

James D. Lee, Bar No. 011586
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone: 602-340-7250
Email: LRO@staff.azbar.org

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

OCT 05 2012

BY _____ FILED



Leslie G. Spira, Bar No. 011986
10333 North Oracle Road, Apt. 11103
Oro Valley, Arizona 85737
Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

In the Matter of a Member of
the State Bar of Arizona,

Leslie G. Spira
Bar No. 011986

Respondent.

PDJ-2012-9081

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar File No. 11-2342]

The State Bar of Arizona, through undersigned bar counsel, and Respondent Leslie G. Spira, who is not represented by counsel in this matter, hereby submit this Agreement for Discipline by Consent (Consent Agreement), pursuant to Rule 57(a), Ariz. R. Sup. Ct. Respondent voluntarily waives her right to counsel; her 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.

Respondent conditionally admits that her conduct, as set forth below, violated Rule 42, specifically ERs 8.4(b), (c) and (d). Upon acceptance of this

agreement, Respondent agrees to accept imposition of the following discipline: Reprimand. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding.¹ 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 May 21, 1988. In addition to her admission in Arizona, Respondent was admitted to practice law in Illinois on November 5, 1987, but is currently on voluntary inactive status in that state.

COUNT ONE (State Bar File No. 11-2342)

2. On or about July 9, 2011, Respondent invited friends, Kristi and Ruben ("Ted") Pesqueira, to her apartment in Oro Valley, Arizona. Kristi and Ted brought their adult son, David Pesqueira, with them. Respondent expected the Pesqueiras would spend the night at her apartment because she planned to serve alcohol to them.

3. Respondent served alcohol to Kristi, Ted and David while they were at her apartment on July 9, 2011. Respondent consumed one alcoholic drink in the late afternoon or early evening.

4. At approximately 10:30 p.m. on July 9, 2011, Respondent went to bed for the evening after taking Ambien to assist with her sleep.

¹ 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.

5. At approximately 11:00 p.m., on July 9, 2011, officers of the Oro Valley Police Department were dispatched to Respondent's apartment complex regarding a report of a domestic dispute between a younger male and an older male (later determined to be Ted and David Pesqueira).

6. At approximately 11:03 p.m., Oro Valley police officers arrived at Respondent's apartment complex. While walking about the property, Officer Timothy Nelson contacted Kristi, who told him that her husband and son had been in an argument. Kristi then led Officer Nelson to Respondent's apartment, where she said he could find Ted.

7. If this matter were to proceed to a hearing, the State Bar would present evidence that Respondent was awake and walking about her apartment when officers arrived. Respondent, however, would present evidence that she was not awake and walking about her apartment when officers first arrived, and that she was awakened by a door being closed after her fiancé initially spoke with an officer.

8. An officer asked Ted to step outside to speak with him, but he did not respond. Very shortly thereafter, Respondent stated she was Ted's attorney and they needed to speak with her. A few moments later, however, Ted stepped outside Respondent's apartment to speak with the officers.

9. During the officers' investigation on July 9, 2011, Respondent repeatedly interrupted the officers as they attempted to talk with Ted. For example, she repeatedly interjected answers to questions the officers posed to Ted, even though they had informed her on a number of occasions that they were talking to him and not to her. On several occasions, officers informed Respondent that she was interfering with their investigation. If this matter were to proceed to a hearing, the

State Bar would present evidence that Respondent continued to be disruptive and uncooperative, but Respondent would testify that she was not attempting to be uncooperative but was attempting to provide correct information.

10. During the investigation on July 9, 2011, Sgt. Hammons asked Respondent what type of attorney she was. Respondent stated, "Santa Cruz County Chief Civil Deputy." Sgt. Hammons asked if she was a prosecutor, at which time Respondent stated, "Both, prosecutor and civil." Shortly thereafter, Sgt. Hammons spoke with a sergeant in the Santa Cruz County Sherriff's Department and learned that Respondent had been terminated from the Santa Cruz County Attorney's Office. Sgt. Hammons then asked Respondent whether she had been terminated as an employee of the Santa Cruz County Attorney's Office. Respondent said, "Yes." It was not until that point in time, however, that Respondent informed the officers that she was no longer employed by the Santa Cruz County Attorney's Office.

11. During the officers' investigation on July 9, 2011, Sgt. Hammons and Officer Nelson, and possibly other officers, asked Respondent on several occasions to identify herself or provide identification. The following are examples.

a. At one point in time, an officer asked Respondent to step aside with him because he had some questions he wanted to ask her. Respondent said, "No, thank you." Thereafter, an officer told Respondent he wanted to identify her, at which time Respondent offered to provide her Bar card to the officers "when we're done with this." If this matter were to proceed to a hearing, the State Bar would present evidence that an officer asked Respondent to get

her identification at that time but that Respondent refused. Respondent would testify that she was attempting to locate her Bar card.

b. An officer subsequently told Respondent that he wanted to identify her. Respondent asked, "Why don't you just arrest me, then?" A moment later, she stated, "No, why don't you just arrest me?" Shortly thereafter, an officer explained to Respondent why they needed her identification. A short time later, an officer asked Respondent whether she was going to get her identification or provide him with her name. Respondent stated she was not going to do either. An officer directed Respondent to go back into her apartment, but Respondent said, "No, I'm not going to go inside."

c. If this matter were to proceed to a hearing, the State Bar would provide evidence that an officer informed Respondent that charges were going to be formally filed against her. Respondent would testify that she never heard anyone tell her that formal charges would be filed against her and that the last thing the officers told her was that they were not going to take any action or arrest anyone.

d. At another point in time, Sgt. Hammons told Respondent that Arizona law requires her to provide her name and date of birth to the police upon request during an investigation. Respondent, nevertheless, refused to identify herself.

e. At one point during the investigation, Respondent told one or more officers that she was willing to call the Santa Cruz County Sheriff's Department to have the sheriff identify her as an attorney and to help diffuse the situation.

f. If this matter were to proceed to a hearing, the State Bar would provide evidence that part way through the officers' investigation, Kristi provided Respondent's name to one of the officers. Respondent would present evidence that Kristi never provided Respondent's name to an officer.

g. If this matter were to proceed to a hearing, the State Bar would provide evidence that Respondent never identified herself to Officer Nelson during the investigation or provide identification or her date of birth to any officer while they were at her apartment complex on July 9, 2011, even though they were at her apartment complex approximately one hour and ten minutes. Respondent would testify that she identified herself and gave her date of birth to Officer Nelson on July 9, 2011.

12. On one occasion, Respondent was directed to go inside her apartment. At that time, Respondent once again told the officers that Ted was her client. When asked to show her "retainer paperwork," Respondent falsely implied that she had it in her office and that her office was a government office. She also falsely implied that she had obtained permission from the Board of Supervisors to represent private clients. At no point in time, however, had Ted actually hired Respondent to represent him regarding the police investigation or entered into a fee agreement with her.

13. Respondent has a limited memory regarding the events that transpired on July 9, 2011, and believes that the Ambien she ingested affected both her actions and her ability to recall what happened.

14. On or about July 11, 2011, Oro Valley Police Officer Megan Carr and Sgt. Nesbitt conducted a follow-up interview of Respondent at her Oro Valley apartment.

a. During the interview, Respondent admitted to being "a little obnoxious," "very aggressive," and "difficult" during the July 9, 2011, investigation. She explained that her conduct resulted from her lack of understanding why the police had come to her apartment and why they may have thought that a crime or incident had occurred in her apartment. When Officer Carr inquired whether the officers had asked her for her name or "information" on July 9, 2011, Respondent stated, "They did and I was very difficult with them." She was then asked whether she had ever identified herself to the officers. Respondent replied, "They got my identi--, identification." Respondent was then asked whether *she* identified herself, and Respondent stated, "I think I di--; I sa--, said I was Leslie Spira and I was born February 14, 1959."

b. At the conclusion of the July 11, 2011, interview, Respondent was issued a citation for violations of A.R.S. §13-2406, Impersonating a Public Servant; A.R.S. §13-2907.01, False Reporting to Law Enforcement Agencies; and Oro Valley Town Code 10-1-32, Obstructing Government Operations. All of the cited violations were class one misdemeanor offenses.

15. On or about February 28, 2012, the criminal charges pending against Respondent in the Oro Valley Magistrate Court were dismissed without prejudice by an Oro Valley Town Prosecutor.

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 her conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ERs 8.4(b), (c) and (d).

RESTITUTION

Restitution is not an issue in this matter.

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.

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), Ariz. R. Sup. Ct. 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 in which 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, ¶23, 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* at 35, ¶33, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 5.13 and *Standard* 7.3 are the appropriate *Standards* given the facts and circumstances of this matter. *Standard* 5.13 states,

"Reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice." *Standard 7.3* states, "Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed to the profession, and causes injury or potential injury to a client, the public, or the legal system."

Respondent's false statements to police officers arguably resulted in class one misdemeanor violations of A.R.S. §13-2406, Impersonating a Public Servant; A.R.S. §13-2907.01, False Reporting to Law Enforcement Agencies; and Oro Valley Town Code 10-1-32, Obstructing Government Operations. Respondent also falsely claimed to be Ruben ("Ted") Pesqueira's attorney; falsely claimed to be the Santa Cruz County Chief Civil Deputy; falsely implied that she had a retainer agreement with Ted in her office, that her office was in a government building, and that she had permission from the Board of Supervisors to represent private clients; and falsely informed Oro Valley Police Officer Megan Carr and Sgt. Nesbitt that she had given her name and date of birth to officers on July 9, 2011. In addition, Respondent's conduct on July 9, 2011, was prejudicial to the administration of justice insofar as Respondent's refusal to identify herself or provide identification to officers, as requested, interfered with the police officers' efficient and timely investigation.

The duty violated

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

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent knowingly interfered with a police investigation unrelated to her practice of law and made false statements to several police officers, and that her conduct violated the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree there was actual or potential harm to the legal system due to Respondent's interference with a police investigation, which delayed completion of the investigation.

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(i) – substantial experience in the practice of law (Respondent was admitted to practice law in Arizona on May 21, 1988).

Standard 9.22(k) – illegal conduct.

In mitigation:

Standard 9.32(a) – absence of a prior disciplinary record.

Standard 9.32(c) – personal or emotional problems.

Standard 9.32(e) – cooperative attitude toward the proceedings, including willingness to enter into this Consent Agreement.

Standard 9.32(l) – remorse.

Non-A.B.A. mitigation: Respondent's conduct on July 9, 2011, was adversely affected by her ingestion of Ambien earlier that evening.

Discussion

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This agreement was based on the following: Respondent's conduct was aberrational and possibly affected by her ingestion of alcohol and Ambien prior to her interaction with the police officers. Furthermore, Respondent's conduct did not affect the officers' decision not to charge anyone regarding the matter they were investigating at the time of their interaction with Respondent.

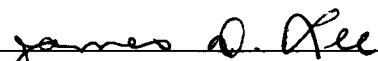
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanctions and will serve the purposes of lawyer discipline.

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

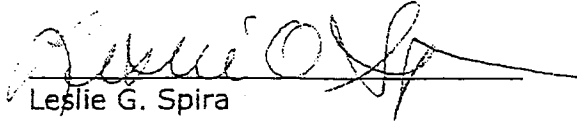
DATED this 5th day of October, 2012.

STATE BAR OF ARIZONA


James D. Lee
Senior Bar Counsel

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

DATED this 5 day of October, 2012.


Leslie G. Spira
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 _____ day of October, 2012.

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

Leslie G. Spira
10333 North Oracle Road, Apt. 11103
Oro Valley, Arizona 85737
Email: lesliespira@aol.com
Respondent

Copy of the foregoing emailed
this _____ day of October, 2012, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

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Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

Copy of the foregoing hand-delivered
this 5th day of October, 2012, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by Josa M. Casabance
DL:lmc

EXHIBIT "A"

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Leslie G. Spira, Bar No. 011986, Respondent

File No. 11-2342

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 proceeding

\$1,200.00

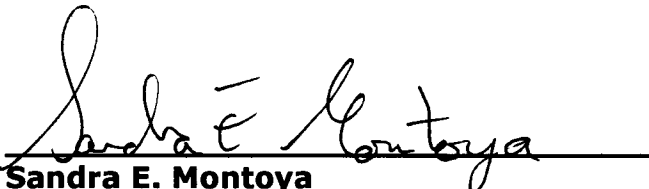
Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

Total for staff investigator charges \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED

\$1,200.00


Sandra E. Montoya
Lawyer Regulation Records Manager

10-5-12
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,

Leslie G. Spira
Bar No. 011986

Respondent.

PDJ-2012-9081

FINAL JUDGMENT AND ORDER

[State Bar File No. 11-2342]

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on October 5, 2012, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Leslie G. Spira**, is hereby reprimanded for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00.

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 October, 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 October, 2012.

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

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by: _____