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Respondent's Counsel

BEFORE THE PRESIDING DISCIPLINARY JUDGE OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **Rodolfo (Rudy) Valenzuela,** **Bar No. 011750,** Respondent.	**PDJ-2012-9027** **PRE-FILING AGREEMENT FOR DISCIPLINE BY CONSENT** No. 10-2394

The State Bar of Arizona ("SBA"), through undersigned Bar Counsel, and Respondent Rodolfo (Rudy) Valenzuela, who is represented in this matter by counsel, Karen Clark, hereby submit their Pre-Filing Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct.[1] Respondent voluntarily waives the right to an adjudicatory hearing on the complaint, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

[1] Henceforth all references to rules are to the Arizona Rules of the Supreme Court unless specifically stated otherwise.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.15(a), 1.16(d), and 5.3, and Rule 43(b). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand and Probation (LOMAP).

LOMAP

Respondent shall contact the director of the State Bar's Law Office Management Assistance Program (LOMAP), at 602-340-7332, within 30 days of the date of the final judgment and order. Respondent shall submit to a LOMAP examination of his office's procedures, including, but not limited to, compliance with ER 5.3. If the director of LOMAP deems it appropriate to do so, he/she shall develop "Terms and Conditions of Probation", and those terms shall be incorporated herein by reference. The probation period will commence at the time of the entry of the judgment and order and will conclude upon completion of the LOMAP examination unless the the director of LOMAP deems it appropriate to develop "Terms and Conditions of Probation" in which event probation will conclude one year following the date on which Respondent signs the "Terms and Conditions of Probation". Respondent shall be responsible for any costs associated with LOMAP.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, (if such terms become required pursuant to this consent), and information thereof is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been

breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

Respondent also agrees to pay the costs and expenses of the disciplinary proceeding.[2] The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "A."

FACTS

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on October 24, 1987.

COUNT ONE of ONE (State Bar File No. 10-2394)

2. On April 23, 2004, Karen Gonzales retained Respondent to represent her in connection with a claim for serious bodily injuries sustained in Nogales, Arizona. Karen lives in Hermosillo, Mexico, and does not read, write or understand English.

3. Rudy sent his law partner, Ricardo Bours, to meet Karen in Mexico at the inception of her case. In working up her claim, Karen dealt primarily with Respondent's then-employee who also is her cousin, Jose Enriquez. Respondent never met Karen during the representation, and spoke only on the phone to someone whom he believed to be her. When Karen later was introduced to the real

[2] Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

Rudy Valenzuela, she professed surprise as she thought she had been introduced to him during the case; in fact, Enriquez introduced her to an imposter.

4. In the early 2000's Mr. Enriquez served one year in prison for conspiracy to launder money obtained in connection with the sale and distribution of controlled substances. The State Bar alleges that Enriquez also was terminated from the Pima County Superior Court Pre-Trial Services Department for accepting kickbacks from defendants in exchange for recommending to judges that the judges release them, and for accepting bribes from lawyers for funneling clients to them. Respondent has known Enriquez for many years and admitted knowing about Enriquez's criminal record before hiring him. However, Respondent did not have any personal knowledge concerning the reason Enriquez was fired from Pre-Trial Services, nor concerning the alleged schemes involving bribes from lawyers. He did not have such knowledge prior to or during the time he employed Enriquez, nor to this day. In addition, Respondent did not represent any of the defendants who had contact with Mr. Enriquez while Mr. Enriquez was employed by Pre-Trial Services.

5. In a letter dated March 28, 2005, Respondent demanded payment of $1.7M from the liable party's liability insurer, Colorado Casualty Ins. Co. ("Col. Cas."), to settle Karen's case. Respondent and a claim representative for Col. Cas. exchanged counter-offers and ultimately the case settled on December 16, 2005, for $300,000. Col. Cas. issued a check for $300,000 dated December 20, 2005, payable to "Valenzuela & Bours and Karen Gonzales". The check was deposited into Respondent's Wells Fargo Bank lawyer trust account ("IOLTA").

6. Karen did not endorse the check; in fact, she knew nothing of the settlement.

7. On December 29, 2005, Enriquez obtained Karen's purported signature on a document printed in English by which she believed that she would receive a $15,000 cash payment toward a partial settlement of her case, and $2,000 per month for 50 months pending final settlement.

8. Also on December 29, a check for $15,000 issued from Respondent's IOLTA, payable to Karen. Enriquez had Karen deposit that check into the Nogales branch of a Wells Fargo bank savings account that Enriquez opened for her. Thereafter, he deposited $2,000 per month, all in cash.

9. In recreating transactions based on documents subpoenaed from banks, the State Bar records examiner determined that on December 31, 2005, trust account check no. 2958 for $226,000 issued from Respondent's IOLTA in the Karen Gonzales case bearing Respondent's signature and made payable not to Karen but, rather, to Enriquez. Respondent explained that Enriquez intercepted the check that originally was payable to Karen and "washed" the payee's name from Karen to himself. Enriquez deposited the money into his own bank account. With the $15,000 check from Respondent payable to Karen for a partial settlement distribution (until Respondent's IOLTA cleared the balance of the $300,000 deposit), Enriquez opened for Karen the Wells Fargo account in Nogales. Thereafter, from the money he stole and deposited into his own bank account, Enriquez made 21 monthly deposits of $2,000 until he squandered the balance.

10. After 21 payments the deposits stopped, so Karen did not receive all of the money that Enriquez promised her. She and her step-father tried to determine the status of her case and complained to Enriquez. On July 9, 2010, Enriquez tried to induce Karen to accept a promissory note for $250,000 in exchange for

refraining from taking legal action against him and Respondent. At this point, more than five years after-the-fact, Respondent knew nothing about Karen's concerns related to her settlement funds.

11. Also in July of 2010, Respondent destroyed bank records that he thought were five years old, including the trust account records and copies pertaining to Karen's case. Respondent explained that he knew of the rule that requires lawyers to keep trust account records for five years. He stored client files and financial records in the unoccupied space of a small commercial building he owned that he was preparing for sale. He identified to a helper which boxes to destroy without realizing that boxes dating back to 2005 were not necessarily five years old in July of 2010.

12. In September 2010, Complainant Daryl Audilett, Karen's current attorney, wrote a letter to Respondent seeking answers to questions. Respondent went to his storage area to examine the case file. He discovered that Karen's file was not in the banker's box in which it belonged but he found portions of the file in an unmarked box. He realized that someone had tampered with the case file.

13. Until Respondent heard from Complainant, he thought the case had resolved to Karen's satisfaction five years earlier and had no idea she did not receive all of her settlement funds.

14. Karen and Complainant presented a claim to Respondent and his professional liability insurer. At Respondent's urging, the insurer paid Karen $300,000 to settle her liability claim.

15. From six year-old subpoenaed bank records the State Bar records examiner also detected trust account violations unrelated to the Karen Gonzales

case. For example, Respondent liquidated a Scudder fund retirement account and had his then (now ex) wife handle the transactions. Unfortunately, she deposited those non-client funds into his IOLTA rather than his business account, and he disbursed the funds to non-clients.

16. Regarding client A, Respondent converted client funds when he disbursed check number 2899 on November 4, 2005 to an unknown payee and in an unknown amount, and check number 2903 on November 14, 2005 in the amount of $1,159 when there were no funds on deposit in the trust account for the client at the time. The corresponding deposit in the amount of $4,900.00 was subsequently credited to the account on November 15, 2005.

17. Regarding client B, Respondent converted client funds when he disbursed check number 2979 on March 24, 2006 to Tucson Medical Center in the amount of $1,209.00, leaving a negative balance of $184.10 on behalf of this client.

18. Regarding client C, Respondent converted client funds when he disbursed check number 2960 on January 04, 2006 in the amount of $30,000, check number 2963 on January 13, 2006 in the amount of $34,804.57, check number 2966 on January 17, 2006 in the amount of $1,860, check number 2964 on January 20, 2006 in the amount of $6,000, check number 2967 on January 20, 2006 in the amount of $1,741.43, and check number 2965 on February 2, 2006 in the amount of $1,900.00, leaving a negative balance of $16,306.00.

19. Respondent apparently had other client funds on hand in his trust account at the time; hence, no check was retuned NSF, no client was deprived of his or her rightful funds, and no IOLTA violation was reported to the State Bar.

20. Respondent also withdrew funds from the trust account by means other than using a pre-numbered check or electronic transfer.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and is submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that his conduct violated Rule 42, specifically ERs 1.15(a), 1.16(d), and 5.3, and Rule 43(b).

RESTITUTION

Restitution is not an issue in this matter. Respondent, through his professional liability insurer, has paid Karen a sum satisfactory to her in settlement of all claims she had or may have had against Respondent. *See* Exhibit C.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanction is appropriate: Reprimand, Probation for up to one year (LOMAP), and costs.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley,* 208

Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that the following *Standards* are the ones appropriate to the facts and circumstances of this matter:

> ER 1.15 (Safekeeping Property) and Rule 43 (Trust Account)
> *Standard* 4.13–"Reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client."
>
> ERs 1.16 (Terminating Representation) and 5.3 (Responsibilities Regarding Nonlawyer Assistants)
> *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."

The duty violated

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

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent acted with a negligent mental state in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was actual harm to the profession and, initially, actual harm to Respondent's client which decreased to potential harm when Karen's liability claim resolved.

Aggravating and mitigating circumstances

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

In aggravation:

Standard 9.22(h)-vulnerability of victim; and

Standard 9.22(i)-substantial experience in the practice of law.

In mitigation:

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

Standard 9.32(d) timely good faith effort to make restitution or to rectify consequences of misconduct (as soon as Respondent fully understood Karen's claim and what had occurred, he directed his legal malpractice defense counsel to settle her claim, in the amount of $300,000.00.);

Standard 9.32(e)-full and free disclosure to a disciplinary board or cooperative attitude toward proceedings;

Standard 9.32(g)-character or reputation;

Standard 9.32(k)-imposition of other penalties or sanctions; and

Standard 9.32(l)-remorse.

Proportionality

While the rules no longer require proportionality analysis in consent documents, the Presiding Disciplinary Judge may find the following cases useful in evaluating the reasonableness of this consent:

ER 1.15 and Rule 43: Keefe, Richard L., October 15, 2010, DC No. 09-1665, SB-10-0099-D. Respondent failed to adhere to trust account rules and guidelines. He overdrew his IOLTA, negligently converted funds and did not maintain proper records. He violated ER 1.15 and Rule 43, and accepted an agreement for censure (presently, reprimand) and two years of Probation (LOMAP

and MAP). In aggravation: Standards 9.22(a) and (i). In mitigation: Standards 9.32(c). His mental state was negligent and there was potential injury.

ERs 1.15 and 5.3, and Rule 43: Steiner, Richard A., April 7, 2010, DC No. 07-1813, SB-10-0031-D. Respondent failed to maintain the firm's client trust account in accordance with Trust Account Rules and Guidelines. Respondent further failed to ensure that internal policies and procedures were established to manage the trust account and failed to supervise the non-lawyer assistant handling the trust account. He violated ERs 1.15, 5.1, and 5.3, and Rules 43 and 44 (the latter of which has since been repealed). He accepted an agreement for a 60-day suspension and resignation within 10 days if reinstated. In aggravation: Standards 9.22(a), (c), and (i). In mitigation: Standards 9.32(b) and (e). His mental state was knowing and there was potential injury.

ER 1.15 and Rule 43: Stoltman, Stephanie C., January 27, 2010, DC No. 08-2276, SB-10-0006-D. Respondent failed to adhere to trust account rules and guidelines in managing her client trust account. Specifically, Respondent failed to safeguard client funds, and maintain complete records of the handling, maintenance and disposition of all client funds. Respondent also failed to conduct monthly, three-way reconciliations of her trust account. She violated ER 1.15 and Rules 43 and 44 (the latter of which has since been repealed). She accepted an agreement for censure (presently, reprimand) and one year of Probation (LOMAP/EEP). There were no aggravating factors. Mitigating factors were Standards 9.32(a), (b), and (e). The mental state was negligent and there was no actual injury.

ER 1.16: Corea, Thomas M., January 22, 2010, DC No. 08-1267, SB-10-0007-D. In a request for telephonic hearing, Respondent claimed to have a

scheduling conflict and mistakenly attached as supporting documentation a Notice of Hearing in another case that had been dismissed. Respondent was found in contempt of court, barred from practice in that court, and ordered to transfer his client files to successor counsel. Respondent delayed transferring his cases to successor counsel and a second contempt citation was imposed. Respondent violated ERs 1.16 and 8.4(d) and accepted an agreement for censure (presently, reprimand). Factors in aggravation were Standards 9.22(b), (d), and (i). Mitigating factors were Standards 9.32(a), (e), and (k). The mental state was negligent and there was actual injury.

Discussion

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. The presumptive sanction is reprimand, neither the aggravating nor mitigating factors outweigh one another, and reprimand as the principal sanction is proportionate to and within the range of discipline imposed in past cases involving violations of the same ERs and rules. Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent

believe that the objectives of discipline will be met by the imposition of the proposed sanction of reprimand and probation, and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "B."

DATED this 20th day of March, 2012.

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 8th day of March KC, 2012.

Rodolfo (Rudy) Valenzuela
Respondent

DATED this 15th day of March, 2012.

Karen Clark
Counsel for Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
this 20th day of March, 2012.

Copies of the foregoing mailed/emailed
this 20th day of March, 2012, to:

Karen Clark
Adams & Clark PC
520 E Portland St Ste 200
Phoenix, AZ 85004-1843
Email: karen@adamsclark.com
Respondent's Counsel

Copy of the foregoing emailed
this 20th day of March, 2012, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 W. Washington
Phoenix, AZ 85007
Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

Copy of the foregoing hand-delivered
this 20th day of March, 2012, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, Arizona 85016-6288

By: D L Stephens
DLS:dds

EXHIBIT "A"

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Rodolfo (Rudy) Valenzuela, Bar No. 011750, Respondent

File No(s). 10-2394

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings **$1,200.00**

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

04/06/11	Travel and mileage to serve Wells Fargo subpoena	$	6.12
04/21/11	Update trust account information	$	75.00
04/27/11	Update trust account information	$	7.50
05/02/11	Update summary and findings	$	15.00
05/05/11	Wells Fargo subpoena processing	$	46.46
05/10/11	Reconstruct K.G.'s account	$	75.00
05/10/11	Reconstruct Complainant's ICL's	$	37.50
05/12/11	Reconstruct Complainant's ICL's	$	75.00
05/16/11	Update summary of findings	$	75.00
06/23/11	Subpoena documents from Bank of America	$	97.22
06/24/11	Reconstruct Enriquez bank account	$	187.60
06/27/11	Reconstruct Enriquez bank account	$	337.50
06/28/11	Review and format response; Compare Enriquez, Valenzuela, and Gonzalez bank account activities	$	187.60
07/07/11	Subpoena documents from Bank of America	$	15.84

07/11/11	Update trust account reconstruction and chronology; Analysis and comparison of Enriquez account activity to Gonzalez account activity	$ 150.00
08/01/11	Subpoena documents from Bank of America	$ 49.13
08/12/11	Reconstruct Enriquez savings account	$ 75.00
08/15/11	Update trust account reconstruction and chronology; Review and format response; Analysis and comparison of Enriquez checking and savings accounts to Valenzuela and Gonzalez accounts	$ 375.00
08/16/11	Continued analysis and comparison of Enriquez checking and savings accounts to Valenzuela and Gonzalez accounts; Update summary of findings	$ 375.00
09/06/11	Computer investigation reports	$ 53.50
10/26/11	Alliance Reporting Service	$ 307.45
Total for staff investigator charges		$2,623.42
TOTAL COSTS AND EXPENSES INCURRED		***$3,823.42***

Sandra E Montoya

Sandra E. Montoya
Lawyer Regulation Records Manager

2-24-12

Date

EXHIBIT "B"

BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **Rodolfo (Rudy) Valenzuela, Bar No. 011750,** Respondent.	**PDJ-2012-** **FINAL JUDGMENT AND ORDER** No. 10-2394

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Pre-Filing Agreement for Discipline by Consent filed on _____, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Rodolfo (Rudy) Valenzuela**, is hereby reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective upon entry hereof.

IT IS FURTHER ORDERED that Respondent is placed on probation with LOMAP upon the following terms:

LOMAP

Respondent shall contact the director of the State Bar's Law Office Management Assistance Program (LOMAP), at 602-340-7332, within 30 days of the date of the final judgment and order. Respondent shall submit to a LOMAP examination of his office's procedures, including, but not limited to, compliance with ER 5.3. If the director of LOMAP deems it appropriate to do so, he/she shall develop "Terms and Conditions of Probation", and those terms shall be incorporated herein by reference. The probation period will commence at the time

of the entry of the judgment and order and will conclude upon completion of the LOMAP examination unless the the director of LOMAP deems it appropriate to develop "Terms and Conditions of Probation" in which event probation will conclude one year following the date on which Respondent signs the "Terms and Conditions of Probation". Respondent shall be responsible for any costs associated with LOMAP.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of $ _____.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____.

DATED this _____ day of _____, 2012.

_____
The Honorable 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 _____, 2012.

Copies of the foregoing mailed/emailed
this _____ day of _____, 2012, to:

Karen Clark
Adams & Clark PC
520 E. Portland St., Ste. 200
Phoenix, AZ 85004-1843
Email: karen@adamsclark.com
Respondent's Counsel

Copy of the foregoing hand-delivered/emailed
this _____ day of _____, 2012, to:

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, Arizona 85016-6288
Email: lro@staff.azbar.org

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, Arizona 85016-6288

By: _____

EXHIBIT "C"

LAW OFFICES

KIMBLE, NELSON, AUDILETT & KASTNER, P.C.

TEL. (520) 748-2440
FAX. (520) 748-2469

e-mail
jjk@audilettlaw.com

John J. Kastner, Jr.

335 N. WILMOT ROAD, SUITE 500
TUCSON, ARIZONA 85711-2636

December 6, 2011

Attorney Discipline Probable Cause Committee
c/o Mr. David Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 200
Phoenix, AZ 85016-6288

RE: File No. 10-2394, Mr. Rodolfo (Rudy) Valenzuela, Respondent

Dear Members of the Attorney Discipline Probable Cause Committee:

Karen Gonzalez has settled, to her satisfaction, all of her claims against Rudy Valenzuela. Mr. Valenzuela displayed professionalism throughout the process. He personally attended mediation and apologized to Ms. Gonzlaez for the manner in which her case was handled. It was clear to Ms. Gonzalez that Mr. Valenzuela was regretful and she is satisfied with the outcome of this matter. Ms. Gonzalez feels that the process worked for her and believes that Mr. Valenzuela has learned from this experience.

It is our understanding that the matter is currently scheduled for consideration at the ADPCC's meeting on January 13, 2012. Please accept this statement as part of the file for your consideration.

Sincerely,

KIMBLE, NELSON, AUDILETT & KASTNER, PC

John J. Kastner, Jr.

cc: Ms. Karen Denisse Felix Gonzalez
Edward Moomjian II, Esq.
Karen Clark, Esq.

FILED

JAN 18 2012

STATE BAR OF ARIZONA

BY

BEFORE THE ATTORNEY DISCIPLINE PROBABLE CAUSE COMMITTEE OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA **RODOLFO (RUDY) VALENZUELA** **Bar No. 011750** Respondent	No. 10-2394 **PROBABLE CAUSE ORDER**

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on January 13, 2012, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation, and Complainant's Objection.

By a vote of 8-0-1,[1] the Committee finds probable cause exists to file a complaint against Respondent in File No. 10-2394.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 17th day of January, 2012.

Justice Michael D. Ryan (retired)
Chair, Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona

Original filed this 18th day
of January, 2012, with:

[1] Committee member Richard Segal did not participate in this matter.

Lawyer Regulation Records Department
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, Arizona 85016-6288

Copy mailed this 23rd day
of January, 2012, to:

Ms. Karen A. Clark
Adams & Clark PC
520 East Portland Street, Suite 200
Phoenix, Arizona 85004-1843
Respondent's Counsel

Copy emailed this 23rd day
of January, 2012, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, Arizona 85016-6288

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
ProbableCauseComm@courts.az.gov

by: _____