

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

GREG CLARK,
Bar No. 009431

Respondent.

PDJ 2016-9109

FINAL JUDGMENT AND ORDER

[State Bar Nos. 15-0690, 15-1685
and 15-2526]

FILED MARCH 9, 2017

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on February 7, 2017, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepted the parties' proposed agreement.

Accordingly:

IT IS ORDERED Respondent, **Greg Clark**, is suspended for sixty (60) days for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, **effective March 10, 2017.**

IT IS FURTHER ORDERED upon reinstatement, Mr. Clark shall be placed on probation for a period of two (2) years.

IT IS FURTHER ORDERED upon reinstatement, Mr. Clark shall participate in LOMAP. Mr. Clark shall contact the State Bar Compliance Monitor at (602) 340-

7258, within ten (10) days from the date of reinstatement. Mr. Clark shall submit to a LOMAP examination of his office procedures. Mr. Clark shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Mr. Clark shall be responsible for any costs associated with LOMAP.

IT IS FURTHER ORDERED within ten (10) days after reinstatement, Mr. Clark shall file the necessary applications to participate in the State Bar's Fee Arbitration Program in SBA File Nos. 15-0690 and 15-1685, and timely comply with any award.

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

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, 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 a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation 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.

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

IT IS FURTHER ORDERED Mr. Clark shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200 within thirty (30) days from the date of this order. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 9th day of March, 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing emailed this 9th day of March, 2017, and mailed March 10, 2017, to:

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Respondent

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by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

GREG CLARK,
Bar No. 009431

Respondent.

PDJ-2016-9109

**DECISION AND ORDER
ACCEPTING DISCIPLINE BY
CONSENT**

[State Bar Nos. 15-0690, 15-1685,
and 15-2526]

FILED MARCH 9, 2017

Probable Cause Orders issued on June 29, 2016 and August 31, 2016. The formal complaint was filed on October 20, 2016 and the parties filed their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct.¹ on February 7, 2017.

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.

¹ Unless otherwise stated, all rule references are to the Ariz. R. Sup. Ct

Mr. Clark voluntarily waives the right to an adjudicatory hearing, and waives all motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. Notice of this Agreement and an opportunity to object as required by Rule 53(b)(3), Ariz. R. Sup. Ct., was sent by letter dated January 5, 2017 to complainant(s). One objection has been filed.

Complainants are defined by Rule 46(f)(6). The term refers to “any person who initiates a charge against a lawyer or later joins in a charge to the state bar regarding the conduct of a lawyer.” A charge “means any allegation or other information of misconduct that comes to the attention of the State Bar.” Rule 46(f)(4). Typically a high percentage of the charges the State Bar receives come from the client(s) of a respondent. They are not “victims” under the Rules, although some may feel they are.

While a complainant is not a party to the proceeding, bar counsel is mandated to “advise the complainant of a recommendation of any discipline, diversion or pending agreement for discipline by consent.” The complainant is also entitled to be informed of any hearing before the hearing panel or any public proceeding. Rule 53(b)(3).

An important emphasis is on the due process rights of a respondent. The rights of complainants are also important. While the rights of a respondent and a

complainant can appear to conflict, they are balanced by the rules. The rights of each are respected and independent of one another.

Objection of Leo Chavez (“Complainant”) Count Three

The Complainant in Count Three, expresses a concern to the proposed Agreement because he has not received a copy of the Agreement or documents supporting the Agreement. Rule 53(b)(3) requires no copy of the Agreement be sent to Complainant(s). Complainant additionally objects as he has not received various documents which he lists nor apparently a statement of what ethical rules are stipulated were violated and what facts are being stipulated and binding as part of the agreement. While these questions are understandable, their resolution do not answer the central issue of whether the stipulated two month suspension is objectionable. The agreement once filed is open to the public under Rule 70(a)(6). The disciplinary clerk is directed to forward a copy of the agreement to him with a copy of this ruling. Because a complainant has a right to state objections, the facts regarding the misconduct of Mr. Clark relating to that Complainant are in summary stated in narrative form.

Mr. Clark, after being retained by Complainant on July 2, 2014, did not answer his client’s calls or send him any discovery from his criminal case for eight consecutive months while Complainant was serving those months for a Federal probation violation. After release, he was taken into custody in Maricopa County

and at his initial appearance on the warrant hold to assure his appearance after his release, Mr. Clark only spoke with him at that hearing to express his promise to visit his client in jail. It is a promise Mr. Clark did not keep. Mr. Clark never visited nor spoke with his client from the time he began his Federal incarceration during the *entire* representation except at court hearings and trial.

On February 25, 2015, the court conducted a status conference. The parties stipulate in the agreement that the *judge* noted a plea agreement and so informed Complainant. The parties stipulate Mr. Clark had not spoken to his client previously about that agreement. On May 13, 2015, at the final case management conference before the jury trial, Mr. Clark did not appear and instead sent a substitute attorney. Complainant again tried to contact Mr. Clark but he would not speak with him.

Complainant wrote Mr. Clark asking for copies of pleadings and to talk with Mr. Clark. Mr. Clark did neither. On July 21, 2015, Mr. Clark promised to see him in jail, but did not. The records of Mr. Clark reflect no pretrial preparation. Yet he tried the case.

Guilty verdicts were returned on twelve counts. Whether a prepared attorney who diligently represented and communicated with his client would have brought a different verdict is unknown. Whether Mr. Clark was unethical in his dealings with his client is admitted. Mr. Clark stipulates regarding Complainant he violated ERs: 1.3, 1.4(a)(3) and (4), 1.16(d) and Rule 54(d)(2). Mr. Clark has agreed to pay the

costs and expenses of this disciplinary proceeding within thirty days. This substantially addresses the objections of complainant. Complainant questions whether Chief Bar Counsel reported the misconduct of Mr. Clark to the Superior Court or Court of Appeals. There has been no adjudication of misconduct to report until now.

As with his Complainant, Mr. Clark also ignored the State Bar in this count. Rule 55(b) mandates a lawyer respond to the allegations of a screening letter from the State Bar. Mr. Clark was sent a screening letter on November 12, 2015 and as with his Complaint, Mr. Clark did nothing. The State Bar tried again. Bar Counsel sent a letter dated December 8, 2015 granting Mr. Clark until December 18, 2015 to respond. Mr. Clark did not respond until December 31, 2015.

The parties stipulate in that response Mr. Clark had no dated or signed fee agreement. He had *no* time records, evidence of communication with Complainant or any other documentation reflecting work performed. Nearly four months later in response to another demand from the State Bar, Mr. Clark offered a “Client Information Sheet” that included 32 entries. He stated he met with his client seven times. But many of the dates are demonstrably false.

By his admission of the ERs cited above, Mr. Clark admits he was not diligent in representing Complainant. Mr. Clark admits he did not keep Complainant reasonably informed about the status of his criminal case and did not comply with

his client's reasonable requests for information. Mr. Clark admits because of his misconduct his fees were unreasonable. Mr. Clark admits he made no efforts to protect Complainant's interests by giving reasonable notice to him of his intent to withdraw.

Mr. Clark still has not surrendered documents and property to which Complainant is entitled. He has not provided Complainant with the documents reflecting the work performed for his client. That is likely because he performed no demonstrable professional services for Complainant. That failing is a central aspect of the objection of Complainant and well founded.

These admissions of Mr. Clark support the agreement for discipline by consent and are conditional, unless the agreement is accepted. As the agreement is accepted, Mr. Clark is bound by them as the facts of his representation. . In the remaining counts, Mr. Clark agrees to fee arbitration for his substantively identical inaction.

It is not stated why there is no fee arbitration for this count, but it is presumed because of the jury trial Mr. Clark participated in and because Complainant never paid the full fee apparently agreed upon but never stated under a signed fee agreement. The jurisdiction of this judge is limited to the administrative issues of attorney regulation. Nothing within this ruling precludes Complainant from seeking

other redress through the Superior Court. The objection having been addressed the other two counts for which there have been no objections are discussed.

Counts I and II

In the other two counts, Mr. Clark conditionally admits in Count One he violated the same Supreme Court Rule 42, ERs as he did with Complainant. ERs 1.3 (diligence), 1.4(a)(3) and (4) (communication), 1.5(a) (fees), 1.16(d) (declining/terminating representation) and Rule 54(d)(2) (failure to furnish information). In Count Two he admits to the same ER Rule violations excepting 1.3.

In Count Two, Mr. Clark represented an out of state criminal client in an Extreme DUI matter. Mr. Clark accepted \$3,500 minimum non-refundable retainer/fee earned upon payment. His nonrepresentation of his client is virtually identical to Count Three. The agreement details the apparent focus of Mr. Clark was only to delay the matter.

Mr. Clark continued the pretrial conference because “discovery was ongoing.” On the day of the Trial Readiness Conference he moved to set the jury trial. The Court set trial for June 10, 2013. Six days before the trial he moved for a continuance stating he would be out of state relocating his daughter to college. That continuance would be followed by two more continuances, requested less than a week before trial, arising from Mr. Clark’s own alleged scheduling issues.

When the Court denied a fourth continuance his client flew to Arizona to meet with Mr. Clark the day before trial. Mr. Clark convinced him to plead guilty. On the day the jury trial was scheduled Mr. Clark declined to be present and instead had substitute counsel present for the entry of the plea by his client.

Despite efforts by his client to speak with Mr. Clark after the entry of the plea, according to Mr. Clark's own time records he would not speak with his client again until September 2. Sentencing was set for September 12. Less than a week before the sentencing Mr. Clark sought to continue the sentencing, against due to his own scheduling issues. When his request was denied Mr. Clark called his client to discuss "how we are going to handle your matter." The court continued the sentencing.

It is not stated why his client did not appear for his October 10 sentencing resulting in an arrest warrant being issued. What is clear from the stipulated facts is Mr. Clark has no record of his doing anything after the warrant was issued including any notification to his client. By February 28, his client knew of the warrant, complained of the lack of communication and demanded a refund. Mr. Clark did not respond to that communication or the later request of his client until July of the year following his last minute guilty plea. Mr. Clark stated he would review the file "re your refund request."

Despite the continued efforts of his client Mr. Clark never responded. As in Count Three, when Mr. Clark received the State Bar screening letter, he did not

respond. Nor did he respond to the two letter demands from the State Bar nearly a month later. As in Count Three, when he finally belatedly responded, he provided a “Client Information/Activity Log” and nothing else reflecting substantive work performed by him. .

In Count Two, Mr. Clark was retained in November to represent a client charged with Second Degree Murder and First Degree Burglary. Trial was set in June. On April 21 client wrote Mr. Clark concerned “because he had not seen any of the discovery.” He told Mr. Clark he needed a mitigation specialist as he was potentially facing 25 years in prison. Consistent with the other counts, Mr. Clark did not respond, nor did he send his client notice he had joined in a motion to sever him from the other defendants.

His client on May 19, terminated Mr. Clark representation of him and moved for appointment of new counsel which the Court granted. On May 28, Mr. Clark received a plea offer on the case. On June 30, Mr. Clark wrote his prior client stating he was enclosing “an accounting based on the fee agreement.” It is stipulated there was no enclosed accounting.

As with the other counts, Mr. Clark did not respond to the screening letter. He responded to the second letter from the State Bar but acknowledged he had no signed fee agreement to produce and no documentation reflecting any work beyond minimal time entries comprising two to three words each. These entries demonstrate

Mr. Clark did not communicate with his client from the December pretrial conference following his being retained in November until an April 22 pretrial conference. Mr. Clark had a different attorney cover pretrial conferences between those dates.

The State Bar again requested in writing that Mr. Clark submit his full records. Mr. Clark has never provided his client with the requested itemized statement of his services provided during his representation.

In both Counts One and Two, Mr. Clark agrees to participate in the SBA's Fee Arbitration Program. These fact admissions of Mr. Clark support the agreement for discipline by consent and are conditional, unless the agreement is accepted. As the agreement is accepted, Mr. Clark is bound by them as the facts of these matters. Mr. Clark is judicially estopped from presenting other documents or factual arguments in his fee arbitration.

IT IS ORDERED, any State Bar arbiter handling any fee arbitration of Mr. Clark shall be given a copy of this ruling.

The agreed upon sanctions are: sixty (60) day suspension effective March 10, 2017, upon reinstatement, two (2) years of probation with the State Bar's Law Office Management Assistance Program (LOMAP), participation in fee arbitration, and the payment of costs totaling \$1,200.00 within thirty (30) days).

The Agreement details a factual basis to support the conditional admissions. Mr. Clark was licensed to practice law in Arizona May 12, 1984. In multiple counts, Mr. Clark failed to adequately communicate and diligently represent his criminal clients. After agreeing to represent clients and accepting retainers, he failed to call or visit incarcerated clients. Mr. Clark further failed to respond to the State Bar's inquires and failed to provide itemized accounting of his services when requested by clients.

Analysis

Rule 58(k) provides sanctions shall be determined in accordance with the *American Bar Association Standards for Imposing Lawyer Sanctions*, ("*Standards*"). The parties agree Mr. Clark violated his duties to clients, the profession, and the public. There was actual harm to clients, the profession, legal system and the public. The presumptive sanction is suspension, as Mr. Clark knowingly failed to respond to the State Bar's inquires or requests for information. Mr. Clark admits he negligently violated ERs 1.3, 1.4(a)(3) and (4), 1.5 and 1.16 and knowingly violated Rule 54(d)(2).

It is assumed the parties stipulate to negligence to reach their agreement. At some point, the beating drum of the substantially identical repeated complaints of clients accurately claiming identical misconduct goes well beyond negligence and even knowing failings.

The parties agree *Standard* 4.42(b), Lack of Diligence applies Mr. Clark's violations of ERs 1.3, 1.4. It provides that suspension is generally appropriate when a lawyer engages in a pattern of neglect and causes injury or potential injury to a client. *Standard* 7.2 applies to Mr. Clark's violation of Rule 54. It provides that suspension is generally appropriate when a lawyer knowingly engages in conduct that violates a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system. Mr. Clark knowingly failed to respond to the State Bar's investigation of these matters.

The parties further agree factors 9.32(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 rules or orders of the disciplinary agency and 9.22(i) substantial experience in the practice of law are present in aggravation.

Mr. Clark has received censures in 1997, 2001, 2002, 2004, 2008 and diversion in 2015. The parties stipulate to Factor 9.32(m) remoteness of prior offenses is present in mitigation. The PDJ notes the *majority* of Mr. Clark's offenses are over ten years old but involve similar violations present here and his diversion is current. Mr. Clark has never been suspended.

The parties discuss their view that a short-term suspension, coupled with the detailed probation outlined will provide Mr. Clark with an opportunity, apparently

absent in his prior five censures and recent diversion, to address whatever unstated issues have given rise to these latest charges. This agreement was reached through the mandatory settlement conference process. This judge has found that process effective and efficient. Agreements are comprised of compromises from each side.

Notwithstanding this judge strongly questions how such repeated conduct does not rise to a “knowing” level. That level is defined by the *Standards* as “the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result.” That mental state is sandwiched between “intent” and “negligence” in the *Standards* for a reason. It is placed there because repeated negligent acts start a chain reaction that ultimately points to “intent.” “Knowing” is woven in the fabric of the *Standards* for a reason. But too often it is lost amidst the more attractive thread of “negligence” whose description more easily rolls off the tongue of a respondent.

As cited by the parties, the Supreme Court decision *Peasley* (citations omitted) succinctly states the object of lawyer discipline is not to punish the lawyer but to protect the public, the profession and the administration of justice. These are differing and often competing views depending on the focus. While each are worthy of emphasis, it is important to maintain perspective or the differences in approach will assure inconsistency in judgments and impact the practical results of regulation.

If the object is not to punish the lawyer, but protect, then it stands to reason the object also involves rehabilitation of the respondent. A “catch you when we can” probationary term vastly misses the mark of attorney regulation. The objective should include to firm up, cause work within, develop, rearrange and deepen the shortfall in characteristics of respondents required under the Arizona Rules of Professional Conduct. Whatever life tensions may produce misconduct, they are not resolved by minimizing the warning steps of the mental state. Downplaying or worse, ignoring the actual mental state ignores both the object of rehabilitation and minimizes the concomitant goal of protection. This judge questions whether an objective reasonable person would find the behavior of Mr. Clark negligent. That does not preclude the sanction agreed upon. The purpose of the *Standards* includes “permitting flexibility and creativity in assigning sanctions in particular cases of lawyer misconduct.” *Standards* III, A, 1.3, page 9.

Because the PDJ finds the proposed sanction of suspension and probation meets the objectives of attorney discipline, the Agreement is therefore accepted.

IT IS ORDERED accepting the Agreement and incorporating it and any supporting documents by this reference. The agreed upon sanction are: sixty (60) day suspension effective March 10, 2017, upon reinstatement, two (2) years of probation (LOMAP), participation in fee arbitration, and the payment of costs and expenses of the disciplinary proceeding totaling \$1,200.00, to be paid within thirty

(30) days from this date. There are no costs incurred by the office of the presiding disciplinary judge.

IT IS FURTHER ORDERED, Costs as submitted are approved for \$1,200.00. A final judgment and order is signed this date.

DATED this March 9, 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed
on March 9, 2017, and
mailed March 10, 2017, to:

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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

FEB 7 2017

FILED

BY



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Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**GREG CLARK
Bar No. 009431**

Respondent.

PDJ 2016-9109

**State Bar File Nos. 15-0690,
15-1685 and 15-2526**

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona (SBA), through undersigned Bar Counsel, and Respondent, Greg Clark, 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. Probable cause orders were entered on June 29, 2016 in SBA File Nos. 15-0690 and 15-1685, and on August 31, 2016, in SBA File No. 15-2526. A formal complaint was filed on October 20, 2016, and Respondent filed an Answer

thereto on or about November 14, 2016. A settlement conference was held before Settlement Officer Judge Penny Willrich (ret.), at which time the parties reached the agreement set forth herein.

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 Complainants by letters dated January 5, 2017. Complainants have been notified of the opportunity to file a written objection to the agreement with the SBA 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, ERs 1.3 [Diligence], ER 1.4(a)(3) and (4) [Communication], ER 1.5(a) [Fees], ER 1.16(d) [Terminating Representation] and Rule 54(d)(2) [Failure to Furnish Information].

Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Sixty (60) day Suspension, and two (2) years' Probation, the terms of which shall include participation in the SBA's Fee

Arbitration program in SBA Case Nos. 15-0590 and 15-1685, and LOMAP. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within thirty (30) days from the date of this order, and if costs are not paid within the thirty (30) days, interest will begin to accrue at the legal rate.¹ The SBA's Statement of Costs and Expenses is attached hereto as Exhibit A.

The parties ask that the period of suspension begin on March 10, 2017. Respondent's practice is comprised primarily of criminal defendant clients. Respondent states that he is working diligently to ensure that his clients have competent representation during the period of suspension, but he needs additional time within which to complete that process.

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 12, 1984.

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.

COUNT ONE (File no. 15-0690/DiMercurio)

2. On December 16, 2012, William DiMercurio (DiMercurio), who lives in St. Louis, MO., was arrested and charged with Extreme DUI in the Scottsdale City Court, Case No. TR-2012029898. DiMercurio retained Respondent, who entered his appearance for DiMercurio and entered a plea of “not guilty.”

3. On January 7, 2013, DiMercurio signed an “Agreement for Attorney Fees” (Agreement) and paid Respondent a “minimum non-refundable retainer/fee” of \$3,500 which “shall be deemed earned upon payment.”

4. On February 14, 2013, the day of the pretrial conference, Respondent filed a motion to continue on the grounds that discovery was ongoing. The Court granted the motion; continued the hearing to March 29, 2013; and set a Trial Readiness Conference for April 26, 2013.

5. On April 26, 2013, Respondent filed a motion to set jury trial. In response, the Court set the matter for a Calendar Call on June 4th and a Jury Trial on June 10, 2013.

6. On June 4, 2016, six days before the scheduled jury trial, Respondent filed a motion to continue on the ground that he would be out-of-state relocating his daughter to college, which the Court granted.

7. On June 6, 2013, the Court reset the case for Calendar Call on July 2nd and Jury Trial on July 8, 2013, and sent the notice to Respondent.

8. On July 1, 2013, a week before the scheduled jury trial, Respondent filed a motion to continue on the ground that Respondent would be out-of-state from July 8th through July 12th. The Court granted the motion and sent Respondent a notice the next day setting the matter for Calendar Call on July 23rd and the Jury Trial on July 29, 2013. Respondent's copy of the notice reflects that he received it on July 8, 2013.

9. On July 22, 2013, a week before the scheduled jury trial, Respondent filed a motion to continue on the ground that he was scheduled to appear in two felony cases pending in the Yavapai County Superior Court. The Court denied the motion that day and sent a copy of the order to Respondent.

10. On July 28, 2013, DiMercurio flew to Arizona to meet with Respondent regarding the jury trial scheduled for the next day. As a result of that meeting, DiMercurio agreed to plead guilty.

11. The next day, coverage counsel appeared for Respondent and DiMercurio plead guilty to the charges and the Court set a sentencing hearing for September 12, 2013. If this matter were to go to hearing, Respondent would testify that DiMercurio knew that he would not appear at the hearing and DiMercurio would testify that he did not.

12. Despite DiMercurio's attempts to talk with Respondent about the status of the case after the July 29th hearing, according to Respondent's time records, he did not speak with DiMercurio again until September 2, 2013.

13. On September 6, 2013, less than a week before the scheduled sentencing hearing, Respondent filed a motion to continue on the ground that he was scheduled for trial in another matter in the Hassayamapa Justice Court on that date. The Court denied the motion.

14. By email dated September 9, 2013, Respondent advised DiMercurio that the Court had denied the motion to continue the hearing scheduled for September 12th and asked DiMercurio to call him to discuss "how we are going to handle your matter." The Court ultimately continued the hearing again, this time to October 10, 2013.

15. On October 10, 2013, DiMercurio did not appear at the sentencing hearing and the Court issued a warrant for his arrest. The Court sent the notice to Respondent. Respondent's time records do not reflect any activity on DiMercurio's case after this date.

16. By email dated February 28, 2014, DiMercurio asked Respondent for a refund and complained about the lack of communication and Respondent's failure to resolve outstanding issues with his case, including the bench warrant issued for DiMercurio's arrest.

17. By email dated May 23, 2014, DiMercurio again complained to Respondent about the lack of communication and Respondent's failure to address the bench warrant. He terminated the representation and demanded a refund. DiMercurio later retained successor counsel to resolve the outstanding issues in the criminal matter.

18. In July 2014, Respondent texted DiMercurio stating that he would "review file re your refund request." Respondent did not communicate with DiMercurio thereafter, despite DiMercurio's continued efforts to secure a refund.

19. By letter dated April 23, 2015, Bar Counsel sent Respondent a screening letter and asked him to respond to the allegations set forth in the bar charge by May 13, 2015. Respondent did not do so.

20. By letter dated May 18, 2015, Bar Counsel sent Respondent copies of text messages exchanged between him and DiMercurio relating to the representation and asked that he respond to them within ten (10) days of the date of the letter. Respondent did not do so.

21. By letter dated May 19, 2015, Bar Counsel sent Respondent a letter regarding his failure to respond to the screening letter and asked that he do so within ten (10) days of the date of the letter. Respondent did not do so.

22. By email dated May 28, 2015, Respondent asked Bar Counsel for an extension of time to respond to the bar charge and received an extension to June 18, 2015.

23. When Respondent finally responded to the screening letter on July 18, 2015, without having sought another extension of time to do so, he provided Bar Counsel with a one-page letter setting forth ten (10) numbered sentences. And, in response to Bar Counsel's request for a copy of the client file, Respondent produced only a "Client Information/Activity Log" and copies of various court documents. He did not produce the requested attorney notes, correspondence, research or other such documentation that would have reflected substantive work performed by Respondent in the case.

COUNT TWO (File no. 15-1685/Valentin)

24. In November 2013, Respondent was retained to represent Michael Valentin (Valentin) in a criminal case pending in the Maricopa County Superior Court, Case No. CR 2013-436212-003 (the Criminal Case). Valentin was charged with Second Degree Murder and First Degree Burglary.

25. On or about November 28, 2013, Valentin's mother, Miriam Pena, signed an "Agreement for Attorney Fees" by which Respondent agreed to represent Valentin against pending felony charges for a "minimum non-refundable flat fee" of

\$15,000, which was deemed earned upon payment (Fee Agreement). Valentin paid only \$8,400 of the fee.

26. By letter dated April 21, 2015, Valentin asked Respondent to continue the trial set in June 2015 because he had not seen any of the discovery and did not know whether Respondent had filed a motion to sever his case from those of his co-defendants. Valentin also told Respondent in the letter that he needed a mitigation specialist because he was facing twenty-five (25) years to life in prison. Unbeknownst to Valentin, Respondent had already joined in a motion to sever filed on behalf of one of the co-defendants.

27. On or about May 19, 2015, Valentin filed a motion for appointment of counsel and advised the Court that he had terminated Respondent for lack of diligence and inadequate representation.

28. By email dated May 28, 2015, Respondent received a plea offer for Valentin.

29. In May or early June 2015, Respondent received Valentin's motion for new counsel, which the Court granted.

30. By letter dated June 30, 2015 Respondent advised Valentin that the Court had appointed him new counsel. The letter states that Respondent enclosed "an accounting based on the fee agreement," and a copy of the police report, but he did not enclose an accounting.

31. By letter dated August 4, 2015, Bar Counsel sent Respondent a screening letter and asked him to respond to the allegations set forth in the bar charge by August 24, 2015. Bar Counsel asked Respondent to produce a copy of the client file, including time records. Respondent did not do so.

32. By letter dated September 2, 2015, Bar Counsel sent Respondent a letter regarding his failure to respond to the screening letter and asked him to do so within ten (10) days of the date of the letter.

33. By letter dated September 12, 2015, but received on September 21st, Respondent responded to the bar charge with a one-page letter setting forth 12 numbered sentences. He included 1) two pages of time entries that are, for the most part, two (2) to three (3) words each and do not provide a substantive description of the work performed (the Time Log); 2) a copy of an email from the prosecutor conveying a plea offer; 3) a copy of a letter from Valentin asking for a continuance because he had not seen the discovery; 4) copies of receipts for fees paid on the case; and 5) a copy of an unsigned Fee Agreement. Respondent did not provide Bar Counsel with any other documentation reflecting any other substantive work performed by him on the case.

34. By letter dated January 4, 2016, Bar Counsel acknowledged receipt of the December 29th letter and repeated the request that Respondent produce a "complete client file including, pleadings, correspondence, statements for services

rendered, and all of the time records.” Respondent did not respond to Bar Counsel’s letter.

35. Respondent’s Time Log reflects that he first met with Valentin at a pretrial conference on December 19, 2013, and did not speak with Valentin again until an April 22, 2014 pretrial conference.

36. Respondent’s Time Log reflects that he billed time for hearings that were actually covered by Attorney Jeff Altieri on February 10, 2014, March 17, 2014, and August 20, 2014. There is no evidence in the client file relating to the coverage attorney.

37. Despite repeated requests, Respondent did not provide Valentin with an itemized statement of services provided during the representation.

COUNT THREE (File no. 15-2526/Chavez)

38. On May 8, 2014, Leonardo Chavez (Chavez) was arrested and charged with eighteen (18) felonies including, possession of dangerous drugs for sale, possession of narcotics for sale, misconduct involving a weapon, possession of drug paraphernalia, and child endangerment in the Maricopa County Superior Court, Case No. CR 2014-121853 (the Criminal Case). At the time, Chavez was on Federal supervised release relating to a prior drug conviction.

39. On or about July 2, 2014, Chavez retained Respondent to secure a negotiated plea and agreed to pay a flat fee of \$10,000. Chavez ultimately paid Respondent only \$2,100 of the flat fee.

40. The first hearing in the Criminal Case was scheduled for July 10, 2014. Respondent appeared, but Chavez failed to do so. Respondent requested a continuance believing that Chavez was having transportation difficulties, and it was reset to July 22, 2014.

41. On July 11, 2014, a week after Chavez retained Respondent, Chavez was taken into Federal custody on a Federal probation violations, which Respondent conveyed to the Court at the July 22, 2014 hearing.

42. While Chavez was serving eight (8) months for the Federal probation violation, Respondent did not answer Chavez's calls or send him the discovery from the Criminal Case.

43. On January 17, 2015, Chavez completed the Federal probation violation sentence and was returned to Maricopa County, Arizona.

44. On January 27, 2015, the Court conducted an Initial Appearance Hearing on a Bench Warrant in the Criminal Case. Chavez tried to speak with Respondent, but Court was in session and Respondent said he would visit Chavez in jail. Respondent did not do so. Respondent's time records do not reflect any jail visits between Respondent and Chavez.

45. Thereafter, Chavez tried to call Respondent, who would not accept jail calls. Respondent also refused to speak with Chavez's sister or mother.

46. On February 25, 2015, the Court conducted a status conference. Chavez still had not spoken with Respondent about the case and had not seen the police report. During the hearing, the Court noted that a plea offer had been made, which expired that day. The Court gave Respondent a *Donald* advisement, at which time Chavez rejected the plea on the advice of Respondent.

47. On May 13, 2015, the Court conducted the Final Trial Management Conference, during which Chavez was prepared to confront Respondent about the lack of communication about the status of his case, but Respondent did not appear at the hearing. Instead, Attorney Jeff Altieri appeared as coverage counsel. The Court granted a defense motion to continue the trial. Thereafter, Chavez tried to contact Respondent for a status update on his case, but Respondent would not accept jail calls and did not visit Chavez in jail.

48. Thereafter, Chavez wrote to Respondent asking for a jail visit and for copies of his paperwork. Respondent did neither.

49. On July 15, 2015, Respondent filed a motion to continue the trial due to a conflict in his calendar.

50. On July 21, 2015, the time set for trial, the Court granted Respondent's motion to continue. At that time, Chavez told Respondent that he was "scared," but

Respondent told him “were [sic] fine” and promised to come see him in jail. Respondent did not do so.

51. On August 3, 2015, the parties appeared before the Court and advised that they were ready for trial, which began on August 5, 2015.

52. On August 13, 2015, the jury returned guilty verdicts against Chavez on twelve (12) Counts. Chavez was later sentenced to seventeen (17) years in prison with credit for 262 days and ordered to pay costs and fines totaling over \$125,000.

53. On October 20, 2015, Respondent filed a motion to withdraw, which the Court granted.

54. By letter dated November 12, 2015, Bar Counsel sent Respondent a screening letter asking that he respond to the allegations set forth in the bar charge and to produce a copy of the client file and time records on or before December 2, 2015. He did not do so.

55. By letter dated December 8, 2015, Bar Counsel sent Respondent a ten (10) day notice letter asking that he respond to the screening letter on or before December 18, 2015.

56. By letter dated December 18, 2015 (but not received by the SBA until December 31, 2015), Respondent responded to the screening letter. The response was less than two (2) pages long and included seven (7) paragraphs. Respondent

produced an undated, unsigned fee agreement and various orders/minute entries from the underlying docket. He did not produce time records, evidence of communication with Chavez or any other documentation reflecting work performed by him on the case.

57. By letter dated April 18, 2016, Bar Counsel again asked Respondent to provide her with copies of his time records and a signed fee agreement.

58. By letter dated April 28, 2016, Respondent provided Bar Counsel with a "Client Information Sheet" that included thirty-two (32) entries and stated that he could not find a copy of the signed fee agreement.

59. Respondent states that he met with Complainant on the following days: January 25, 2015; February 25, 2015; March 27, 2015; April 8, 2015; May 13, 2015; July 21, 2015; and August 3, 2015. According to Respondent, at each meeting they discussed the plea offer and Chavez was adamant that he would not take a plea for something that he did not do. However, the docket reflects that the Initial Hearing was actually held on January 27th and no hearings were held on March 27th or April 8th. There is no evidence that Respondent met with Chavez other than as part of a Court hearing. And, while the time logs reflect that six (6) of the thirty-two (32) entries are for trial and five (5) are for post-trial activities, there are no time entries related to trial preparation.

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 his conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.3 [Diligence] [a lawyer shall act with reasonable diligence and promptness in representing a client], ER 1.4(a)(3) and (4) [Communication][a lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information]; ER 1.5(a) [Fees][a lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses]; ER 1.16(d) [Terminating Representation][upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as . . . surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned]; and Rule 54(d)(2) [Failure to Furnish Information][the failure to furnish information or respond promptly to any inquiry or request from bar counsel made pursuant to these rules for information relevant to pending charges, complains or matters under investigation concerning conduct of a lawyer, or failure to assert the ground for refusing to do so constitutes grounds for discipline].

Count One

Respondent violated the following ERs: ER 1.3 [Diligence]; ERs 1.4(a)(3) and (4) [Communication]; ER 1.5(a) [Fees]; ER 1.16(d) [Terminating Representation]; and Rule 54(d)(2) [Grounds for Discipline].

Count Two

Respondent violated the following ERs: ERs 1.4(a)(3) and (4) [Communication]; ER 1.5(a) [Fees]; ER 1.16(d) [Terminating Representation]; and Rule 54(d)(2) [Grounds for Discipline].

Count Three

Respondent violated the following ERs: ER 1.3 [Diligence]; ERs 1.4(a)(3) and (4) [Communication]; ER 1.16(d) [Terminating Representation]; and Rule 54(d)(2) [Grounds for Discipline].

CONDITIONAL DISMISSALS

None.

RESTITUTION

Restitution is not an issue SBA File No. 15-2526. Complainant paid Respondent substantially less than the agreed upon fees and Respondent performed a significant amount of legal work for Complainant during the representation. And, with respect to SBA File Nos. 15-0690 and 15-1685, Respondent has agreed to participate in the SBA's Fee Arbitration Program.

SANCTION

Respondent and the SBA agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate:

If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

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 parties agree that *Standard* 4.4 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 4.42(b) provides that suspension is generally appropriate when a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

The duty violated

By violating ERs 1.3, 1.4(a)(3) and (4) and 1.5(a), Respondent violated his duty to his clients. By violating ER 1.16(d) and Rule 54(d)(2), Respondent violated his duty to the profession. And, by violating Rule 54(d)(2), Respondent violated his duty to the public.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent negligently violated ERs 1.3, 1.4(a)(3) and (4), 1.5(a) and 1.16(d); and knowingly violated Rule 54(d)(2) and that his conduct was in violation of 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 harm to the client, profession, legal system and the public.

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:

- 12/02/97 – Censure, Before the Supreme Court of Arizona, No. SB-97-0087-D, SBA No. 95-2033, ERs 1.1, 1.3, 1.4
- 06/28/01 – Censure, Before the Supreme Court of Arizona, No. SB-1-0118-D, SBA No. 98-2060, ER 8.1(b), Rules 43 and 51(h)(1)
- 10/28/02 – Censure, Before the Probable Cause Panelist, SBA No. 02-0356, ER 1.4
- 02/09/04 – Censure, Before the Probable Cause Panelist, SBA Nos. 02-1890 and 02-1934, ERs 1.3, 1.4, 1.5, 1.16(d)
- 10/30/08 – Informal Reprimand, Before the Discipline Commission, SBA Nos. 05-0665, 06-0298, 06-1300, 06-1353, ER 1.8
- 05/21/15 – Diversion, Before the Attorney Discipline Probable Cause Committee, SBA No. 14-1194, ER 1.5(a), 1.15(a), 1.16(d) and Rule 54(d)(2).

Standard 9.22(c) a pattern of misconduct;

Standard 9.22(d) multiple offenses;

Standard 9.22(e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;

Standard 9.22(i) substantial experience in the practice of law. Respondent was first admitted to practice in Arizona on May 12, 1984.

In mitigation:

Standard 9.23(m) remoteness of prior offenses. Certain of Respondent's prior offenses are over ten (10) years old. Specifically, SB-97-0087-D (1997); SB-1-0118-D, SBA No. 98-2060 (2001); SBA No. 02-0356 (2002); SBA Nos. 02-1890 and 02-1934 (2004).

Discussion

The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction is appropriate.

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: the parties believe that a short-term suspension, when coupled with the terms of probations detailed herein, will provide Respondent with an opportunity to address the issues that gave rise to present cause and to take steps to conform his conduct moving forward so as to avoid a recurrence of unethical conduct.

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. *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 SBA and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Short-Term Suspension and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 6th day of February 2017

STATE BAR OF ARIZONA



Stacy L Shuman
Staff 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 _____ day of February, 2017.

Greg Clark
Respondent

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 SBA and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Short-Term Suspension and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this _____ day of February 2017

STATE BAR OF ARIZONA

Stacy L Shuman
Staff 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 7 day of February, 2017.



Greg Clark
Respondent

Approved as to form and content

Maret Vessella

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 7th day of February, 2017.

Copy of the foregoing emailed
this 7th day of February, 2017, to:

The Honorable William J. O'Neil
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/emailed
this 7th day of February, 2017, to:

Greg Clark
45 W Jefferson St., Ste. 510
Phoenix, Arizona 85003-2316
Email: gclarkatty@aol.com
Respondent

Copy of the foregoing hand-delivered
this 7th day of February, 2017, to:

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

by: Karen E. Calzone
SLS: KEC

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Greg Clark, Bar No. 009431, Respondent

File Nos. 15-0690, 15-1685, 15-2526

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

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

GREG CLARK,
Bar No. 009431,

Respondent.

PDJ 2016-9109

**FINAL JUDGMENT AND
ORDER**

State Bar Nos. 15-0690, 15-1685
and 15-2526

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, **Greg Clark**, is hereby suspended for sixty (60) days for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective March 10, 2017.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall be placed on probation for a period of two (2) years.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall participate in LOMAP. Respondent contact the State Bar Compliance Monitor at

(602) 340-7258, within ten (10) days from the date of reinstatement. Respondent shall submit to a LOMAP examination of his office procedures. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.

IT IS FURTHER ORDERED that within ten (10) days after reinstatement, Respondent shall file the necessary applications to participate in the State Bar's Fee Arbitration Program in SBA File Nos. 15-0690 and 15-1685.

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

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, 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 a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation 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.

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 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 February, 2017

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 February, 2017.

Copies of the foregoing mailed/mailed
this _____ day of February, 2017, to:

Greg Clark
45 W Jefferson St., Ste. 510
Phoenix, Arizona 85003-2316
Email: gclarkatty@aol.com
Respondent

Copy of the foregoing emailed/hand-delivered
this _____ day of February, 2017, to:

Stacy L Shuman
Bar Counsel - Litigation
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 February, 2017 to:

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

by: _____