

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**RICHARD H. LEE,  
Bar No. 004925**

Respondent.

**PDJ 2020-9118**

**FINAL JUDGMENT AND  
ORDER**

State Bar Nos. 20-0421 and 20-0844

**FILED FEBRUARY 12, 2021**

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

Accordingly:

**IT IS ORDERED** Respondent, **RICHARD H. LEE, Bar No. 004925**, is suspended for ninety (90) days for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective thirty (30) days from the date of this Order.

**IT IS FURTHER ORDERED** Mr. Lee is placed on probation for two (2) years from the date of this Order. The terms of probation are as follows:

- a) Trust Account Ethics Enhancement Program (TAEEP): Respondent shall attend the State Bar's half-day TAEEP. Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this Order, to schedule attendance at the next class. Mr. Lee shall

be responsible for the cost of attending the program.

- b) Law Office Management Assistance Program (LOMAP): Mr. Lee shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this Order. Mr. Lee shall participate in LOMAP, to account for and appropriately disburse restitution of the \$500.00 that disappeared from his trust account stemming from his involvement in the bankruptcy case alluded to in Count One of the Agreement for Discipline by Consent.

Mr. Lee shall commit no further violations of the Rules of Professional Conduct.

**IT IS FURTHER ORDERED** under Rule 72, Ariz. R. Sup. Ct., Mr. Lee shall immediately comply with the requirements relating to notification of clients and others.

**IT IS FURTHER ORDERED** Mr. Lee shall pay the costs and expenses of the State Bar of Arizona of \$1,350.88, within thirty (30) days from the date of this Order. There are no costs and expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

**DATED** this 12<sup>th</sup> day of February 2021.

*William J. O'Neil*  

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

Copies of the foregoing emailed this  
12<sup>th</sup> day of February 2021, to:

Richard H. Lee  
Community Legal Services  
PO Box 21538  
Phoenix, Arizona 85036-1538  
Email: [richardleeaz@yahoo.com](mailto:richardleeaz@yahoo.com)  
Respondent

and

5652 N. 12<sup>th</sup> Street  
Phoenix, Arizona 85014  
Email: [leeazlaw@yahoo.com](mailto:leeazlaw@yahoo.com)  
Respondent

David L. Sandweiss  
Senior Bar Counsel  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

by: S Hunt

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**RICHARD H. LEE,  
Bar No. 004925**

Respondent.

**PDJ 2020-9118**

**DECISION ACCEPTING  
DISCIPLINE BY CONSENT**

[State Bar Nos. 20-0421, 20-0844]

**FILED FEBRUARY 12, 2021**

Under Rule 57(a), Ariz. R. Sup. Ct.,<sup>1</sup> an Agreement for Discipline by Consent was filed on February 2, 2021. A Probable Cause Order issued on December 12, 2020 and the formal complaint was filed on December 12, 2020. The State Bar of Arizona is represented by Senior Bar Counsel David Sandweiss. Mr. Lee is self-represented.

Rule 57 requires admissions be tendered solely “...in exchange for the stated form of discipline...” Under that rule, the right to an adjudicatory hearing is waived only if the “...conditional admission and proposed form of discipline is approved...” If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Mr. Lee has voluntarily waived the right to an adjudicatory hearing, and waived all motions, defenses, objections or requests that could be asserted upon approval of the

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<sup>1</sup> Unless otherwise stated rule references are to the Ariz. R. Sup. Ct.

proposed form of discipline. The State Bar is the Complainant in this matter therefore notice to the complainant and an opportunity to object under Rule 53(b)(3) is not needed.

For purposes of the Agreement, the parties stipulate Mr. Lee failed to adhere to rules and guidelines governing client trust accounts which resulted in four insufficient funds notices. He failed to maintain the required copies of trust account records, failed to respond to the trust account examiner's inquiries, made erroneous disbursements, and took no action to replenish funds in the trust accounts.

In a separate matter, Mr. Lee was assigned as an arbitrator in a civil matter in 2019. Thereafter, he conducted the arbitration hearing but failed to issue a notice of decision despite being ordered to do so by the court. A new arbitrator was ultimately assigned, and a new arbitration hearing was held.

The Agreement details a factual basis to support the conditional admissions. It is incorporated by this reference. Mr. Lee admits he violated Rule 41(c) (maintain respect due courts of justice and judicial officers), Rule 42, ERs 1.15 (safekeeping property), 3.4(c) (knowingly disobey an obligation under the rules of a tribunal), 8.1(b) (failure to respond to lawful demand for information), 8.4(d) (conduct prejudicial to the administration of justice), Rule 43 (trust accounts), and Rule 54 (c) and (d) (grounds for discipline).

As a sanction, the parties agree to a 90-day suspension and upon reinstatement, two years of probation (TAEPP and LOMAP), and the payment of costs within 30 days.

The parties stipulate Mr. Lee violated his duties to the client, legal profession, legal system & public which caused actual harm to all. The presumptive sanction is suspension under *ABA Standards 4.13 Failure to Preserve the Client's Property* and *Standard 6.22 Abuse of the Legal Process*, and *7.2 Violations of Other Duties Owed as a Professional*. The parties further stipulate to the presence of aggravating factors 9.22(a) prior disciplinary offenses, 9.22(c) pattern of misconduct 9.22(d) multiple offenses, 9.22(e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, 9.22(f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process, and 9.22(i) substantial experience in the practice of law. Mitigating factors include 9.32(c) personal or emotional problems and 9.32(m) remoteness of prior offenses.

**IT IS ORDERED** accepting the Agreement and incorporating it with any supporting documents by this reference. A final judgment and order is signed this date.

**DATED** this 12th day of February 2021.

*William J. O'Neil*  

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

COPY of the foregoing e-mailed  
on this 12th day of February 2021 to:

Richard H. Lee  
Community Legal Services  
PO Box 21538  
Phoenix, AZ 85036-1538  
Email: [richardleeaz@yahoo.com](mailto:richardleeaz@yahoo.com)  
Respondent

and

5652 N. 12<sup>th</sup> Street  
Phoenix, AZ 85014  
Email: [leeazlaw@yahoo.com](mailto:leeazlaw@yahoo.com)

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by: SHunt

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**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

**IN THE MATTER OF A MEMBER  
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Bar No. 004925,**

Respondent.

**PDJ 2020-9118**

**COMPLAINT**

State Bar Nos. 20-0421 & 20-0844

For its Complaint against Respondent the State Bar of Arizona alleges:

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 June 20, 1977

**COUNT ONE OF TWO  
(File no. 20-0421/Trust Account)**

2. The State Bar of Arizona received insufficient funds notices on Respondent's Wells Fargo IOLTA ending in 0021, reporting that on February 3,

2020, check number 1005 for \$220.00 attempted to pay against the account when the balance was only \$44.00.

3. The bank paid the check leaving the account with a negative balance of <\$176.00>.

4. The next day the bank charged a \$35.00 overdraft fee leaving the account with a negative balance of <\$211.00>.

5. By letter dated February 12, 2020, a State Bar Trust Account Examiner (TA Examiner) sent Respondent a copy of the overdraft notice and requested an explanation of the overdraft and copies of the related mandatory records covering the period January and February 2020.

6. The TA Examiner requested Respondent to respond by March 3, 2020.

7. On February 26, 2020, the State Bar received two more insufficient funds notices on Respondent's IOLTA, reporting that:

a) On February 14, 2020, check number 1003 for \$480.00 attempted to pay against the account when the balance was negative <\$726.00>;

i. The bank returned the check;

ii. The related bank statement reflects the \$480.00 instrument was returned unpaid on February 13, 2020 and February 18, 2020;

b) On February 18, 2020, check number 1074 for \$226.00 attempted to pay against the account when the balance was negative <\$507.00>;

i. The bank returned that check, too;

ii. The related bank statement reflects the \$226.00 instrument was returned unpaid on February 19, 2020.

8. By letter dated February 27, 2020, the TA Examiner sent Respondent copies of the two NSF notices and requested an explanation of all three overdraft notices by the preset deadline of March 3, 2020.

9. Respondent failed to comply with the TA Examiner's request.

10. On March 3, 2020, the State Bar received a fourth insufficient funds notice on Respondent's IOLTA, reporting that:

a) On February 24, 2020, checks numbered 1250 and 1251 for \$149.50 and \$255.50, respectively, attempted to pay against the account when the balance was negative <\$721.00>

i. The bank returned the checks;

ii. The related bank statement reflects the \$149.50 and \$255.50 instruments were returned unpaid on February 25, 2020.

11. On March 6, 2020, Respondent sent the TA Examiner an email, reproduced below in full:

*Sorry for the delay. Have been moving my home and home offices. The overdrafts have been cured. There were no client funds in the account. The checks were for personal matters erroneously written on trust account blank checks. Please advise what documentation and explanation you require.*

12. The TA Examiner responded to Respondent with a copy of the original request for information and a copy of the fourth insufficient funds notice.

13. The TA Examiner informed Respondent that the required documentation was detailed in the TA Examiner's February 12, 2020 letter.

14. The TA Examiner advised Respondent to review the correspondence and provide the requested records with a narrative response describing the exact circumstances surrounding the reported incidents.

15. The TA Examiner requested Respondent to respond by March 13, 2020.

16. Respondent failed to comply with the TA Examiner's request.

17. On April 2, 2020, the TA Examiner left Respondent a voicemail requesting a callback.

18. The TA Examiner also emailed Respondent requesting a reply by no later than April 6, 2020.

19. Respondent failed to comply with the TA Examiner's request.

20. On May 5, 2020, the State Bar issued subpoenas to Respondent and Wells Fargo Bank for information covering January 1, 2019 through April 30, 2020 (period of review).

21. The process server tried to serve the subpoena on Respondent at Respondent's address as reported by Wells Fargo on the overdraft notices.

22. The process server was unable to serve Respondent; Respondent's residence was vacant, all the walls were stripped out, appliances were in the backyard, and a full green construction dumpster was in the driveway.

23. On May 13, 2020, at approximately 11:30 AM, Respondent's business profile on Google's search engine was updated with the following post: "My private practice is closed. I am a staff attorney at Community Legal Services."

24. Respondent, however, remained unresponsive and unreachable to the State Bar.

25. The TA Examiner subsequently obtained Respondent's Community Legal Services' business email address.

26. On May 14, 2020, the TA Examiner emailed Respondent requesting seven categories of records and reliable contact information, to include email addresses, telephone numbers, and U.S.P.O. mailing addresses.

27. The TA Examiner requested Respondent to respond to the seven categories of records by May 22, 2020.

28. The TA Examiner requested Respondent to respond with his current contact information as soon as Respondent received the email request.

29. Respondent received the email requests but failed to fully comply with either deadline.

30. Respondent replied the same day (typographical errors in this and all subsequent of Respondent's emails are in the originals):

*My apologies for the problems. We seem to be having some problems partially because neither of us are in the office. I have not had access to my office voice mail for over 2 months. I called and left a message at the state bar to find who was handling this matter and left a message [perhaps twice.]. Subsequently i called a left a voice mail for the individual I believed to be handling this matter. My recollection is that the message was left for you. I will begin assembling the information you requested.*

31. The State Bar's Lawyer Regulation Office has no record of Respondent's purported messages.

32. The same day the TA Examiner informed Respondent that the two letters mailed to his address of record contained the TA Examiner's direct phone number.

33. Also, the TA Examiner's email was available to Respondent upon transmission of the courtesy email copy of the letter notifying him of additional overdraft incidents.

34. The TA Examiner encouraged Respondent to address the lapse in communication in his written response and emphatically reiterated that Respondent reply with current contact information.

35. Respondent failed to comply with the TA Examiner's requests.

36. Instead, on May 21, 2020, Respondent replied in part that he was "[b]attling with a bloated inbox" and requested verification of emails exchanged.

37. The next day Respondent acknowledged receipt of the TA Examiner's emails but did not address the request for current contact information.

38. Respondent's full email reply was: "Yes I have the emails.. Back with you on Tuesday with what I hae been able to find from my balky computers."

39. On May 26, 2020, Respondent finally addressed the request for contact information and production of records.

40. Respondent's response revealed that he failed to maintain copies of any of the required trust account records.

41. Respondent failed to maintain individual client ledgers, an administrative funds ledger, a general ledger, duplicate deposit records, monthly three-way reconciliations, and bank statements.

42. Despite the foregoing violations, Respondent certified on his 2018, 2019, and 2020 State Bar dues statements that he read, understood, and was compliant with Rule 42 Ariz.R.S.Ct., ER 1.15, and Rule 43, Ariz.R.S.Ct.

43. Respondent should have had funds on deposit for the "AEI" matter.

44. Respondent stated: "There were no individual client funds in the account, but there was \$500 from an defunct Chapter 11 which i need to find out how to deposit with the bankruptcy court."

45. Respondent did not furnish any documentation to support his statements about the AEI matter or the missing \$500.

46. Respondent explained that in late 2019 and early 2020 he and his wife sold their home and bought her late mother's condo.

47. They turned over possession of their former home on February 28, 2020.

48. Due to the downsize they stored much of their furnishings and home office.

49. Respondent explained further that things were chaotic and he "negligently selected the wrong check forms for several expenses associated with the move."

50. The checks were not labeled as trust account instruments and Respondent didn't catch the erroneous disbursements because he "was not maintaining proper trust account procedures and the statements arrived during a period of disruption."

51. Eight such checks were disbursed and presented for payments against the IOLTA.

52. Two cleared during December 2019 and two more during February 2020.

53. The last of that batch of four checks overdrew the account causing the remaining four checks to be returned unpaid.

54. Respondent's bank statements reflect a total of nine debits; however, two of the attempted debits were for \$480.00.

55. The bank statements do not identify the underlying instruments presented for payments.

56. The insufficient funds notices reflect a single instrument, check number 1003, for \$480.00.

57. That item was presented for payment and rejected twice.

58. Respondent was unable to verify if there was more than one check issued in that amount.

59. On May 27, 2020, the TA Examiner sent Respondent a request for additional information to be furnished by June 5, 2020.

60. Respondent failed to comply with the TA Examiner's request.

61. On June 4, 2020, Respondent alleged that he was unable to locate the TA Examiner's request for information, stating in part:

*Having a frustrating time with this matter though probably not half so frustrating as you.*

*Cannot find your recent email message.*

*There are two items I can give you easily though I am not sure of the significance. There is no question that I negligently work checks for personal bills on the trust account. [...]*

*Info on the trust account is coming much more slowly. I need the information to deposit money with the bankruptcy court. The trust account was opened July 28, 2009. I looked through the largest portion my paper client records in file storage, but most of my records were on computer. Many of my computer records were lost in a home burglary last year. I have checked backup drives and I am trying to get more info through the court records.*

*It would be helpful if you resent the last email so I do not miss any requests.*

*My apologies. It is not your concern but I am felling pretty ineffective because of my current client duties, a health crisis of my brother in law, and that some of my records are in storage with my household furnishings*

62. On June 8, 2020, the TA Examiner provided Respondent a copy of the email in question and requested a response by June 12, 2020.

63. Respondent confirmed receipt the same day ("Got it").

64. On June 12, 2020, Respondent failed to provide a complete response, stating:

*I am having a frustrating time with the AEI file. Still have four or five boxes in storage which I have not reviewed but I am sure there is nothing in them. I am sure the records were com computerized and on email. They appear to have been lost when several of my computers wee stolen. I will eventually eventually find the AEI file through electronically filed papers.*

65. Respondent stated that "[t]he funds were deposited many years ago" for two interrelated bankruptcy files.

66. Respondent claimed to recall that a reorganization plan was "confirmed and converted but the Chapter 13 trustee who was entitled to the funds did not take the funds and dismissed the case."

67. Respondent stated that the members of the committee had stopped participating and the \$500.00 balance remained in his possession.

68. Respondent had a second "AZ IOLTA" the title of which implies it was established specifically for the "AEI" matter, with an account number that ended in 5950.

69. That account held only \$40.97 from the onset of the period of review through February 28, 2020.

70. On that day \$5.00 cash was deposited into the account.

71. The overdrawn IOLTA ending in 0021 maintained a \$520.00 balance from the onset of the period of review through December 24, 2019, at which time the erroneous disbursements began to deplete the balance until the account was overdrawn.

72. Respondent failed to produce any supporting documentation regarding the funds he supposedly held for the AEI matter.

73. On June 12, 2020, Respondent told the TA Examiner:

*Info on the trust account is coming much more slowly. I need the information to deposit money with the bankruptcy court. The trust account was opened July 28, 2009. I looked through the largest portion my paper client records in file storage, but most of my records were on computer. Many of my computer records were lost in a home burglary last year. I have checked backup drives and I am trying to get more info through the court records.*

74. The records subpoenaed from Wells Fargo confirmed that IOLTA 0021 was established on July 28, 2009 but those records do not reveal the origin of IOLTA 5950.

75. At the onset of the examination Respondent asserted that the overdrafts were cured (Respondent's email dated March 6, 2020).

76. The bank records show that Respondent brought the compromised account balance to zero.

77. However, despite avowing that \$500.00 should have been held for the AEI matter, Respondent did not replenish either of the two trust accounts to that amount.

78. Although the TA Examiner asked Respondent to explain the missing \$500.00, Respondent failed to explain why he took no action to replenish the AEI balance or what the nature was of the second IOLTA.

79. On June 13, 2020, Respondent said he had not previously reviewed the TA Examiner's request for information dated May 27, 2020, stating:

*T the bankruptcy court documents are incomplete and I need to follow up with the Debtor's attorney and perhaps he court.. Was finally able to open your attachment of 05/27/2020 email. Will provide additional information when I have it*

80. As detailed above, by email dated June 8, 2020, Respondent acknowledged receipt of the request in question and submitted a responsive email without raising any transmission issues.

81. On June 18, 2020, Respondent said that he was trying to procure pertinent records from the court.

82. He added: "FWI I am seeking counseling because of work related issues."

83. Respondent has not communicated with the TA Examiner since then.

84. The ownership of the \$65.97 held on deposit in Respondent's trust accounts during the period of review remains unknown.

a. \$20.00 from IOLTA ending in 0021;

b. \$45.97 from IOLTA ending in 5950.

85. Respondent violated Rule 42, Ariz.R.S.Ct., ER 1.15; Rules 43(b), (c), and (d), Ariz.R.S.Ct.; and Rule 54(d), Ariz.R.S.Ct.

**COUNT TWO OF TWO**  
**(File no. 20-0844/Judicial Referral)**

86. On April 26, 2019, in *Stubbs v. Beason*, Maricopa County Superior Court CV2018-010421, the court appointed Respondent as the arbitrator under Rule 72 *et seq.*, Ariz.R.Civ.P.

87. Respondent conducted the arbitration on December 12, 2019.

88. Under Rule 76, Ariz.R.Civ.P, he was to issue a notice of decision no later than December 26, 2019.

89. Respondent failed to issue a notice of decision.

90. Plaintiff's counsel several times asked Respondent to issue his decision.

91. Respondent failed to respond to Plaintiff's counsel.

92. On February 7, 2020, Plaintiff filed a Request for an Order to Arbitrator to File Notice of Decision.

93. On February 11, 202, the Court ordered Respondent to file the notice of decision by February 28, 2020.

94. Respondent failed to file the notice of decision.

95. On March 17, 2020, the plaintiff filed a Motion to Appoint New Arbitrator and Order New Arbitration Hearing to be Held.

96. The Court tried to contact Respondent on March 18 and 24, 2020.

97. The Court received no response from Respondent.

98. On March 25, 2020, the Court granted Plaintiff's Motion to Appoint New Arbitrator and Order New Arbitration Hearing to be Held.

99. The Court also ordered Civil Court Administration to appoint a new arbitrator.

100. On March 31, 2020, the State Bar sent Respondent a standard screening investigation letter by mail to a P.O. Box for Community Legal Services (CLS).

101. The P.O. Box for CLS is Respondent's address of record

102. Also on March 31, 2020, the State Bar sent Respondent a standard screening investigation letter by email to Respondent's email address of record at richardleeaz@yahoo.com.

103. Respondent failed to respond to either screening investigation letter.

104. In the spring and summer of 2020, the State Bar investigated the trust account charge alleged above in Count One.

105. In connection with that investigation, Respondent failed to respond to the TA Examiner's requests for information, blaming a move and email failures for communication problems.

106. The TA Examiner confirmed, however, that Respondent's P.O. Box and street addresses for CLS (where he works), his CLS email address, and his email address at yahoo.com, are reliable.

107. On October 5, 2020, the State Bar sent Respondent the standard reminder letter that he had failed to respond to the March 31, 2020 screening letter and email.

108. The State Bar sent the October 5, 2020 letter to both of Respondent's U.S. mail addresses and both of his email addresses.

109. In that letter, the State Bar asked Respondent to respond to the bar charge within ten days.

110. The State Bar received an Outlook email delivery confirmation showing that the October 5, 2020 email was delivered to Respondent's CLS email address.

111. Respondent "replied" on October 16, 2020:

**From:** Richard Lee  
**Sent:** Friday, October 16, 2020 9:25 PM  
**To:** [David.Sandweiss@staff.azbar.org](mailto:David.Sandweiss@staff.azbar.org);  
[Jennifer.Smith@staff.azbar.org](mailto:Jennifer.Smith@staff.azbar.org)  
**Subject:** File No. 20-0844

[David.Sandweiss@staff.azbar.org](mailto:David.Sandweiss@staff.azbar.org)  
[Jennifer.Smith@staff.azbar.org](mailto:Jennifer.Smith@staff.azbar.org)

I was informed that this message could not be delivered to [David.Sandweiss@staff.azbar.org](mailto:David.Sandweiss@staff.azbar.org) "because the email address is no longer valid."

Sorry to report I was unable to get out a reply to your October 5, 2020 letter. The reasons are filing my tax returns, simply being exhausted (psychologically even more than physically), and the lack of ink for my printer for a hard copy.

I will send a hard copy of this email by U. S. Mail when I can get ink

112. Respondent directed his "response" to bar counsel to an incorrect email address. Respondent inserted a comma, rather than a period, in bar counsel's email address between "azbar" and "org".

113. Respondent claimed that the State Bar did not enclose with or attach to its October 5, 2020 reminder letter and email the March 31, 2020 screening letter.

114. In his October 16, 2020 email, wrongly thinking the State Bar still was investigating the IOLTA case (Count One), he reiterated information he already provided about the IOLTA matter.

115. To eliminate any question on the subject, bar counsel's secretary re-emailed to Respondent the March 31, 2020 screening letter with enclosed charge from the Superior Court, and the October 5, 2020 reminder letter.

116. Respondent failed to reply to the judicial referral charge.

117. Respondent violated Rule 41, Ariz.R.S.Ct.; Rule 42, Ariz.R.S.Ct., ERs 3.4, 8.1, and 8.4; and Rule 54, Ariz.R.S.Ct.

**DATED** this 9<sup>th</sup> day of December, 2020.

**STATE BAR OF ARIZONA**

*David L. Sandweiss*

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David L. Sandweiss  
Senior Bar Counsel

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 9<sup>th</sup> day of December, 2020.

by: *Jennifer Smith*  
DLS:js