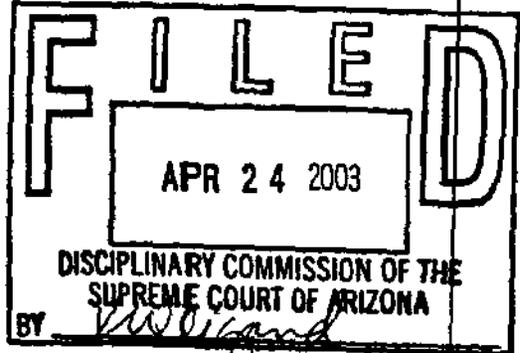


1 Maret Vessella, Bar No. 019350  
2 Deputy Chief Bar Counsel  
3 State Bar of Arizona  
4 111 West Monroe, Suite 1800  
5 Phoenix, AZ 85003-1742  
6 Telephone: (602) 340-7272



7 **BEFORE THE DISCIPLINARY COMMISSION**

8 IN THE MATTER OF A MEMBER OF ) Nos. 01-0894, 01-1686, 01-1966,  
9 THE STATE BAR OF ARIZONA, ) 01-1967, 01-2331, 01-2347,  
10 ) 02-0308, 02-0921, 02-1572,  
11 **RAMON S. MENDOZA** ) 02-1745, 02-1968  
12 **Bar No. 017374** )  
13 Respondent ) **TENDER OF ADMISSIONS AND**  
14 ) **AGREEMENT FOR DISCIPLINE**  
15 ) **BY CONSENT**

16 This Agreement is entered into between the State Bar of Arizona, through  
17 undersigned counsel and Respondent, Ramon S. Mendoza. It is submitted  
18 pursuant to Rule 56(a), Ariz.R.S.Ct., and the Guidelines for Discipline by  
19 Consent issued by the Disciplinary Commission of the Supreme Court of  
20 Arizona. Respondent agrees to the imposition of a suspension for a period of  
21 eighteen months, probation and the assessment of costs as stated herein. There  
22 were no issues of restitution raised in this matter. This agreement is subject to  
23 review and acceptance by the Disciplinary Commission and the Supreme Court  
24 of Arizona.  
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**FACTS**

1. At all times relevant hereto, Respondent was an attorney licensed to practice law in the State of Arizona, having been admitted to practice in Arizona on October 19, 1996.

**COUNT ONE (01-0894)**

2. In or about April 1998, Richard Serino retained the law offices of Benjamin R. Miranda for representation in a civil matter. At or about that time, Mr. Miranda filed a civil complaint captioned, *Richard Serino vs. Patty Sperry and City of Phoenix*, et al., docket number CV98-06074, in the Superior Court of Arizona, Maricopa County.

3. Sometime thereafter, Respondent assumed the representation of Mr. Serino in that matter.

4. In or about March 1999, the City of Phoenix made an offer of judgment to Mr. Serino in the amount of \$10,000.00.

5. Mr. Serino would testify that he was unaware of the offer of judgment and the consequences of rejecting an offer of judgment when proceeding to arbitration.

6. Respondent denies having failed to advise Mr. Serino of the offer of judgment in the case.

1           7.     In or about May 1999, Mr. Serino's case proceeded to arbitration  
2 and the arbitrator apportioned seventy percent of the liability to the City of  
3 Phoenix and thirty percent to another defendant, Sarah Norton. The arbitrator's  
4 award to Mr. Serino was \$8,800.00 plus costs in the amount of \$754.40 for a  
5 total award of \$9,554.40.  
6

7           8.     The portion of the award attributable to the City of Phoenix was  
8 \$6,688.08; however, due to the offer of judgment, the City of Phoenix was able  
9 to deduct their costs in the amount of \$400.00.  
10

11           9.     Following the arbitration, Mr. Serino contacted Respondent on  
12 several occasions requesting information concerning the status of the case and  
13 receipt of the checks.  
14

15           10.    On or about September 7, 1999, Farmer's Insurance, on behalf of  
16 defendant Sarah Norton, tendered a check in the amount of \$2,686.32 made  
17 payable to Richard Serino and Ben Miranda.  
18

19           11.    Respondent received the Farmer's Insurance check on behalf of Mr.  
20 Serino in September 1999.

21           12.    On or about October 5, 1999, defendant, City of Phoenix, tendered a  
22 check in the amount of \$6,288.08 made payable to Richard Serino and Ben  
23 Miranda.  
24  
25

1           13. Respondent received the City of Phoenix check on behalf of Mr.  
2 Serino in October 1999.

3           14. Mr. Serino continued to contact Respondent and request information  
4 concerning the checks.  
5

6           15. For approximately one year, Respondent continually advised Mr.  
7 Serino that he had not received the checks related to the arbitration.  
8

9           16. In or about August 2000, Respondent sent Mr. Serino various  
10 documents for his signature. Respondent indicated that the paperwork was  
11 necessary to conclude the case. Respondent had the checks at that time.  
12

13           17. In or about September 2000, Mr. Serino appeared in Respondent's  
14 office to sign both checks, however; the check issued on behalf of Sarah Norton  
15 for \$2,686.32 was not negotiable because it expired 180 days from issue.  
16

17           18. Respondent advised Mr. Serino that he would request a replacement  
18 check and that it would take two to three weeks.

19           19. Mr. Serino attempted to contact Respondent for the next four  
20 months to request the status of the matter. Respondent did not respond to Mr.  
21 Serino's contacts.  
22

23           20. A replacement check dated January 30, 2001 was issued.

24           21. Respondent did not disburse any funds to Mr. Serino until March  
25 2001.



1           30. In or about November 2000, Ms. Hurley contacted Respondent  
2 regarding the arbitration. Respondent advised that he had filed her case prior to  
3 the expiration of the statute of limitations.  
4

5           31. In or about January 2001, Ms. Hurley contacted Respondent to  
6 request a status update on her case and copies of filings.  
7

8           32. Respondent advised her that her case would be going to arbitration  
9 in approximately six to eight weeks.  
10

11           33. Ms. Hurley received no further information concerning arbitration in  
12 her case.  
13

14           34. In August 2001, Ms. Hurley filed a complaint with the State Bar of  
15 Arizona in regard to Respondent's professional conduct.  
16

17           35. By letter dated September 11, 2001, the State Bar wrote Respondent  
18 and requested that he respond to the allegations concerning his professional  
19 conduct. Respondent was asked to provide a response within twenty (20) days  
20 of the date of the letter.  
21

22           36. Respondent received the State Bar's letter dated September 11,  
23 2001, however, he did not respond.  
24

25           37. By letter dated October 15, 2001, the State Bar advised Respondent  
that there was no response received and that he should respond to the allegations  
in writing within ten (10) days from the date of the letter.



1           48. In or about mid-2001, Ms. Allen received a collection letter from the  
2 Bureau of Medical Economics. The letter indicated that Ms. Allen owed  
3 \$262.25 for medical treatment related to the automobile accident.  
4

5           49. Ms. Allen contacted Respondent's office to request information  
6 concerning the unpaid bills. Ms. Allen left numerous messages requesting a  
7 return call from Respondent.  
8

9           50. Respondent did not respond to Ms. Allen's contacts.

10          51. On or about October 5, 2001, Ms. Allen filed a complaint with the  
11 State Bar of Arizona in regard to Respondent.  
12

13          52. By letter dated October 17, 2001, the State Bar wrote Respondent  
14 and requested that he respond to the allegations concerning his professional  
15 conduct. Respondent was asked to provide a response within twenty (20) days  
16 of the date of the letter.  
17

18          53. Respondent received the State Bar's letter dated October 17, 2001,  
19 however, he did not respond.

20          54. By letter dated November 8, 2001, the State Bar advised Respondent  
21 that there was no response received and that he should respond to the allegations  
22 in writing within ten (10) days from the date of the letter. Respondent was also  
23 advised that failure to cooperate with a disciplinary investigation was separate  
24 grounds for discipline.  
25



1           65. At or near the running of the statute of limitation on any claims in  
2 regard to that accident, Mr. Kretschmar retained the services of Ben Miranda,  
3 Esq.  
4

5           66. Mr. Miranda initially filed a claim for Mr. Kretschmar; however, the  
6 case was soon turned over to Respondent.  
7

8           67. From late 1997 until late 1999, Mr. Kretschmar attempted to contact  
9 Respondent on a number of occasions.  
10

11           68. Respondent routinely failed to respond to Mr. Kretschmar's  
12 contacts.  
13

14           69. In or about December 2000, Mr. Kretschmar's case proceeded to  
15 arbitration.  
16

17           70. Sometime thereafter, Respondent advised Mr. Kretschmar that the  
18 arbitration ruling was in his favor. Respondent advised that the award was  
19 \$4,500.00.  
20

21           71. In February 2001, Mr. Kretschmar had not yet received any funds  
22 from Respondent.  
23

24           72. Mr. Kretschmar began calling Respondent in regard to the funds.  
25 Respondent advised Mr. Kretschmar that he would send him his portion of the  
award.

1           73. In or about July 2001, Mr. Kretschmar still had received nothing  
2 from Respondent.

3           74. On or about October 5, 2001, Mr. Kretschmar filed a complaint with  
4 the State Bar of Arizona in regard to Respondent's professional conduct.  
5

6           75. By letter dated October 17, 2001, the State Bar wrote Respondent  
7 and requested that he respond to the allegations concerning his professional  
8 conduct. Respondent was asked to provide a response within twenty (20) days  
9 of the date of the letter.  
10

11           76. Respondent received the State Bar's letter dated October 17, 2001;  
12 however, he did not respond.  
13

14           77. By letter dated November 12, 2001, the State Bar advised  
15 Respondent that there was no response received and that he should respond to  
16 the allegations in writing within ten (10) days from the date of the letter.  
17

18           78. Respondent was also advised that failure to cooperate with a  
19 disciplinary investigation was separate grounds for discipline.

20           79. By letter dated December 11, 2001, Respondent responded to the  
21 allegations in Mr. Kretschmar's complaint.  
22

23           80. Respondent further advised that he would send Mr. Kretschmar the  
24 check once it was received.  
25

1           81. By letter dated February 5, 2002, the State Bar requested additional  
2 information from Respondent. The letter advised that Respondent should  
3 provide the requested information within ten (10) days of the date of the letter.  
4

5           82. Respondent received the State Bar's letter dated February 5, 2002;  
6 however, he did not respond.

7           83. Respondent failed to take diligent action on behalf of the client.

8           84. Respondent failed to adequately communicate with his client.  
9  
10 Respondent failed to respond to reasonable requests for information.

11           85. Respondent failed to promptly deliver property belonging to his  
12 client.

13           86. Respondent failed to properly safeguard his client's property.

14           87. Respondent failed to respond to a lawful demand for information  
15 from a disciplinary authority in connection with an investigation.  
16

17  
18                                   **COUNT FIVE (01-2331)**

19           88. In or about September 2000, Mary Sevilla retained Respondent for  
20 assistance in finalizing her divorce and to obtain child support.

21           89. On or about September 6, 2000, Respondent entered his appearance  
22 on behalf of Ms. Sevilla in case captioned, *Mary Ann Sevilla v. Jose F. Larez*,  
23 DR1997-021942, filed in the Superior Court of Maricopa County.  
24  
25

1           90. A trial was scheduled in Ms. Sevilla's case on May 17, 2001 and  
2 Respondent appeared at that time.

3           91. Respondent did not contact Ms. Sevilla for three months following  
4 the trial on May 17, 2001.

5           92. Ms. Sevilla believed that she would be receiving child support and  
6 was concerned that she had not received any payment.

7           93. Ms. Sevilla attempted to contact Respondent regarding the child  
8 support issue. However, he did not respond to her inquiries in a timely manner.

9           94. Respondent advised Ms. Sevilla of some delays in the finalization of  
10 her divorce.

11           95. In or about October 2001, Ms. Sevilla again attempted to contact  
12 Respondent.

13           96. Respondent did not respond to Ms. Sevilla's contacts.

14           97. On or about November 29, 2001, Ms. Sevilla filed a complaint with  
15 the State Bar of Arizona concerning Respondent's professional conduct.

16           98. By letter dated December 14, 2001, the State Bar wrote Respondent  
17 and requested that he respond to the allegations concerning his professional  
18 conduct. The letter requested that Respondent respond within twenty (20) days  
19 to the allegations raised by Ms. Sevilla.

1           99. Respondent received the State Bar's letter dated December 14,  
2 2001; however, he did not respond.

3           100. By letter dated January 17, 2002, the State Bar advised Respondent  
4 that there was no response received and that he should respond to the allegations  
5 in writing within ten (10) days from the date of the letter. Respondent was also  
6 advised that failure to cooperate with a disciplinary investigation was separate  
7 grounds for discipline.  
8

9           101. Respondent did not respond to the State Bar's letter dated January  
10 17, 2002.  
11

12           102. Respondent failed to take action consistent with the goals of  
13 representation.  
14

15           103. Respondent failed to take diligent actions on behalf of his client.

16           104. Respondent failed to keep his client reasonably informed about the  
17 status of her case and failed to comply with requests for information.  
18 Respondent failed to provide his client with information necessary to make  
19 informed decisions concerning the representation.  
20

21           105. Respondent failed to respond to a lawful demand for information  
22 from a disciplinary authority in connection with an investigation.  
23

24           106. Respondent's conduct has been prejudicial to the administration of  
25 justice.

COUNT SIX (01-2347)

1  
2 107. In or about July 1997, Victor Melendez was injured in an  
3 automobile accident. Mr. Melendez retained Respondent for representation  
4 relating to injuries sustained in that accident.  
5

6 108. On or about July 6, 1999, Respondent filed a civil complaint  
7 captioned, *Victor Melendez v. Manuel Contreras and Arturo Cardenas et al.*,  
8 case number CV99-11948, in the Superior Court of Arizona, Maricopa County.  
9  
10 In or about November 1999, defendant, Manuel Contreras died.

11 109. In or about August 2001, the only remaining defendant, Cardenas,  
12 filed a Rule 56, Motion for Summary Judgment.  
13

14 110. Respondent did not file a response to the motion.

15 111. In or about mid-2001, after being unable to contact Respondent, Mr.  
16 Melendez contacted Janet Margrave, Esq., for representation in the matter.  
17

18 112. Ms. Margrave researched Mr. Melendez' case and advised that the  
19 case was either going to be dismissed or had already been dismissed.

20 113. Ms. Margrave made attempts to contact Respondent for Mr.  
21 Melendez' file in the matter. Respondent did not respond to Ms. Margraves'  
22 contacts.  
23

24 114. In or about December 2001, the Court granted the defendant's Rule  
25 56, Motion for Summary Judgment.

1           115. On or about November 27, 2001, Mr. Melendez filed a complaint  
2 with the State Bar of Arizona concerning Respondent's professional conduct.

3  
4           116. By letter dated December 18, 2001, the State Bar advised  
5 Respondent of the complaint filed by Mr. Melendez. Respondent was asked to  
6 respond in writing to the allegations raised. Respondent had twenty (20) days  
7 from the date of the letter to respond.

8  
9           117. Respondent received the State Bar's letter dated December 18,  
10 2001; however, he did not respond.

11           118. By letter dated January 22, 2002, Respondent was advised that the  
12 State Bar had no receipt of a response to their letter dated December 18, 2001.  
13 Respondent received the State Bar's letter; however, he did not respond.

14  
15           119. Respondent failed to take action consistent with the goals of the  
16 representation.

17           120. Respondent failed to undertake diligent representation of his client.

18  
19           121. Respondent failed to protect the interests of the client in that he  
20 failed to surrender the client file.

21           122. Respondent failed to respond to a lawful demand for information  
22 from a disciplinary authority in connection with an investigation.  
23  
24  
25

**COUNT SEVEN (02-0308)**

1  
2 123. Phyllis Magana retained Respondent's services in relation to a  
3 personal injury claim.  
4

5 124. Respondent negotiated a settlement of the claim for \$5,800.00.  
6 Respondent asserts that Ms. Magana agreed to settle the case for that amount.  
7

8 125. Respondent asserts that following the settlement he could not make  
9 contact with Ms. Magana as she moved and changed her phone number.

10 126. Ms. Magana would testify that she was not satisfied with the  
11 settlement amount and that she wanted to proceed with a hearing.

12 127. Ms. Magana made contact with Respondent and asked for a copy of  
13 her file. Respondent provided her with a copy of her file.  
14

15 128. Respondent had received checks from the Arizona Department of  
16 Administration, Risk Management Division. Respondent did not negotiate those  
17 checks.  
18

19 129. On or about February 13, 2002, Ms. Magana filed a complaint with  
20 the State Bar of Arizona concerning Respondent's professional conduct.

21 130. By letter dated March 26, 2002, the State Bar advised Respondent of  
22 the complaint filed by Ms. Magana. Respondent was asked to respond in writing  
23 to the allegations raised. Respondent had twenty (20) days from the date of the  
24 letter to respond.  
25





1 provide a response in writing to the allegations within ten (10) days of the date of  
2 the letter.

3 148. Respondent received the State Bar's letter dated August 26, 2002;  
4 however, he did not respond.  
5

6 149. Respondent failed to respond to a lawful demand for information  
7 from a disciplinary agency concerning an investigation.  
8

9 **COUNT TEN (02-1745)**

10 150. Dawne Hennessy is the owner of Koala Chiropractic ("Koala").

11 151. Koala treated several patients being represented by Respondent.

12 152. Several patients advised Koala that their claims had been settled by  
13 Respondent.  
14

15 153. Thereafter, Koala attempted to contact Respondent on numerous  
16 occasions regarding payment of their liens.  
17

18 154. Respondent did not respond to their contacts.

19 155. On or about September 5, 2002, Koala filed a complaint with the  
20 State Bar of Arizona concerning Respondent's professional conduct.

21 156. By letter dated September 16, 2002, the State Bar advised  
22 Respondent of the allegations concerning his professional conduct and requested  
23 that he provide a response in writing to the allegations within ten (10) days of the  
24 date of the letter.  
25



1           165. Following that time, the case remained inactive for five months. On  
2 or about August 4, 2000, Respondent filed a Motion to continue on the inactive  
3 calendar for a period of ninety (90) days.  
4

5           166. In or about July 2000, Ms. Cummings began making regular  
6 attempts to contact Respondent regarding her case.  
7

8           167. Respondent did not respond to her attempts to contact him.  
9

10          168. On or about September 22, 2000, Judge Howe denied the Motion to  
11 Continue on the inactive calendar.  
12

13          169. Again there was no activity on the case and on December 20, 2000,  
14 Judge Howe issued a Judgment of Dismissal without prejudice for lack of  
15 prosecution.  
16

17          170. From July 2000 through April 2001, Respondent did not respond to  
18 any of Ms. Cummings' attempts to contact him.  
19

20          171. In or about April 2001, Ms. Cummings contacted her cousin who  
21 was also a lawyer in Arizona. Ms. Cummings was advised that her case had  
22 been dismissed and that she seek independent legal counsel to determine if she  
23 could still proceed with her case.  
24

25          172. Thereafter, Ms. Cummings contacted Augustine Jimenez III, Esq.,  
regarding her case. Mr. Jimenez took steps to have Ms. Cummings' case  
reinstated.

1           173. The Court denied Ms. Cummings' motion to reopen her personal  
2 injury case against the State of Arizona.

3           174. On or about October 4, 2002, Ms. Cummings filed a complaint with  
4 the State Bar of Arizona concerning Respondent's professional conduct.

5           175. By letter dated October 24, 2002, the State Bar advised Respondent  
6 of the allegations concerning his professional conduct and requested that he  
7 provide a response in writing to the allegations within ten (10) days of the date of  
8 the letter.  
9

10           176. Respondent received the State Bar's letter dated October 24, 2002;  
11 however, did not respond.  
12

13           177. Respondent failed to take actions consistent with the goals of the  
14 representation.  
15

16           178. Respondent failed to undertake diligent action on behalf of his  
17 client.  
18

19           179. Respondent failed to keep his client reasonably informed about the  
20 status of her case and failed to comply with requests for information.  
21 Respondent failed to provide his client with information necessary to make  
22 informed decisions concerning the representation.  
23

24           180. Respondent failed to respond to a lawful demand for information  
25 from a disciplinary agency concerning an investigation.





1 The State Bar has been unable to locate Mr. Melendez since shortly after the  
2 filing of the complaint. The State Bar does not believe that it could produce Mr.  
3 Melendez at a hearing with respect to this matter. As such, the State Bar  
4 conditionally admits that without Mr. Melendez' testimony it would not be able  
5 to establish by clear and convincing evidence that Respondent failed to  
6 adequately communicate with Mr. Melendez or that any communication failed to  
7 accurately represent the status of his case.  
8  
9

10 Count Seven

11 10. Respondent conditionally admits that his conduct, as set forth in  
12 count seven above, violated Rule 42, Ariz.R.S.Ct., specifically, ER 1.3, ER 1.4,  
13 ER 8.1, and Rule 51(h) and (i).  
14

15 11. Count seven included alleged violations of ER 1.2, ER 1.15 and ER  
16 8.4. There is conflicting evidence with respect to Respondent's ultimate  
17 authority to settle Ms. Magana's claim. The State Bar conditionally admits that  
18 it could not establish by clear and convincing evidence that Respondent was not  
19 authorized to settle the claim. The State Bar also learned that the checks issued  
20 to Respondent on behalf of Ms. Magana were never negotiated. The State Bar  
21 had alleged that the negotiation of the settlement checks would have constituted  
22 a dishonest act. As Respondent did not negotiate the checks, the charge that he  
23 engaged in dishonest conduct is not supported by the evidence. Therefore, the  
24  
25

1 State Bar conditionally admits that it could not prove that Respondent failed to  
2 deliver client property and that his conduct was dishonest.

3  
4 Count Eight

5 12. Respondent conditionally admits that his conduct, as set forth in  
6 count eight above, violated Rule 42, Ariz.R.S.Ct., specifically, ER 8.1 and Rule  
7 51(h) and (i).

8  
9 13. Count eight included alleged violations of ER 1.2, ER 1.3, and ER  
10 1.4. The State Bar has been unable to locate Mr. Rojo since shortly after filing  
11 the complaint. The State Bar does not believe that it could produce Mr. Rojo at a  
12 hearing in this matter. As such, the State Bar conditionally admits that it could  
13 not prove by clear and convincing evidence that Respondent failed to take action  
14 consistent with the goals of the representation; failed to act with diligence or  
15 failed to adequately communicate.  
16

17  
18 Count Nine

19 14. Respondent conditionally admits that his conduct, as set forth in  
20 count nine above, violated Rule 42, Ariz.R.S.Ct., specifically, ER 8.1 and Rule  
21 51(h) and (i).  
22  
23  
24  
25



1           a.     Respondent shall within thirty (30) days of the date of an  
2 order reinstating him to the practice of law contact the Director of the Law  
3 Office Management Program and submit to a LOMAP audit. Respondent shall  
4 sign a contract for LOMAP including any necessary terms. Respondent shall be  
5 required to follow the recommendations made pursuant to the LOMAP audit. A  
6 failure to comply with any term of the LOMAP contract will result in a notice of  
7 noncompliance as a violation of a term of probation. A Memorandum of  
8 Understanding shall be incorporated herein by this reference.  
9  
10

11           b.     Respondent shall contact the MAP Director within thirty (30)  
12 days of an order of reinstatement and shall submit to a MAP assessment. If  
13 deemed appropriate by the Director, a Memorandum of Understanding shall be  
14 drafted by the Director which will include all terms and reporting requirements.  
15 The Memorandum of Understanding shall be incorporated herein by this  
16 reference. A failure to comply with any term of the MAP contract will result  
17 in a notice of noncompliance as a violation of a term of probation.  
18  
19

20           3.     Respondent shall pay all costs and expenses incurred by the State  
21 Bar in these disciplinary proceedings against Respondent. A Statement of Costs  
22 is attached hereto as "Exhibit A".  
23  
24  
25

1           4.     Respondent shall pay all costs and expenses incurred by the Hearing  
2 Officer; the Disciplinary Commission; the Supreme Court, and the Disciplinary  
3 Clerk's Office in this matter.  
4

5           5.     There were no issues of restitution.

6           6.     In the event Respondent fails to comply with any of the foregoing  
7 terms, and information thereof is received by the State Bar of Arizona, Bar  
8 Counsel shall file a Notice of Noncompliance with the imposing entity pursuant  
9 to Rule 52(a)(6)(C), Ariz.R.S.Ct. The matter may be referred to a hearing officer  
10 to conduct a hearing at the earliest practical date, but in no event, less than thirty  
11 (30) days following receipt of said Notice. If the matter is referred to a hearing  
12 officer, the hearing officer shall determine whether the terms of probation have  
13 been breached and, if so, to recommend appropriate action and response to such  
14 breach. If there is an allegation that Respondent failed to comply with any of the  
15 foregoing terms, the burden of proof shall be on the State Bar of Arizona to  
16 prove non-compliance by a preponderance of the evidence.  
17  
18  
19

20           Respondent is not represented by counsel in this matter. Respondent, by  
21 entering into this Agreement, waives his right to a formal disciplinary hearing  
22 that he would otherwise be entitled to pursuant to Rule 53(c)(6), Ariz.R.S.Ct.,  
23 and the right to testify or present witnesses on his behalf at a hearing.  
24 Respondent further waives all motions, defenses, objections, or requests which  
25

1 he has made or raised, or could assert hereinafter, if the conditional admissions  
2 and stated form of discipline are approved. Respondent acknowledges that he  
3 has read this Agreement and has received a copy of it.  
4

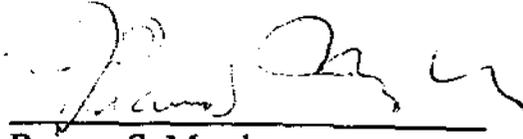
5 This Tender of Admissions and Agreement for Discipline by Consent will  
6 be submitted to the Disciplinary Commission for approval. Respondent realizes  
7 that the Disciplinary Commission may order a hearing officer to conduct an  
8 evidentiary hearing, if necessary. Respondent further recognizes that the  
9 Disciplinary Commission may recommend rejection of this Agreement or may  
10 propose modifications. Respondent further understands the Disciplinary  
11 Commission must approve this Agreement and that this matter will become final  
12 upon judgment and order of the Supreme Court of Arizona. If the Agreement is  
13 rejected, the parties' conditional admissions are withdrawn.  
14  
15

16 DATED this 24<sup>th</sup> day of April, 2003.  
17  
18

19 STATE BAR OF ARIZONA  
20

21 Maret Vessella  
22 Maret Vessella  
23 Deputy Chief Bar Counsel  
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 

5 **Ramon S. Mendoza**  
6 **Respondent**

7  
8  
9 **Approved as to form and content:**

10 

11 **Robert Van Wyck**  
12 **Chief Bar Counsel**  
13 **State Bar of Arizona**

14  
15 **Original filed with the Disciplinary Clerk of**  
16 **the Supreme Court this 21 day of**  
17 **April, 2003, at:**

18 **Disciplinary Clerk**  
19 **Certification and Licensing Division**  
20 **Supreme Court of Arizona**  
21 **1501 West Washington Street, Suite 104**  
22 **Phoenix, AZ 85007-3329**

23 **Copy of the foregoing mailed this 24**  
24 **day of April, 2003, to:**

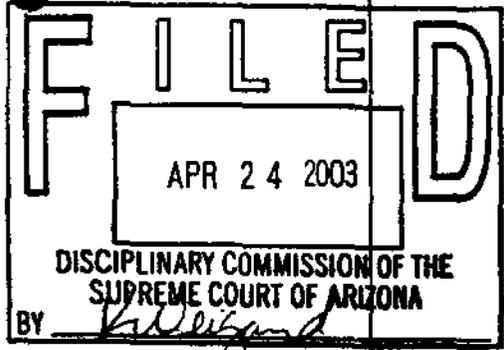
25 **Ramon S. Mendoza**  
**P.O. Box 1207**  
**Peoria, AZ 85380**  
**Respondent**

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Copy of the foregoing hand-delivered this  
24 day of April, 2003, to:

Lawyer Regulation Records Manager  
State Bar of Arizona  
111 West Monroe Street, Suite 1800  
Phoenix, AZ 85003-1742

by:   
MV/cs



1 **Maret Vessella, Bar No. 019350**  
2 **Deputy Chief Bar Counsel**  
3 **State Bar of Arizona**  
4 **111 West Monroe, Suite 1800**  
5 **Phoenix, AZ 85003-1742**  
6 **Telephone: (602) 340-7272**

7 **BEFORE THE DISCIPLINARY COMMISSION**

8 **IN THE MATTER OF A MEMBER OF ) Nos. 01-0894, 01-1686, 01-1966,**  
9 **THE STATE BAR OF ARIZONA, ) 01-1967, 01-2331, 01-2347,**  
10 **RAMON S. MENDOZA ) 02-0308, 02-0921, 02-1572,**  
11 **Bar No. 017374 ) 02-1745, 02-1968**  
12 **Respondent )**  
13 **JOINT MEMORANDUM IN**  
14 **SUPPORT OF AGREEMENT**  
15 **BY CONSENT**

16 **The State Bar of Arizona, through undersigned counsel, and Respondent,**  
17 **Ramon S. Mendoza, hereby submit their Joint Memorandum in Support of the**  
18 **Agreement for Discipline by Consent filed contemporaneously herewith.**

19 **The State Bar of Arizona and Respondent agree that Respondent shall be**  
20 **suspended for a period of eighteen months, serve a two-year term of probation and**  
21 **pay the costs incurred in this disciplinary proceeding. There was no issue of**  
22 **restitution raised in this matter.**

23 **In arriving at the agreed upon sanctions, consideration was given to the**  
24 **ABA Standards for Imposing Lawyer Sanctions (Standards), particularly**  
25

1 Standard 4.4. The misconduct predominant throughout the counts in this  
2 agreement demonstrates Respondent's failure to act diligently and to adequately  
3 communicate with his clients. Suspension is generally appropriate when a  
4 lawyer knowingly fails to perform services for a client and causes injury or  
5 potential injury to a client; or a lawyer engages in a pattern of neglect and causes  
6 injury or potential injury to a client. Standard 4.42. The presumptive sanction  
7 for the admitted conduct is a term of suspension.  
8  
9

10 Following determination of the presumptive sanction, it is appropriate to  
11 evaluate factors which are enumerated under the Standards as justifying an  
12 increase or decrease in the presumptive sanction. In the instant matter there are  
13 several aggravating and mitigating factors to be considered.  
14

15 The admitted conduct in this matter demonstrates a pattern of misconduct  
16 as well as multiple offenses. See, Standard 9.22(c) and (d). Respondent's failure  
17 to cooperate in the investigation of the charges and provide responses is viewed  
18 as an obstruction of the disciplinary process. Respondent's failure to provide  
19 information in this matter is considered an aggravating factor. Standard 9.22(e).  
20

21 In mitigation, Respondent has no prior disciplinary record. Standard  
22 9.32(a). His misconduct does not appear to be the product of a selfish or  
23 dishonest motive. Standard 9.32(b). Respondent also asserts that he has and  
24 currently is experiencing personal and emotional problems. In December 1996  
25

1 Respondent and his wife suffered the loss of a child who was born and died on  
2 the same day. At that time, Respondent experienced symptoms consistent with  
3 depression; however, he did not immediately seek out medical intervention and  
4 was therefore not diagnosed and treated. Respondent did not address the feelings  
5 he was having about his loss. This condition persisted for several years.  
6 Respondent's condition worsened in late 2000 into 2001. Respondent sought  
7 counseling on an intermittent basis. Currently, Respondent is addressing his  
8 personal issues. See, "Exhibit A"  
9  
10

11 Respondent also recognized that he needed to make changes in his  
12 practice, which better suited his specific needs. Respondent closed his private  
13 practice in October 2001. The pressures of operating his own law office were  
14 overwhelming under the circumstances. Respondent began practicing as a  
15 prosecutor for the Gila River Indian Community. Since stopping his private  
16 practice, Respondent has not been the subject of a charge of misconduct.  
17  
18  
19 Standard 9.32(c).

### 20 PROPORTIONALITY ANALYSIS

21 There are several cases that consider conduct similar in nature to the facts  
22 presented herein. Those cases reflect a range of disciplinary sanctions based on  
23 the specific circumstances of each matter.  
24  
25

1           In *Matter of McFadden*, SB00-0072-D (2000), the lawyer was suspended  
2 for a period of two years for his failure to perform services for which he was  
3 retained. McFadden was the subject of a five-count complaint where it was  
4 alleged that he failed to communicate with his clients, failed to respond to their  
5 repeated inquiries and failed to return unearned retainers. McFadden also failed  
6 to respond to the State Bar in its investigation of those matters. There were  
7 three factors considered in aggravation of the misconduct; multiple offenses, bad  
8 faith obstruction of the disciplinary process and substantial experience in the  
9 practice of law. McFadden had no prior disciplinary record, which was  
10 considered in mitigation.  
11

12  
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14           In *Matter of McCarthy*, SB-01-0121-D (2001), the lawyer was the subject  
15 of a three-count complaint alleging his failure to communicate with his clients, a  
16 failure to act with reasonable diligence, the failure to return an unearned fee and  
17 the failure to respond to the State Bar in its investigation of the matter.  
18 McCarthy was suspended for two years for his misconduct. Three factors were  
19 considered in aggravation; a pattern of misconduct, multiple offenses and bad  
20 faith obstruction of the disciplinary process. McCarthy had no prior disciplinary  
21 record, which was considered in mitigation.  
22  
23

24           In *Matter of McGuire*, SB-99-0029-D (1999), the lawyer was the subject  
25 of a four-count complaint alleging that he did not adequately communicate with

1 his clients, failed to prepare necessary documents, abandoned the clients, and in  
2 at least two instances failed to return unearned retainers and personal property  
3 belonging to the clients. In the investigation of these matters, McGuire failed to  
4 cooperate with the State Bar. In aggravation of the misconduct the Commission  
5 agreed that the matter involved multiple offenses and the lawyer engaged in the  
6 bad faith obstruction of the disciplinary process by failing to respond to the State  
7 Bar in its investigation. McGuire's lack of a prior disciplinary history was  
8 considered in mitigation of the misconduct. The lawyer was suspended for two  
9 years.  
10  
11

12         In *In Re Augenstein*, 178 Ariz. 133, 871 P.2d 254 (1994), the lawyer was  
13 the subject of a three-count complaint. Augenstein was suspended for a period  
14 of two years for his failure to provide competent representation, a failure to act  
15 diligently and communicate with his clients. Augenstein also failed to cooperate  
16 with the Bar in its investigation of the matter. Considered in aggravation was a  
17 pattern of misconduct, multiple offenses, a failure to cooperate with the State  
18 Bar, vulnerability of at least one victim, indifference to making restitution and a  
19 prior disciplinary record. In mitigation Augenstein had no selfish or dishonest  
20 motive and was remorseful.  
21  
22  
23

24         In *Matter of Levenson*, SB-02-0130-D (2002), the lawyer was suspended  
25 for a period of one year. Levenson involved four counts. Essentially, Levenson

1 was dilatory in his actions, failed to communicate with several clients and failed  
2 to cooperate with the State Bar in its investigation. Levenson offered in  
3 mitigation the lack of any prior discipline, the absence of a selfish or dishonest  
4 motive, mental disability or impairment and remorse.<sup>1</sup> In aggravation, the  
5 misconduct involved multiple offenses, vulnerability of victims and substantial  
6 experience in the practice of law.  
7

8  
9 Respondent's conduct is consistent with the cases cited herein. In  
10 determining an appropriate sanction there were certain distinctions, which could  
11 be drawn between the various cases. Respondent's conduct involved more client  
12 complaints and instances of failing to cooperate with the State Bar than those  
13 cases that resulted in a two-year suspension. However, those cases did not  
14 involve any issues of personal or emotional problems. Levenson involved fewer  
15 instances of misconduct with extensive proof of a chemical dependency, which  
16 was ultimately considered as mitigating his misconduct. The case law  
17 demonstrates an acceptable range for the admitted conduct and the agreed upon  
18 sanction is within that range.  
19  
20

21 The foregoing cases support the conclusion that an eighteen-month  
22 suspension is proportionate to cases involving similar misconduct. The Consent  
23

24  
25 <sup>1</sup> Although the Disciplinary Commission recommended acceptance of the Agreement and Joint  
Memorandum, it noted that the four-prong criteria required in proving mitigating factor 9.32(i)  
mental disability or chemical dependency, was not satisfied. Presumably this factor was  
considered under 9.32(c) personal and emotional problems.

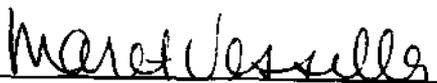
1 Agreement meets the purposes of the disciplinary system in that it serves to  
2 protect the public, provides deterrence, instills confidence in the public and  
3 maintains the integrity of the Bar.  
4

5 CONCLUSION

6 The objective of lawyer discipline is not to punish the lawyer, but to protect  
7 the public, the profession, and the administration of justice. *In re Neville*, 147 Ariz.  
8 106, 708 P.2d 1297 (1985). Recognizing that it is the prerogative of the  
9 Disciplinary Commission to determine the appropriate sanction, it is nevertheless  
10 the belief of the State Bar of Arizona and Respondent that the objectives of  
11 discipline will be met by the imposition of the proposed sanction.  
12

13  
14 DATED this 24<sup>th</sup> day of April, 2003.

15 STATE BAR OF ARIZONA

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17   
18 Maret Vessella  
19 Deputy Chief Bar Counsel

20   
21 Ramon S. Mendoza  
22 Respondent

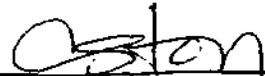
23 Approved as to form and content:

24   
25 Robert Van Wyck  
Chief Bar Counsel  
State Bar of Arizona

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