

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

GOVE L. ALLEN,
Bar No. 001030

Respondent.

PDJ 2021-9098

FINAL JUDGMENT AND ORDER

[State Bar No. 20-2217]

FILED DECEMBER 2, 2021

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

IT IS THEREFORE ORDERED that Respondent, **GOVE L. ALLEN, Bar No. 001030** is reprimanded and placed on probation for two years, for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents. The term of probation is as follows:

a) Respondent shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,200.00 within 30 days from the date of service of this order. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 2nd day of December, 2021.

Margaret H. Downie

Margaret H. Downie
Presiding Disciplinary Judge

Copies of the foregoing emailed
this 2nd day of December, 2021, to:

Gove L. Allen
1522 E Dolphin Ave
Mesa, Az 85204-3519
Email: saaros@live.com
Respondent

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

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

GOVE L. ALLEN,
Bar No. 001030

Respondent.

PDJ 2021-9098

**DECISION ACCEPTING
AGREEMENT FOR DISCIPLINE BY
CONSENT**

[State Bar No. 20-2217]

FILED DECEMBER 2, 2021

The State Bar of Arizona is represented in this matter by Steve Little. Respondent Gove Allen is self-represented. A probable cause order issued on September 14, 2021, but no formal complaint has been filed. On November 16, 2021, the parties filed an Agreement for Discipline by Consent (“Agreement”) pursuant to Rule 57(a), Ariz. R. Sup. Ct.

Contingent on approval of the proposed form of discipline, Mr. Allen has voluntarily waived his right to an adjudicatory hearing, as well as all motions, defenses, objections, or requests that could be asserted. As required by Rule 53(b)(3), notice of the Agreement was sent to the complainant(s) by letter dated October 19, 2021. No objections have been received.

The Agreement details a factual basis in support of Mr. Allen’s conditional admissions and is incorporated by reference. *See* Rule 57(a)(4). Mr. Allen admits violating Rule 42, ERs 1.3 (diligence), ER 1.5(b) (fees), ER 1.8(a) (conflict of interest), ER 3.2 (expediting litigation), ER 3.4(c) (knowingly disobey an obligation under the rules of the tribunal), and

8.4(d) (conduct prejudicial to the administration of justice). As a sanction, the parties agree to a reprimand, two years of probation, and payment of costs to the State Bar.

Mr. Allen accepted representation in a probate matter. He failed to provide a written fee agreement capturing the scope of representation and his fees, as required by ER 1.5(b). A settlement agreement was ultimately reached with the beneficiaries regarding the disposition of estate assets. However, when Mr. Allen filed a petition to confirm the agreement, he included a provision giving him a lien for his fees. He failed to obtain the clients' consent or to advise them to seek independent legal counsel regarding the lien. He also failed to withdraw from the clients' representation or to appear for a court hearing in 2019.

Based on the conditional admissions, the parties agree that the presumptive sanction is suspension under § 4.32 (failure to avoid conflicts of interest) of the ABA Standards for Imposing Lawyer Sanctions. Mr. Allen violated duties owed to his clients and the legal system, resulting in actual harm.

The parties stipulate to the existence of aggravating factors 9.22(a) (prior disciplinary offenses) and 9.22(i) (substantial experience in the practice of law). They further stipulate to the existence of mitigating factor 9.32(m) (remoteness of prior offenses) and note that Mr. Allen has since retired from the practice of law after being licensed for 62 years. Upon consideration of the aggravating and mitigating factors, the parties agree that a reduction in the presumptive sanction is appropriate. The PDJ concurs.

IT IS ORDERED accepting the Agreement for Discipline by Consent. A final judgment and order is signed this date.

DATED this 2nd day of December 2021.

Margaret H. Downie
Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
this 2nd day of December 2021 to:

Steve Little
Senior Bar Counsel
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4201 N. 24th Street, Suite 100
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by:SHunt

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Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**GOVE L. ALLEN,
Bar No. 001030,**

Respondent.

PDJ 2021 -9098

State Bar File No. **20-2217**

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, and Respondent Gove L. Allen who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on September 14, 2021, but no formal complaint has been filed in this matter. 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(s) by letter on October 19, 2021. Complainant(s) have 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. Copies of Complainants' objections, if any, have been or will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER 1.3, ER 1.5(b), ER 1.8(a), ER 3.2, ER 3.4(c) and ER 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: **Reprimand with Probation** terms of which are set in Sanctions below. 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.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

¹ Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on March 20, 1959.

COUNT ONE (File no. 20-2217/ Owens-Rees)

2. In or about September of 2009, Laurie Owens-Rees (“Ms. Owens-Rees”) retained Respondent to assist with the probate of her late father’s (Conrad Owens, Jr.’s) estate.

3. There was no written fee agreement or confirmatory writing memorializing the scope of representation and fee to be charged as required by ER 1.5(b).

4. On September 21, 2009, Respondent filed a Petition for Adjudication of Intestacy, Determination of Heirs and Appointment of Personal Representative, thereby initiating Maricopa County Superior Court case PB2009-090723.

5. Ms. Owens-Rees was appointed personal representative of the estate, and over the next four years, Respondent continued to perform work on the case, advancing the probate matter.

Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

6. On or about July 21, 2013, Respondent assisted Ms. Owens-Rees and the three other beneficiaries of the estate in reaching and executing a family settlement agreement regarding disposition of the estate assets, including a piece of real property.

7. The family settlement agreement provided for the beneficiaries to purchase the real property from the estate. It did not contain any terms regarding granting a lien against the real property in favor of Respondent.

8. The family settlement agreement was signed by all four beneficiaries, including Ms. Owens-Rees.

9. On September 17, 2013, Respondent filed a Petition for Confirmation of Sale of Real Property and Approval of Family Settlement Agreement.

10. The Petition attached the family settlement agreement and indicated that four beneficiaries of the estate, including Ms. Owens-Rees, would purchase the real property from the estate under specified terms.

11. The Petition further indicated that, if the funds of the estate in Bank of America turned out not to be sufficient to pay the Court approved fees and costs of Respondent, the right, title and interest of the four beneficiaries in the real property would be surcharged by a lien in favor of Respondent in an amount necessary to pay in full the amount due to him.

12. The Petition was signed by both Respondent and Ms. Owens-Rees, but not any of the other three beneficiaries.

13. Neither the family settlement agreement nor the Petition contained the required ER 1.8(a) disclaimers regarding the desirability of seeking the advice of independent legal counsel regarding the lien and that Respondent was or was not representing the client regarding the lien.

14. On November 5, 2013, the Court approved the Petition on the terms set forth by Respondent, including his provision for a lien.

15. Respondent performed no further work on the matter to conclude or close the probate, and the matter remained open on the Court docket for multiple years.

16. On September 14, 2018, Ms. Owens-Rees filed a pro-per Petition to Close Restricted Bank Account.

17. The Court held a hearing on October 10, 2018 regarding Ms. Owens-Rees' Petition. Ms. Owens-Rees appeared but Respondent did not.

18. The Court denied Ms. Owens-Rees' Petition, appointed the Public Fiduciary to investigate the status of the estate and set the matter for an Appearance Hearing on January 3, 2019.

19. The Court specifically noted in the Minute Entry that Respondent had not filed a Motion to Withdraw in the matter and Ordered Respondent to either file a Motion to Withdraw or to appear at the January 3, 2019 hearing.

20. Despite being aware of the Court's order, Respondent did not file a Motion to Withdraw and did not appear at the January 3, 2019 Appearance Hearing.

21. Ms. Owens-Rees filed a pro-per Closing Statement on May 29, 2019.

22. On August 12, 2020, Respondent filed a Petition for Approval of the Amount Due Gove L. Allen. In it, he cited the lien previously approved against the real property and sought payment of \$11,271.97 in fees and costs.

23. Ms. Owens-Rees objected to Respondent's Petition for his fees and the Court set an evidentiary hearing. The parties then settled their dispute without an evidentiary hearing actually being held.

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 conditionally admits that he violated Rule 42, Ariz. R. Sup. Ct., specifically ER 1.3, ER 1.5(b), ER 1.8(a), ER 3.2, ER 3.4(c) and ER 8.4(d).

CONDITIONAL DISMISSALS

There are no conditional dismissals.

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 sanctions are appropriate: Reprimand with Probation for two (2) years, **the terms of probation which will consist of:**

1. Respondent shall commit no further violations of the Rules of Professional Conduct.

NON-COMPLIANCE WITH PROBATION

If Respondent fails 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), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of

probation and, if so, to recommend an appropriate sanction. If the State Bar alleges 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.

If Respondent violates 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. The *Standards* provide guidance with respect to an appropriate sanction in this matter.

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 parties agree that the following *Standard 4.3 Failure to Avoid Conflicts of Interest* is the appropriate *Standard* given the facts and circumstances of this matter: *Standard 4.32* provides that 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. In the case at hand, Respondent's most direct violation was the obtaining of a lien adverse to his client without obtaining the proper informed consent from his client and the other beneficiaries of the estate. This conduct was knowing and did result in actual harm in that subsequent litigation arose out of the lien.

The duty violated

Respondent's conduct violated his duty to the client and the legal system.

The lawyer's mental state

Respondent's violation of the Rules of Professional Conduct was a knowing violation.

The extent of the actual or potential injury

There was actual harm to the client and the legal system in that additional litigation arose out of the lien.

Aggravating and mitigating circumstances

The presumptive sanction is Suspension. The parties conditionally agree that the following aggravating and mitigating factors should be considered:

In aggravation:

- a) 9.22(a) prior disciplinary offenses: Respondent has the following disciplinary history:
 - a. 05-0009 (Probation for violation of ER 1.2, 1.3, 1.4, 1.16, 8.4)
 - b. 05-1992 (Probation with no identified rules)
 - c. 03-1149 (Informal reprimand and probation for violation of ER 1.2, 1.3, 1.4, and 8.4(d))
 - d. 98-1299 (Censure and Probation for violation of ER 1.2)
 - e. 97-0218 (Censure and Probation with LOMAP for violation of ER 1.1, 1.2, 1.3, 1.4, 1.15, 1.16, 3.2, 3.4, 8.4, and 8.4(d))
 - f. 97-1279 (Censure and Probation for violation of ER 1.1, 3.1, 3.3, and 3.4)
 - g. 93-1341 (Censure for violation of ER 1.1, 3.1, and 8.4(d))
 - h. 92-2235 (Informal reprimand for violation of ER 1.3 and 1.4)

- i. 92-1140 (Informal reprimand for violation of ER 1.5(c))
 - j. 89-1174 (Informal reprimand for violation of ER 4.2 and 8.4(a))
 - k. 84-0010 (Informal reprimand for violation of Rule 29(a))
- b) 9.22(i) substantial experience in the practice of law: Respondent has been licensed to practice for 62 years.

In mitigation:

- a) 9.22(m) remoteness of prior offenses: Respondent's most recent disciplinary action was 16 years ago and his oldest was 37 years ago.
- b) While not a defined ABA mitigator, it bears noting that Respondent has since retired from the practice of law and closed his practice.

Discussion

Given the remoteness of Respondent's prior offenses and the cessation of his practice for retirement, the presumptive sanction mitigated to Reprimand with Probation.

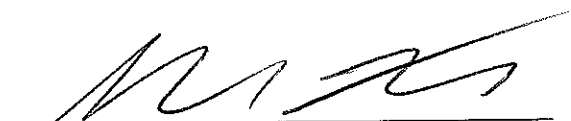
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

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 16 day of November 2021

STATE BAR OF ARIZONA



Steve Little
Senior Bar Counsel

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


DATED this 13 day of November, 2021.



Gove L. Allen
Respondent

DATED this _____ day of November, 2021.

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 16th day of November, 2021.

Copy of the foregoing emailed
this 16th day of November, 2021, to:

The Honorable Margaret H. Downie
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
E-mail: officepdj@courts.az.gov

Copy of the foregoing mailed/mailed
this 16th day of November, 2021, to:

GoveL Allen

1522 E DOLPHIN AVE
MESA, AZ 85204-3519
Email: saaros@live.com
Respondent

Copy of the foregoing hand-delivered
this 16th day of November, 2021, to:

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

by:


DEW/dpd

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona
Gove L. Allen, Bar No. 001030, Respondent

File No. 20-2217

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.

<i>General Administrative Expenses for above-numbered proceedings</i>	\$1,200.00
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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

Total for additional costs	<u>\$ 0.00</u>
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<u>TOTAL COSTS AND EXPENSES INCURRED</u>	<u>\$ 1,200.00</u>
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EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**GOVE L. ALLEN,
Bar No. 001030,**

PDJ

**FINAL JUDGMENT AND
ORDER**

State Bar No. 20-2217

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, **Gove L. Allen**, 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 is placed on probation for a period of two (2) years. The terms of probation are:

- a) Respondent shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED that Respondent 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 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 November, 2021.

**Margaret H. Downie, 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 November, 2021.

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

Gove L. Allen

1522 E DOLPHIN AVE
MESA, AZ 85204-3519
Email: saaros@live.com
Respondent

Copy of the foregoing emailed/hand-delivered
this ____ day of November, 2021, to:

Stephen P Little
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 November, 2021 to:

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

by: _____