

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**DAVID ALAN DICK,  
Bar No. 013518**

Respondent.

**PDJ 2020-9122**

**DECISION AND STIPULATED  
ORDER OF SUSPENSION**

[State Bar No. 20-2640-N]

**FILED JANUARY 26, 2021**

Under Rule 60(a)(5)(C), Ariz. R. Sup. Ct. the State Bar monitors and supervises a respondent placed on terms of probation. That rule requires that, “Bar counsel shall report material violations of the terms of probation to the presiding disciplinary judge (“PDJ”) by filing a notice of noncompliance with the disciplinary clerk and serving respondent with a copy of the notice.”

A Notice of Non-Compliance (“Notice”) with terms of probation was filed on December 22, 2020 pursuant to Rule 60(a)(5)(C), Ariz. R. Sup. Ct. The Notice was supported by the written personal verification of State Bar of Arizona trust account examiner and staff investigator Manuel Espinoza. No response was filed by Mr. Dick. Having considered the notice with attachments, the PDJ pursuant to Rule 60(a)(5)(C), set this matter for hearing. The purpose for the hearing as stated in Rule 60(a)(5)(C) is “to determine if the terms of probation have been violated and if an additional sanction should be imposed.”

### ***Prefatory Facts***

Mr. Dick was admonished by the Attorney Discipline Probable Cause Committee in 17-1021 on November 2, 2017 and placed on probation. The Order informed Mr. Dick that pursuant to Rule 55(c)(4)(B), Ariz. R. Sup. Ct., he had a right to demand a formal proceeding be instituted and the Order of Admonition would be vacated. Mr. Dick made no such demand and the Order became final. Mr. Dick knew the terms and requirements of the Order as discussed. He knew his obligations to adhere to the same. The terms of that Admonition cautioned Mr. Dick that whether a violation of those terms would result in an additional sanction would be determined by the PDJ.

On September 19, 2019 a notice of non-compliance was filed in PDJ 2019-9068. By stipulation his probation was extended for one year commencing October 7, 2019 under the original terms. The stipulation of the parties was accepted by the PDJ on November 1, 2019.

### ***The Notice of Non-Compliance***

Generally, the Notice in PDJ 2020-9122 alleges Mr. Dick violated his probation in the following two ways.

- 1) In State Bar No. 20-0817 Mr. Dick committed new ethical rule violations;
- and 2) Mr. Dick continued to violate his probation regarding his trust account.

### ***The Hearing and Stipulation***

The Chief Justice by Administrative Order authorized and directed the use of technologies to eliminate or limit in-person contact in the conduct of court proceedings. Due to COVID-19 concerns, the hearing proceeded technologically. On January 26, 2021, an approximate eleven-minute Zoom hearing, which was also audio recorded, was held before the Presiding Disciplinary Judge (“PDJ”) with Senior Bar Counsel David L. Sandweiss, and his attorney Charity Elyse Clark who waived the presence of her client with his approval.

The parties announced they reached an agreement which Ms. Clark stated her client Mr. Dick had agreed to. The agreement was entered on the record. The State Bar has withdrawn without prejudice allegations 9-11 of the Notice. The parties stipulate that the charge under State Bar No. 20-0817 shall proceed in the normal course at the discretion of the State Bar. *See* Rule 51(d)(1) and Rule 55, Ariz. R. Sup. Ct.

Mr. Dick concedes the trust account violations as alleged in paragraphs 1-8 of the Notice. They are adopted as findings of fact and incorporated by reference. Summarized, these finding of fact are that Mr. Dick:

- a) failed to timely produce his trust account records for the period of August 2019-March 2020;
- b) failed to disburse funds held in his trust account to the appropriate recipients, some dating back to 2017; and

c) failed to timely provide a requested list of client matters with funds on deposit as of October 31, 2020 with related information.

These shortfalls by him are violations of his probation. The PDJ additionally finds that David Alan Dick, Bar No. 013518 is an attorney licensed in Arizona. The American Bar Association's *Standards for Imposing Lawyer Sanctions*. ("Standards") form an integral part of the analysis for this case. The parties stipulate that *Standard* 4.12 is applicable.

It provides that "Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client."

The purpose of lawyer discipline proceedings is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are unlikely properly to discharge their professional duties to clients, the public, the legal system, and the legal profession. [*Standards* p. 13, A 1.1.]

The parties stipulate to a thirty (30) day suspension commencing February 20, 2021 through March 22, 2021. After reinstatement in accordance with Rule 64(e), his suspension shall be followed by one (1) year of probation under the same terms and conditions previously imposed. This stipulation is reasonable and meets the purpose of lawyer discipline.

### *General Findings*

Under Article VI, Section 3 of the Arizona Constitution, the Supreme Court of Arizona has jurisdiction over the regulation of attorneys licensed in Arizona. Pursuant to Rule 31, Ariz. R. Sup. Ct., any person engaged in the practice of law in Arizona is subject to the jurisdiction of the Court. Pursuant to Rule 46 and Rule 49 Ariz. R. Sup. Ct., any lawyer admitted to practice law in Arizona is subject to the disciplinary jurisdiction of the Court and the authority delegated to the State Bar of Arizona. Pursuant to Rule 51, Ariz. R. Sup. Ct., the PDJ has the authority to impose discipline on an attorney in accordance with the Ariz. R. Sup. Court Rules.

**IT IS ORDERED** finding that **DAVID ALAN DICK, Bar No. 013518** has knowingly violated his terms of probation and that an additional sanction is warranted.

**IT IS FURTHER ORDERED**, suspending **DAVID ALAN DICK, Bar No. 013518** from the practice of law for thirty (30) days effective February 20, 2021 through March 22, 2021 and upon reinstatement, Mr. Dick shall be placed on one (1) year of probation under the same terms and conditions previously imposed.

**IT IS FURTHER ORDERED** awarding costs to the State Bar of Arizona in an amount to be determined.

**DATED** this 26<sup>th</sup> day of January 2021.

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

Copies of the foregoing were emailed  
this 26<sup>th</sup> day of January, 2021, to:

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