tami wants the kids to be Wildcats and Nick wants them to be Sun Devils. I'm a Fiji (Phi Gamma Delta) from the University of Arizona, with Nick being a Fiji from Arizona State University.

~~Joe Tissaw IV, a fourth generation Coconino County native, my stepson is~~ presently in the Navy in Jacksonville, Florida, while my other stepson, Dusty, is going to school and playing football at Mesa State in Grand Junction, Colorado (Rocky Mountain Athletic Conference). They are great and I love them both very much. We have a wonderful relationship.

I still love the Wildcats and Lumberjacks as well as the Diamondbacks, Suns, Cardinals and Coyotes. You're right. I'm still not a Sun Devil fan. I may see you at a game! If you go, call me and I'll go with you. I also plan on more time in Rocky Point so if you need a place to put your feet, let me know. Yes, I'll be retired and can be with the Members of the Bar wherever. This will be a good feeling, like it was in the 1960's when you could socialize with one another. I believe that I will be very busy in my retirement. God bless you, your families and associates and thanks for your friendship and memories.

Still Kick-n,  
(At least as of this date)

*You're great + someone  
truly appreciates  
Mike*  
Judge J. Michael Flournoy