

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

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

**MATTHEW S. SCHULTZ,
Bar No. 022017**

Respondent.

PDJ 2014-9061

FINAL JUDGMENT AND ORDER

[State Bar No. 14-0186]

FILED JULY 24, 2014

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on July 22, 2014, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Matthew Steven Schultz**, is hereby suspended for one (1) year for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective September 1, 2014. Respondent's suspension will require him to prove rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona.

IT IS FURTHER ORDERED that Respondent and the State Bar immediately dismiss their pending mutual appeals in PDJ-2013-9116, SBA No. 13-0832, filed May 12, 2014. Respondent's thirty (30) day suspension in that case will run concurrently with his one (1) year suspension in this matter, and both suspensions will be effective September 1, 2014.

IT IS FURTHER ORDERED that upon reinstatement, Respondent shall be placed on probation for a period of one year on the terms ordered in the "Report and Order Imposing Sanctions" in PDJ-2013-9116, SBA No. 13-0832, filed May 12, 2014.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,200.00. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

IT IS FURTHER ORDERED lifting the Order of Stay Pending Appeal filed on June 11, 2014 in PDJ 2013-9116

DATED this 24 day of July, 2014

William J. O'Neil

**William J. O'Neil, Presiding Disciplinary
Judge**

Copies of the foregoing mailed/emailed
this 24th day of July, 2014, to:

Ms. Nancy A. Greenlee
821 E. Fern Dr. North
Phoenix, AZ 85014-3248
Email: nancy@nancygreenlee.com
Respondent'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

by: [MSmith](#)

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

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

MATTHEW S. SCHULTZ,
Bar No. 022017

Respondent.

No. PDJ-2014-9061

**REPORT ACCEPTING CONSENT
FOR DISCIPLINE**

[State Bar No. 14-0186]

FILED JULY 24, 2014

An Agreement for Discipline by Consent (Agreement) filed on July 24, 2014, was submitted pursuant to Rule 57 of the Rules of the Arizona Supreme Court. Pursuant to that rule the parties may tender an agreement regarding a respondent against whom a formal complaint has been filed. In this matter, a Probable Cause Order was filed on July 21, 2014. No formal complaint has been filed. Such tender is a conditional admission of unethical conduct in exchange for a stated form of discipline, other than disbarment.

Bar Counsel provided notice of this Agreement to the complainant(s) by email on July 9, 2014. Complainants were notified of the opportunity to file a written objection to the Agreement with the State Bar within five (5) business days of bar counsel's notice. No objection has been filed.

Upon filing such agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate". Accordingly,

IT IS ORDERED incorporating by this reference the Agreement and any supporting documents by this reference. The agreed upon sanctions include a one (1) year suspension to run concurrently with the thirty (30) day suspension in PDJ-2013-9116. Both suspensions will be effective September 1, 2014. Upon reinstatement, Mr. Schultz will be placed on one year of probation (MAP) as ordered in PDJ 2013-9116. Additionally, the parties agree to dismiss their appeal and cross appeal in PDJ 2013-9116.

IT IS ORDERED the Agreement is accepted. A proposed final judgment and order was submitted simultaneously with the Agreement. Costs as submitted are approved in the amount of \$1,200.00. The proposed final judgment and order having been reviewed are approved as to form. Now therefore, the final judgment and order is signed this date.

IT IS FURTHER ORDERED lifting the Order of Stay Pending Appeal filed on June 11, 2014 in PDJ 2013-9116.

DATED this 24rd day of July, 2014

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
this 24rd day of July, 2014, to:

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

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Respondent's Counsel

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Respondent's Counsel

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

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

**MATTHEW STEVEN SCHULTZ,
Bar No. 022017,**

Respondent.

PDJ 2014_____

**AGREEMENT FOR DISCIPLINE BY
CONSENT (Prefiling)**

State Bar No. 14-0186

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Matthew Steven Schultz, who is represented by Nancy A. Greenlee, hereby submit their Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. Respondent voluntarily waives the right to an adjudicatory hearing 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.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant by email on July 9, 2014. Complainant has been

notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.7 and 1.8(j) (Conflict of Interest: Current Clients). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: One-year suspension. A suspension of more than six months will require Respondent to prove rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona. 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."

The parties further agree that, upon the Presiding Disciplinary Judge's acceptance of this consent, they will dismiss their mutual appeals of the "Report and Order Imposing Sanctions" in PDJ-2013-9116, SBA No. 13-0832, filed May 12, 2014. In that case, the hearing panel determined that Respondent should be suspended for 30 days with probation with MAP for one year. The parties agree that the suspension in that case and the suspension in the present matter will run concurrently, and both will be effective September 1, 2014.

COUNT ONE of ONE
(File No. 14-0186/Asimou)

FACTS

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.

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 22, 2002.

2. Respondent admits to having had what he terms a consensual sexual and intimate relationship with his family law client, a mother of two children during the pendency of her case. Respondent's sexual relationship with his client did not pre-date the commencement of the client-lawyer relationship. After the client lawyer relationship commenced, Respondent and the client engaged in sex several times.

3. Client's dissolution case was resolved in August 2012. In late 2013, the client sued Respondent for malpractice. The court file is sealed; hence, she is referred to herein as "the client." Complainant Asimou is the client's attorney in the civil lawsuit.

4. In her lawsuit, the client claimed, generally, that as a result of her personal relationship with Respondent, Respondent was unable to competently discharge his professional duties to her and as a result, she was harmed.

5. Respondent denies that his personal relationship with the client negatively affected the outcome of the client's case or undermined his ability to discharge his professional duties to her.

6. The parties have reached a settlement in the civil action.

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, Ariz. R. Sup. Ct., specifically ERs 1.7 and 1.8(j), Conflicts of Interest: Current Clients.

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: One-year suspension, commencing on September 1, 2014; assessment of costs against Respondent; and mutual dismissals of their pending appeals in PDJ-2013-9116, SBA No. 13-0832, with the 30 days suspension in PDJ-2013-9116, commencing on September 1, 2014, and running concurrently.

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 duty violated

Respondent's conduct violated his duty to his client.

The lawyer's mental state

For purposes of this agreement, the parties agree that Respondent knowingly engaged in a sexual relationship with his client that violated 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 and potential harm to the client.

The parties agree that *Standard* 4.32 is the appropriate *Standard* given the facts and circumstances of this matter. It states: "Suspension is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client."

Aggravating and mitigating circumstances

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

In aggravation:

Standard 9.22(a)-prior disciplinary offenses-

- May 12, 2014, SBA No. 13-0832, Suspension for 30 days and probation for one year (MAP, CLE), ER 8.4(d) and Rule 41(g) (presently on appeal and cross-appeal).

- September 21, 2012, SBA No. 11-0640, Admonition and probation for one year (LOMAP, CLE-six hours in family law and family court rules of procedure, and fee arbitration), ERs 1.3, 1.4, and 8.4(d);
- February 2, 2011, SBA No. 10-0037, Suspension for 90 days by consent, ERs 1.8, 1.15(d), 8.1(a), 8.1(b), and 8.4(d), and Rules 53(d) and (f);
- August 17, 2008, SBA No. 08-1363, Informal reprimand (currently admonition), ERs 1.3, 3.2, 3.4(c), and 8.4(d);
- November 19, 2004, SBA No. 03-2168, Informal reprimand (currently admonition) and probation, ER 1.6;

Standard 9.22(b)-dishonest or selfish motive;

Standard 9.22(c)-a pattern of misconduct. Respondent's defense in SBA No. 13-0832 above was that he lost objectivity. It is reasonable to conclude that Respondent had sex with his client due to, among other reasons, a loss of objectivity.

Standard 9.22(d)-multiple offenses. Respondent had sex with his client several times;

Standard 9.22(h)-vulnerability of victim;

Standard 9.22(i)-substantial experience in the practice of law (Respondent was admitted on October 22, 2002).

In mitigation:

Standard 9.32(e) – cooperative attitude toward proceedings.

Standard 9.32(g) – character or reputation. In SBA No. 13-0832, Respondent presented the testimony of Mervyn Braude who testified as to Respondent's good character and reputation.

Discussion

The parties conditionally agree that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. Suspension is the presumptive sanction and Respondent's history of prior disciplinary offenses

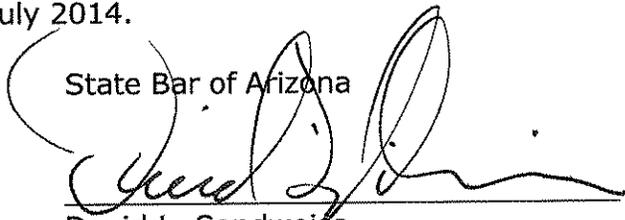
militates in favor of a long-term over a short-term suspension. In SBA No. 13-0832, Respondent will be on probation for one year with MAP, the terms of which will address Respondent's claimed loss of objectivity in representing clients. To the extent that the same loss of objectivity contributed to Respondent's conduct in this case, his probation should be of double benefit. Between a one-year suspension and one year of probation, the combined sanctions in both cases 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 a one-year suspension and and the imposition of costs and expenses. Upon acceptance of this consent, the parties will dismiss their mutual appeals of the "Report and Order Imposing Sanctions" in PDJ-2013-9116, SBA No. 13-0832, filed May 12, 2014. The 30-day suspension in that case and the one-year suspension in the present matter will run concurrently, and both will be effective September 1, 2014. A proposed form of order is attached hereto as Exhibit "B."

DATED this 22nd day of July 2014.

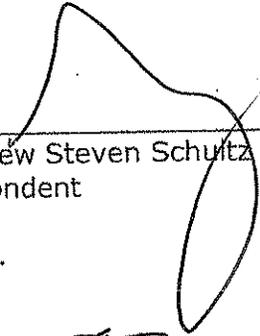
State Bar of Arizona



David L. Sandweiss
Senior Bar Counsel

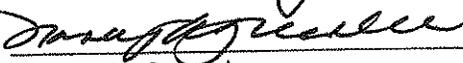
This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property, and other rules pertaining to suspension.

DATED this 18th day of July, 2014.



Matthew Steven Schuitz
Respondent

DATED this 21st day of July, 2014.



Nancy A. Greenlee
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
of the Supreme Court of Arizona
this 22nd day of July 2014.

Copies of the foregoing mailed/emailed
this 22nd day of July 2014 to:

Ms. Nancy A. Greenlee
821 E. Fern Dr. North
Phoenix, AZ 85014-3248
nancy@nancygreenlee.com
Respondent's Counsel

Copy of the foregoing emailed
this 22nd day of July, 2014, to:

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

Copy of the foregoing hand-delivered
this 22nd day of July, 2014, to:

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

by:

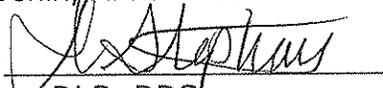

DLS: DDS

EXHIBIT "A"

Statement of Costs and Expenses

In the Matter of a Current Member of the State Bar of Arizona,
Matthew Steven Schultz, Bar No. 022017, Respondent

File No. 14-0186

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

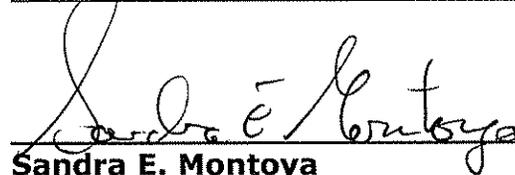
\$1,200.00

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

Total for staff investigator charges \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED \$ 1,200.00



Sandra E. Montoya
Lawyer Regulation Records Manager

6-26-14

Date

EXHIBIT "B"

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

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

**Matthew Steven Schultz,
Bar No. 022017,**

Respondent.

PDJ

FINAL JUDGMENT AND ORDER

[State Bar No. 14-0186]

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the 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, **Matthew Steven Schultz**, is hereby suspended for one year for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective September 1, 2014. Respondent's suspension will require him to prove rehabilitation and compliance with other requirements prior to being reinstated to the practice of law in Arizona.

IT IS FURTHER ORDERED that Respondent and the State Bar immediately dismiss their pending mutual appeals in PDJ-2013-9116, SBA No. 13-0832, filed May 12, 2014. Respondent's 30-day suspension in that case will run concurrently with his one-year suspension in this matter, and both suspensions will be effective September 1, 2014.

IT IS FURTHER ORDERED that upon reinstatement, Respondent shall be placed on probation for a period of one year on the terms ordered in the "Report and Order Imposing Sanctions" in PDJ-2013-9116, SBA No. 13-0832, filed May 12, 2014.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,200.00, within thirty (30) days from the date of service of this Order.

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 _____, within thirty (30) days from the date of service of this Order.

DATED this _____ day of July, 2014

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 July, 2014.

Copies of the foregoing mailed/mailed
this _____ day of July, 2014, to:

Ms. Nancy A. Greenlee
821 E. Fern Dr. North
Phoenix, AZ 85014-3248
Email: nancy@nancygreenlee.com
Respondent's Counsel

Copy of the foregoing emailed/hand-delivered
this _____ day of July, 2014, to:

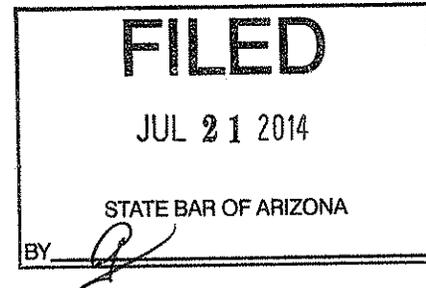
David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this _____ day of July, 2014, to:

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

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,**

No. 14-0186

**MATTHEW STEVEN SCHULTZ
Bar No. 022017**

PROBABLE CAUSE ORDER

Respondent.

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on July 11, 2014, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 6-0-3¹, the Committee finds probable cause exists that Respondent violated the Rules of the Supreme Court of Arizona:

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the 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 21st day of July, 2014.



Daisy Flores, Vice Chair
Attorney Discipline Probable Cause
Committee of the Supreme Court of Arizona

¹ Committee members Judge Lawrence F. Winthrop, Jeffrey G. Pollitt and Donald G. Manning did not participate in this matter.

Original filed this 21st day
of July, 2014, with:

Lawyer Regulation Records Manager
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4201 North 24th Street, Suite 100
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Copy mailed this 22nd day
of July, 2014, to:

Nancy A. Greenlee
Attorney at Law
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Respondent's Counsel

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of July, 2014, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
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by: 