

David L. Sandweiss, Bar No. 005501
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602) 340-7272
Email: LRO@staff.azbar.org

J. Scott Rhodes, Bar No. 016721
Jennings Strouss & Salmon PLC
1 E. Washington Street, Suite 1900
Phoenix, Arizona 85004-2554
Telephone (602) 262-5862
Email: srhodes@jsslaw.com
Respondent Goodman's Counsel

Jessica J. Kokal, Bar No. 029042
Broening Oberg Woods & Wilson PC
2800 N. Central Avenue, Suite 1600
Phoenix, Arizona 85004-1047
Telephone (602) 271-7739
Email: jjk@bowwlaw.com
Respondent Moscarello's Counsel

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF MEMBERS
OF THE STATE BAR OF
ARIZONA,**

**CLINT G. GOODMAN,
Bar No. 024188,**

and

PDJ 2020-9105

State Bar File Nos. 20-0294 and 20-0831

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

ASHLEY NICOLE MOSCARELLO,
Bar No. 032572,

Respondents.

The State Bar of Arizona; Respondent Clint G. Goodman who is represented by J. Scott Rhodes; and Respondent Ashley Nicole Moscarello who is represented by Jessica J. Kokal, hereby submit their Agreement for Discipline by Consent (“Agreement”) pursuant to Rule 57(a), Ariz. R. Sup. Ct.¹ This Agreement is the product of extensive negotiations among the parties, including a lengthy settlement conference, and represents the parties’ good-faith compromise positions.

A probable cause order was entered on October 14, 2020. A formal complaint was filed November 9, 2020. Respondents voluntarily waive the right to an adjudicatory hearing, unless otherwise ordered, and waive all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admissions and proposed form of discipline are approved.

The State Bar is the complainant in this matter; therefore notice of this agreement under Rule 53(b)(3) is not required.

¹All references to rules are to the Arizona Rules of the Supreme Court unless otherwise stated.

Respondent Goodman conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 8.4(d) and 5.1. Respondent Moscarello conditionally admits that her conduct, as set forth below, violated Rule 42, ER 8.4(d). Upon acceptance of this agreement, each Respondent agrees to accept a Reprimand with Probation, the terms of which are set forth below. Each Respondent also agrees to pay the costs and expenses of the disciplinary proceeding within 30 days from the date of this order. If costs are not paid within the 30 days interest will begin to accrue at the legal rate.² The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

FACTS

1. At all relevant times: Respondent Clint G. Goodman (Goodman) was a lawyer licensed to practice law in Arizona having been admitted to practice in Arizona on January 20, 2006; Respondent Ashley Nicole Moscarello (Moscarello) was a lawyer licensed to practice law in Arizona having been admitted to practice in Arizona on November 2, 2015; and Moscarello was an associate at Goodman's law firm.

²Respondents understand 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.

2. Among their areas of practice Respondents represented, and still represent, Homeowners Associations (HOA) in, among other areas, dues and assessments collection cases against HOA members. The representation often calls for litigation against HOA members, obtaining judgments, sometimes by default, and seeking an award of attorney's fees. Respondents' fee agreements with their HOA clients sometimes called for hourly fees, sometimes flat fees, sometimes "no cost" fees (i.e., that for litigated cases the firm agrees to pursue collection of attorney fees in an amount awarded by the court exclusively from the defendants), and sometimes blends of each type of fee depending on the client or task.

3. From early 2017 to July 2020, Moscarello on behalf of the firm sought 133 judgments by default against HOA members to include, among other things, attorney's fees. She signed fee applications and affidavits verifying that she and the firm's paralegals expended specific units of time on listed tasks, charged at an hourly rate (often referred to as the lodestar method of calculating attorney's fees). Moscarello used forms for these purposes that Goodman had prepared and instructed her to use.

4. In cases or tasks calling for a flat or no cost fee, the affidavits Goodman provided and Moscarello signed were, in part, misleading, because the

affidavits created the impression that Moscarello and her paralegals spent more time on tasks than they actually spent, resulting in seemingly excessive charges. Respondents had intended to justify the reasonableness of their flat fees by “reverse engineering” those fees, or stating the assumptions used in determining the amount of each flat-fee task. However, the affidavits were misleading because they did not explain that the fee structure included flat fees or the “reverse engineering” that was used. The fee application that Moscarello signed stated: “An itemization of the time spent in this matter, with detailed descriptions, hourly rates, and the like are set forth in Exhibit A attached hereto.” That statement was untrue as applied to the flat-fee and no cost structure, because neither Moscarello nor her support staff, individually or in combination, spent the stated time on each of the itemized tasks.

5. Two Pima County Superior Court judges in Respondents’ flat fee cases required Goodman and Moscarello to appear in court because they had concerns about their fee applications. For example, in two cases Respondents itemized 12.2 hours of work by legal assistant Janelle Cordova on October 29, 2019, in each case, or 24.4 hours in one 24-hour day. For another example, in two cases Respondents itemized that Respondent Moscarello spent 1.7 hours on each

case on the same dates. These were examples of the “reverse engineering” approach described above, but because that approach was not explained, the information included on the affidavits was inaccurate.

6. After conducting the hearings, Pima County Judge Brenden Griffin in *Continental Ranch Community Association v. Sowinski*, C20193504 (Judge Griffin case), and Pima County Judge Paul Tang in *Continental Ranch Community Association v. Sonethongkham*, C20193506 (Judge Tang case), ordered Respondents to self-report their conduct to the State Bar. Respondents timely complied with each order.

7. Judge Griffin observed that Respondents itemized:

35.8 hours of paralegal and attorney time . . . to prosecute what appears to be a routine HOA-dues default case. Spending the equivalent of a whole work week on a routine HOA-dues default case to recover \$689.17 in HOA dues doesn't appear, on its face, reasonable. [T]wo entries seem to show that a paralegal and attorney combined spent 2.8 hours to review, finalize, and lodge a proposed standard form of default judgment.

8. Judge Griffin took judicial notice of other default filings Respondents prepared for the same HOA client:

A cursory review of those filings reveals that many of them are substantially the same as the filings in this case, suggesting that much of the paralegal and attorney work at issue here is “cookie

cutter” in nature, making the claimed fees appear even more inflated and questionable.

9. Respondents explained to Judges Griffin and Tang the “reverse engineering” approach explained above and stated that the firm had determined the flat fee to charge HOA clients based on assumptions of how long it typically takes to perform certain tasks. Although the actual time spent on a particular case may or may not match the assumptions, flat fees are acceptable, so they applied for fees using itemizations of time to reach the flat fee result.

10. Judge Griffin was at first skeptical:

THE COURT: So when I look at this, it’s telling me that an hourly rate is being used, a lodestar method is being used, but, having looked at this, it looks like what’s happening is you’re taking a flat fee and reverse engineering it to fit a lodestar calculation.

Am I correct?

MR. GOODMAN: Yes, Your Honor.

THE COURT: ... I'm really having a hard time understanding why this was not intentional, [whether] someone decided to say, hey, rather than telling the judge we use a flat fee, is there a way we can do this where it looks like we've actually done a lot of work on this case?

MR. GOODMAN: I assure you that is not our intention on our end, Your Honor. I mean, I'm telling you that is not what the intention was. It's a misjudgment on my part on how we can present to the Court entries, time entries, and understanding lodestar versus flat fee. And I do not have that misunderstanding moving forward, and we've made corrections within the firm. ...

11. Respondents told the courts they believed in good faith that the best way to demonstrate the reasonableness of their flat fee was to break it down into itemized hourly tasks. They further explained that they thought this approach would enable the court to evaluate their fee request by seeing the assumptions on which they based their flat fee amounts rather than merely stating a "bottom line" amount for each flat fee service. They informed Judge Griffin that his OSC was the first time any judge had raised a concern. Before then, they had not considered that their approach might create the false impression (that they characterize as unintentional and inadvertent) that the hours stated on their fee application were hours actually spent on each flat fee service.

12. Respondents told Judge Griffin that many HOAs use flat fees as their business model. Judge Griffin replied: “[T]he model itself doesn't concern me, if I had been told exactly what's going on.”

13. Respondents’ conduct prejudiced the administration of justice, illustrated by the following chronology:

a. On November 8, 2019, Judge Griffin ordered Respondent Moscarello to file a complete copy of the fee agreement and ordered her to appear for an OSC on December 19, 2019, to defend the reasonableness of the sought attorney’s fees.

b. On November 18, 2019, Respondents filed an Amended Application and Affidavit for Attorney’s Fees in the Judge Tang case reflecting “a professional discount” of \$2,350.00 and asking for \$1,500 in fees.

c. Respondents did not inform Judge Tang that the fee agreement was for a no cost flat fee.

d. On November 20, 2019, Respondents filed their fee agreement in the Judge Griffin case.

e. Respondents also filed a Notice of Settlement waiving \$1,775.00 in fees (reducing the amount claimed to \$2,500), and a Motion to Dismiss and Motion to Vacate the December 19 OSC.

f. Judge Griffin denied both motions on November 21, 2019.

g. Judge Griffin conducted the OSC on December 19, 2019.

h. On January 14, 2020, in the Judge Tang case, Respondents filed a Second Amended Application and Affidavit for Attorney's Fees disclosing that the fee agreement called for a flat fee.

i. The Second Amended Fee Application and Affidavit filed in the Judge Tang case contained two math errors. Specifically, the Affidavit noted the firm billed \$3800 in flat fees, not \$3,850 as the initial Application asserted. The Second Amended Affidavit also listed separate flat fee services in the matter that totaled only \$3,400.

j. Respondents agreed to discount their fee to \$1,500 and claimed slightly more in costs than before.

k. On January 27, 2020, Respondents filed a Third Amended Application, correcting the flat fee to \$3,850 and preserving the same discount to \$1,500.

14. In the Judge Griffin case, on December 19, 2019, Judge Griffin

decided:

THE COURT FINDS that the Affidavit of Attorney's Fees that was filed in court as Exhibit 1 is false, in particular paragraph five. That the falsity is for example, that the itemization the affidavit refers to purports to show that the time spent in this matter is with detailed descriptions and hourly rates as if a lodestar method was used to calculate the fees. By lodestar method, the court means multiplying a reasonable hourly rate by a reasonable number of hours spent to do the work. This is false because the affidavit language says a lodestar method was used to calculate rates when it was not. Instead, a flat fee was used and the itemization was created by reverse engineering the flat fee into an hourly rate and time spent calculation. The affidavit and no other associated filing discloses that a flat fee rate was

actually being charged.^{3]} This appears to be a pattern of practice, not just relevant to this case but to other cases in which their affidavit has been used.

The Court believes that this practice implicates Rule 11 as well as the duty of candor to the court. That being said, based on what the Court has heard from the attorneys today, the Court does not believe the attorneys were acting nefariously or with any sort of bad intent. Because of that, the court is not reporting these two attorneys to the Bar but is ordering that they self-report to the Bar no later than January 31, 2020....

15. In the Judge Tang case, Judge Tang held a hearing on the requested fees on February 3, 2020. Besides questioning the use of the lodestar method in a flat fee case, Judge Tang asked why Respondents' initial and several amended fee applications were reasonable in a suit for a principal amount that had grown to only \$1,568.17, even if accurately asserted as a flat fee. For example, Judge Tang questioned how it was reasonable to bill the legal assistant's time at a flat fee of \$1,250 to prepare a form complaint. On a lodestar basis, at the legal assistant's billing rate it would have taken 8.6 hours of work on a form complaint to generate a bill of \$1,250. Judge Tang awarded \$1,000 in fees and disallowed some costs.

16. In the Judge Griffin case, Respondents settled the attorney's fees issue with the Sowinskis for a reduced amount to be paid over time.

³Judge Griffin probably meant to say: "Neither the affidavit nor any other associated filing discloses that a flat fee rate was actually being charged."

17. Respondents explained to Judges Griffin and Tang, and to the State Bar, that it is incorrect to characterize HOA collections cases as “cookie cutter” cases and that it is unfair to characterize their attorney’s fees as unreasonable just because they seem disproportionate to the principal amount of the underlying debt. Federal and state debt collection laws impose stringent requirements on creditors and their lawyers, and impose severe penalties on them for failing to abide by prescribed practices. Thus, considerable effort goes into assuring complaints are accurate and otherwise meet statutory mandates before they are filed, steps that are not evident on the face of a court filing.

18. Judge Griffin stated during the OSC hearing: “I don’t think this was done with any nefarious intent. I think the two of you were just trying to figure out how to do your work in an efficient, easy manner, given all of the regulations that are imposed on you. That being said, I still think this is serious. And so . . . I’m going to be ordering both of you to report yourselves to the bar and what happened here, in terms of how you’ve been using this affidavit with the lodestar method and not telling the Court about a flat fee, so that you can work with the bar to figure out what you need to do going forward, and maybe backward, to remedy this. If this was just a one-off, if this was just the only time, you know, I think what you’re

telling me would be enough. But, based on my review of the files, this has happened a lot and not just in these cases for this client.”

19. Respondents have since amended their attorney’s fees application and affidavit forms to clarify and delineate which fees are charged hourly, as a flat fee, or on a no cost fee basis.

20. The State Bar learned through discovery and investigation that even before the Judge Griffin and Tang cases, some courts routinely awarded Respondents’ clients less in attorney’s fees than the amounts Respondents requested. Pima County Superior Courts reduced Respondents’ fees in six to seven out of every ten cases. Maricopa County Superior Courts reduced fees in 21 of 28 cases bar counsel examined. Generally, courts protected defaulting defendants against excessive fee awards. Respondents lowered their flat fee amounts in response to the courts’ reductions, but because they had not yet realized that their fee applications were misleading, they did not modify their fee application forms and practices until after the Judge Griffin and Judge Tang cases.

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 Goodman conditionally admits he violated Rule 42, ERs 8.4(d) and ER 5.1. Respondent Moscarello conditionally admits she violated Rule 42, ER 8.4(d).

CONDITIONAL DISMISSALS

The State Bar conditionally agrees to dismiss charges that Respondents violated Rule 42, ERs 1.5, 3.3, and 8.4(c).

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondents and the State Bar of Arizona agree that based on the facts and circumstances of this matter each Respondent should be sanctioned by a Reprimand with Probation for one (1) year. The terms of probation are:

1. CLE: In addition to annual MCLE requirements Respondents shall complete Continuing Legal Education (“CLE”) programs on the following two topics: a) ethically collecting fees and b) candor to the tribunal, within 90 days from the date of service of the Order accepting this consent agreement. Respondents shall provide the State Bar Compliance Monitor with evidence of completion of the programs by

providing a copy of handwritten notes and certificate of completion. Respondents should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondents will be responsible for the cost of the CLE.

Respondents shall commit no further violations of the Rules of Professional Conduct.

NON-COMPLIANCE WITH PROBATION

If Respondents fail to comply with any of the foregoing probation terms and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5). The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondents breached a term of probation and, if so, to recommend an appropriate sanction. If the State Bar alleges that Respondents 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.

If Respondents violate any of the terms of this agreement, the State Bar may bring further discipline proceedings.

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.

In determining an appropriate sanction the Court considers 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. *Standard* 3.0.

The duty violated

Respondents violated their duties to the legal system, and Respondent Goodman also violated his duty to the legal profession.

The lawyer's mental state

Respondents conducted themselves negligently in the manners described above. Although they should have known that information in the fee applications and affidavits Goodman prepared and Moscarello signed was not true, they did not intend to deceive courts.

The extent of the actual or potential injury

There was actual harm to the legal system and the legal profession.

The parties agree that the following *Standards* apply:

Goodman and Moscarello:

Standard 6.13-Reprimand is generally appropriate when a lawyer is negligent either in determining whether statements or documents are false or in taking remedial action when material information is being withheld, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

Goodman only:

Standard 7.3-Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

Aggravating and mitigating circumstances

The presumptive sanction is Reprimand. The parties conditionally agree that the following aggravating and mitigating factors should be considered but do not require deviation from the presumptive sanction:

In aggravation: *Standard 9.22*--

(c) a pattern of misconduct (Goodman and Moscarello);

(d) multiple offenses (Goodman);

(i) substantial experience in the practice of law (Goodman);

In mitigation: *Standard 9.32--*

(a) absence of a prior disciplinary record (Goodman and Moscarello);

(b) absence of a dishonest or selfish motive (Goodman and Moscarello);

(d) timely good-faith effort to rectify misconduct (Goodman and Moscarello

– both Respondents promptly modified their fee applications and retained Lynda Shely to conduct additional training for all firm personnel);

(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings (Goodman and Moscarello);

(f) inexperience in the practice of law (Moscarello);

(g) character or reputation (Goodman and Moscarello – Both Respondents disclosed character witnesses who would have testified at the hearing on this matter));

(l) remorse (Goodman and Moscarello).

Discussion

The parties agree the presumptive sanction should be maintained and augmented by probation (CLE). The forms Goodman prepared and directed Moscarello to use, and that Moscarello signed under oath, notwithstanding their

benign subjective intent, had the effect of misleading courts and instigated otherwise unnecessary judicial investigations into their honesty and conduct. The State Bar recognizes its clear and convincing evidence burden to prove deceptive intent at a hearing. Judge Griffin, who was at the point of impact, equivocated. On the one hand, he concluded Respondents did not act “nefariously” or with “bad intent” but, on the other hand, that their fee applications were “false” and their conduct implicated Civil Procedure Rule 11 and the duty of candor to the court. A fair resolution of these cases is reprimand with probation in exchange for the State Bar’s agreement to conditionally dismiss the ER 3.3 and 8.4(c) charges.

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. In re *Peasley*, 208 Ariz. 27 (2004). Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the

proposed sanction of Reprimand with Probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 30th day of April 2021.

STATE BAR OF ARIZONA

David L. Sandweiss

David L. Sandweiss
Senior Bar Counsel

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

DATED this _____ day of April, 2021.

Clint G. Goodman
Respondent

DATED this _____ day of April, 2021.

Jennings Strouss & Salmon PLC

J. Scott Rhodes
Respondent Goodman's Counsel

proposed sanction of Reprimand with Probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this _____ day of April 2021.

STATE BAR OF ARIZONA

David L. Sandweiss
Senior Bar Counsel

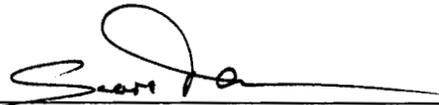
This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this 29th day of April, 2021.

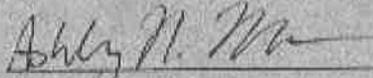

Clint G. Goodman
Respondent

DATED this 29th day of April, 2021.

Jennings Strouss & Salmon PLC

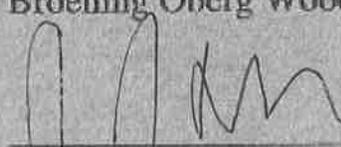

J. Scott Rhodes
Respondent Goodman's Counsel

DATED this 29 day of April, 2021.



Ashley Nicole Moscarello
Respondent

DATED this 30 day of April, 2021.

Broening Oberg Woods & Wilson PC


Jessica J. Kokal
Respondent Moscarello's Counsel

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 ___ day of April, 2021.

DATED this _____ day of April, 2021.

Ashley Nicole Moscarello
Respondent

DATED this _____ day of April, 2021.

Broening Oberg Woods & Wilson PC

Jessica J. Kokal
Respondent Moscarello's Counsel

Approved as to form and content

Maret Vessella

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 30th day of April, 2021.

Copy of the foregoing emailed
this 30th day of April, 2021, to:

J. Scott Rhodes
Jennings Strouss & Salmon PLC
1 E. Washington Street, Suite 1900
Phoenix, Arizona 85004-2554
Email: srhodes@jsslaw.com
Respondent Goodman's Counsel

Jessica J. Kokal
Broening Oberg Woods & Wilson PC
2800 N. Central Avenue, Suite 1600
Phoenix, Arizona 85004-1047
Email: jjk@bowwlaw.com
Respondent Moscarello's Counsel

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: *Jennifer Smith*
DL8/js

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Clint G. Goodman, Bar No. 024188, Respondent

File No. 20-0294

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.

Additional Costs

04/09/21 Alliance reporting, Deposition of Clint Goodman \$ 555.15

Total for additional costs \$ 555.15

TOTAL COSTS AND EXPENSES INCURRED \$ 1,755.15

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Ashley Nicole Moscarello, Bar No. 032572, Respondent

File No. 20-0831

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.

Additional Costs

04/02/21 Alliance reporting, deposition of Ashley Moscarello \$ 622.20

Total for additional costs \$ 622.20

TOTAL COSTS AND EXPENSES INCURRED \$1,822.20

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF MEMBERS
OF THE STATE BAR OF ARIZONA,**

**CLINT G. GOODMAN,
Bar No. 024188,**

and

**ASHLEY NICOLE MOSCARELLO,
Bar No. 032572,**

Respondents.

PDJ 2020-9105

**FINAL JUDGMENT AND
ORDER**

State Bar Nos. 20-0294 and 20-0831

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

Accordingly:

IT IS ORDERED that Respondent, Clint G. Goodman, is Reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent, Ashley Nicole Moscarello, is Reprimanded for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondents are placed on probation for one (1) year. The terms of probation are:

- a) CLE: In addition to annual MCLE requirements, Respondents shall complete Continuing Legal Education (“CLE”) programs on the following two topics: a) ethically collecting fees and b) candor to the tribunal, within 90 days from the date of service of this Order. Respondents shall provide the State Bar Compliance Monitor with evidence of completion of the programs by providing a copy of handwritten notes and certificate of completion. Respondents should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondents will be responsible for the cost of the CLE.

Respondents shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED that Respondent Goodman 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.

IT IS FURTHER ORDERED that Respondent Moscarello 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.

IT IS FURTHER ORDERED that Respondents shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within 30 days from the date of service of this Order.

DATED this _____ day of April, 2021.

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 April, 2021.

Copies of the foregoing mailed/mailed
this _____ day of April, 2021, to:

J. Scott Rhodes
Jennings Strouss & Salmon PLC
1 E. Washington Street, Suite 1900
Phoenix, Arizona 85004-2554
Email: srhodes@jsslaw.com
Respondent Goodman's Counsel

Jessica J. Kokal
Broening Oberg Woods & Wilson PC
2800 N. Central Avenue, Suite 1600
Phoenix, Arizona 85004-1047
Email: jjk@bowwlaw.com
Respondent Moscarello's Counsel

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by:_____

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF MEMBERS OF
THE STATE BAR OF ARIZONA,

CLINT G. GOODMAN,
Bar No. 024188

and

ASHLEY NICOLE MOSCARELLO,
Bar No. 032572

Respondents.

PDJ 2020-9105

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar No. 20-0294 & 20-0831]

FILED MAY 14, 2021

Under Rule 57(a), Ariz. R. Sup. Ct., an Agreement for Discipline by Consent was filed on April 30, 2021. The formal complaint was filed on November 9, 2020. The State Bar of Arizona is represented by Senior Bar Counsel David L. Sandweiss. Mr. Goodman is represented by J. Scott Rhodes, Jennings Strouss & Salmon, PLC and Ms. Moscarello is represented by Jessica J. Kokal, Browning, Oberg, Woods & Wilson, PC.

Rule 57 requires admissions be tendered solely "...in exchange for the stated form of discipline..." Under that rule, the right to an adjudicatory hearing is waived only if the "...conditional admission and proposed form of discipline is approved..." If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Mr.

Goodman and Ms. Moscarello have voluntarily waived the right to an adjudicatory hearing, and waived all motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. Notice to the complainant and an opportunity to object under Rule 53(b)(3) is unnecessary as the State Bar is the complainant.

The Agreement details a factual basis to support the conditional admissions. It is incorporated by this reference. Mr. Goodman admits he violated Rule 42, ERs 5.1 (responsibilities of lawyers who have ownership interests or are managers and supervisors) and 8.4(d) (engage in conduct prejudicial to the administration of justice). Ms. Moscarello admits to violating Rule 42, ER 8.4(d). The parties stipulate to a reprimand, one year of probation (CLE) and the payment of costs within 30 days.

For the Agreement, the parties stipulate that Mr. Goodman and Ms. Moscarello filed fee applications and affidavit forms that were misleading and resulted in excessive fee awards. They have since amended their attorney fee applications and affidavit forms to indicate which fees are hourly, a flat fee, or on a no cost basis.

The parties stipulate Mr. Goodman and Ms. Moscarello negligently violated their duties to the legal system. Mr. Goodman also violated his duty to the legal profession. There was actual harm to the legal system and the profession. The presumptive sanction is reprimand under *ABA Standards 6.13 False Statements*,

Fraud, and Misrepresentations, and 7.3, Violations of Other Duties Owed as a Professional.

The parties agree to aggravating factors 9.22(c) pattern of misconduct (Goodman and Moscarello), 9.22(d) multiple offenses (Goodman only), and 9.22(i) substantial experience in the practice of law (Goodman only).

In mitigation are factors: 9.32(a) absence of prior disciplinary offenses (Goodman and Moscarello), 9.32 b) absence of dishonest or selfish motive (Goodman and Moscarello), 9.32(d) timely good faith effort to make restitution or to rectify consequences of misconduct (Goodman and Moscarello), (e) full and free disclosure to disciplinary board or cooperative attitude towards proceedings (Goodman and Moscarello), 9.32(f) inexperience in the practice of law (Moscarello only), 9.32(g) character or reputation (Goodman and Moscarello), and 9.32(l) remorse (Goodman and Moscarello).

IT IS ORDERED accepting the Agreement and incorporating it with any supporting documents by this reference. A final judgment and order is signed this date.

DATED this 14th day of May 2021.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
on this 14th day of May 2021 to:

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

J. Scott Rhodes
Jennings, Strouss & Salmon, PLC
One East Washington Street, Suite 1900
Phoenix, AZ 85004-2554
Email: srhodes@jsslaw.com
Respondent Goodman's Counsel

Jessica J. Kokal
Browning, Oberg, Woods & Wilson, PC
2800 N. Central Avenue, Suite 1600
Phoenix, AZ 85004-1047
Email: jjk@bowwlaw.com
Respondent Moscarello's Counsel

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF MEMBERS OF
THE STATE BAR OF ARIZONA,

CLINT G. GOODMAN,
Bar No. 024188

and

ASHLEY NICOLE MOSCARELLO,
Bar No. 032572

Respondents.

PDJ 2020-9105

**FINAL JUDGMENT AND
ORDER**

State Bar Nos. 20-0294 and 20-0831

FILED MAY 14, 2021

The Presiding Disciplinary Judge accepted the parties' Agreement for Discipline by Consent submitted pursuant to Rule 57(a), Ariz. R. Sup. Ct.

Accordingly:

IT IS ORDERED Respondent, **CLINT G. GOODMAN, Bar No. 024188** is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED Respondent, **ASHLEY NICOLE MOSCARELLO, Bar No. 032572**, is reprimanded for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED Respondents Goodman and Moscarello are placed on probation for one (1) year. The terms of probation are:

- a) Continuing Legal Education (CLE): In addition to annual MCLE requirements, Respondents shall complete CLE programs on these two topics: a) ethically collecting fees and b) candor to the tribunal, within ninety (90) days from the date of this Order. Respondents shall provide the State Bar Compliance Monitor with evidence of completion of the programs by providing a copy of handwritten notes and certificate of completion. Respondents shall contact the Compliance Monitor at 602-340-7258 to arrange to submit this evidence. Respondents shall be responsible for the cost of the CLE.

Respondents shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED Respondent Goodman shall pay the costs and expenses of the State Bar of Arizona for \$1,755.15, within thirty (30) days from the date this Order.

IT IS FURTHER ORDERED Respondent Moscarello shall pay the costs and expenses of the State Bar of Arizona for \$1,822.20, within thirty (30) days from the date of this Order. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 14th day of May, 2021.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 14th day of May, 2021, to:

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

J. Scott Rhodes
Jennings Strouss & Salmon PLC
1 E. Washington Street, Suite 1900
Phoenix, Arizona 85004-2554
Email: srhodes@jsslaw.com
Respondent Goodman's Counsel

Jessica J. Kokal
Broening Oberg Woods & Wilson PC
2800 N. Central Avenue, Suite 1600
Phoenix, Arizona 85004-1047
Email: jjk@bowlaw.com
Respondent Moscarello's Counsel

by: SHunt