

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

CHARLES M. DYER,
Bar No. 017994

Respondent.

PDJ-2017-9093

**FINAL JUDGMENT AND
ORDER**

[State Bar File No. 16-2675]

FILED AUGUST 24, 2017

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on July 25, 2017, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED Respondent, **Charles M. Dyer, Bar No. 017994**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED Mr. Dyer shall be placed on probation for a period of eighteen (18) months on the following terms:

- a. Mr. Dyer shall undergo an evaluation and audit of his trust account management by the State Bar's Law Office Management Assistance Program (LOMAP). Mr. Dyer shall contact the State Bar Compliance Monitor at (602) 340-7258 within ten (10) days from the date of this Order to arrange the evaluation and audit. Mr. Dyer shall comply with any reasonable recommendations following the evaluation and audit. Mr. Dyer shall be responsible for any costs associated with LOMAP;

- b. Mr. Dyer shall complete a half-day Trust Account Ethics Enhancement Program (TAEHP). Mr. Dyer 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 available class. Alternatively, Mr. Dyer may attend TAEHP electronically. If he attends electronically, he shall provide a copy of his class notes to the State Bar's probation compliance officer. Mr. Dyer shall be responsible for the cost of attending the program.

NON-COMPLIANCE LANGUAGE

In the event Mr. Dyer 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 thirty (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 Mr. Dyer shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00 within thirty (30) days from the date of 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 August 24, 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 24th day of August, 2017, to:

J. Scott Rhodes
Jennings Strouss & Salmon, PLC
One East Washington Street, Suite 1900
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Respondent's Counsel

David L. Sandweiss
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by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

CHARLES M. DYER,
Bar No. 017994

Respondent.

PDJ-2017-9093

**DECISION AND ORDER
ACCEPTING DISCIPLINE
BY CONSENT**

[State Bar File No. 16-2675]

FILED AUGUST 24, 2017

This is a direct agreement, so no probable cause order has issued and no formal complaint has been filed. The parties filed their Agreement for Discipline by Consent filed on July 25, 2017 pursuant to Rule 57(a), Ariz. R. Sup. Ct.

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. Dyer 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 proposed form of discipline. The State Bar is the complainant in this matter, so no notice of agreement is required pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct.

The Agreement details a factual basis to support the conditional admissions. Mr. Dyer conditionally admits he violated Rule 42, ERs 1.15(a) (safekeeping property), 1.15(d) and Rule 43(a)(trust accounts), (a)(4), (b)(1)(A), (b)(1)(B), (b)(1)(C), (b)(2)(A), and (b)(2)(C). The agreed upon sanctions include a reprimand with an eighteen (18) month probation, with terms to include a Law Office Management Assistance Program (“LOMAP”) evaluation and audit of Mr. Dyer’s trust account, completion of the State Bar’s Trust Account Ethics Enhancement Program (“TAEEP”), and the payment of \$1,200.00 in costs and expenses within thirty (30) days of this Order. The conditional admissions are briefly summarized.

The State Bar of Arizona (“SBA”) received notice of an insufficient funds transfer in August 2016 on Mr. Dyers client trust account. Mr. Dyer explained that the overdraft was a result of errors and stated following the overdraft, he reviewed the IOLTA and found it to be out of balance as a result of several transactions that were non-complaint with ER 1.15 and Rule 43.”

After Mr. Dyer received notice of the deficiencies, he personally balanced the trust account and restored all client funds. He also offered to the SBA that, “No theft or embezzlement had occurred, but our trust account management protocols had not been followed.” He also took responsibility for not having discovered and corrected the problems before the overdrafts occurred.

Internal Controls

Mr. Dyer has the knowledge and capability of maintaining compliance with trust account rules, as evidenced by his personal reconciliation of the account and remedial actions take. His lack of supervision and his staff's failure to maintained accurate and complete records resulted in conversion of client funds for a period of time, and such deficiencies subsequently caused an overdraft.

Mr. Dyer had in place appropriate procedures to follow the Trust Account Rules, but violated his duty to his clients by not following those procedures during the firm's growth. This resulted in potential harm to his clients.

The parties agree that the presumptive sanction in this matter is reprimand. The parties agree there is an aggravating factor present in the record: *Standard* 9.22(i) substantial experience in the practice of law. The parties further agree the following mitigating factors are present in the record: *Standards* 9.32(a) absence of a prior disciplinary record, 9.32(d) timely good faith effort to make restitution, 9.32(g) character or reputation and 9.32(l) remorse.

Mr. Dyer promptly took control of the accounting measures to ensure proper IOLTA procedures and quickly made administrative deposit to cover the deficiency upon discovery. Mr. Dyer is also a well-respected probate and estate attorney that has served on a School Board for over 15 years, and serves on the Maricopa County Bar Association Mental Health and Elder Law Section Board. He also has been

serving as Judge *Pro Tem* in the Probate and Mental Health Court for the last several years.

Upon consideration, the Presiding Disciplinary Judge finds that the proposed sanctions of a reprimand and probation meet the objectives of attorney discipline. Now therefore,

IT IS ORDERED accepting and incorporating the Agreement and any supporting documents by this reference. The agreed upon sanctions are: a reprimand with an eighteen (18) month probation, to include a LOMAP evaluation and audit, and compliance with any reasonable recommendations, completion of TAEEP, and the payment of \$1,200.00 in costs and expenses within thirty (30) days of this Order. There are no costs incurred by the office of the presiding disciplinary judge. A final judgment and order is signed this date.

DATED this August 24, 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed on August 24, 2017, to:

J. Scott Rhodes
Jennings Strauss & Salmon, PLC
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Respondent's Counsel

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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

JUL 25 2017

FILED
BY 

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Respondent's Counsel

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**CHARLES M. DYER
Bar No. 017994**

Respondent.

PDJ 2017- 9093

State Bar File Nos. 16-2675

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

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Charles M. Dyer, who is represented in this matter by counsel, J. Scott Rhodes, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. This matter has not been presented to the Attorney Discipline

Probable Cause Committee (“ADPCC”) and ADPCC has not entered a probable cause order. 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.

The State Bar is the complainant in this matter; therefore, no notice of this agreement is required pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER 1.15(a), 1.15(d), and Rule 43(a), (a)(4), (b)(1)(A), (b)(1)(B), (b)(1)(C), (b)(2)(A), and (b)(2)(C). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline:

- a. Reprimand;
- b. 18 months of probation to include-
 - Evaluation and audit of Respondent’s trust account management by LOMAP with Respondent’s agreement to comply with any reasonable recommendations following the evaluation and audit;
 - Respondent shall attend the State Bar’s trust account ethics enhancement program (“TAEEP”).

- c. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order, and if costs are not paid within the 30 days, interest will begin to accrue at the legal rate.¹ The State Bar's Statement of Costs and Expenses is attached hereto as *Exhibit A*.

**WARNING RE: NON-COMPLIANCE WITH TERMS OF
PROBATION**

If Respondent fails to comply with any of the foregoing probation terms, and the State Bar of Arizona received information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation and, if so, to recommend an appropriate sanction. If the State Bar of Arizona alleges that Respondent failed to comply with any of the foregoing terms, it shall have the burden by a preponderance of the evidence to prove noncompliance.

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.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on May, 17, 1997.

COUNT ONE (File No. 16-2675/ Trust Account)

2. The State Bar of Arizona (SBA) received an insufficient funds notice on Respondent's client trust account. On 08/02/2016, checks numbered 2016 in the amount of \$46.50 and 2017 in the amount of \$266.47 attempted to pay against the account when the balance was \$24.03. The bank returned the checks, and did not charge an overdraft fee leaving the account balance unchanged.

3. The Trust Account Examiner (Examiner) sent Respondent a copy of the overdraft notice, and requested an explanation of the overdraft and copies of the related mandatory records for the period of July to August 2016 (period of review).

4. Respondent provided the requested information with exceptions, and explained that the occurrence of overdraft was the result of errors. Respondent stated that, following the overdraft, he reviewed the IOLTA and found it to be out of balance as a result of "[...] several transactions that have been out of compliance with ER 1.15 and Rule 43."

5. Respondent, for the first 15 years of his practice, was managing partner of Dyer & Ferris, LLC (D&F). As managing partner, he was responsible for the firm's trust account management. In August 2015, D&F began the process of adding four partners and a few "of counsel" attorneys. D&F also added an additional named partner, such that the firm was then called Dyer Bregman & Ferris, PLLC (DB&F).

6. When the name change occurred, new bank accounts were established, including a new trust account. Respondent maintained both trust accounts active, stating that they intentionally did not deposit funds from any new matters into the old D&F IOLTA, while funds related to all new matters were deposited into the new DB&F IOLTA. The intent was to allow the balance of the old D&F account to slowly diminish to zero, at which point it would be closed.

7. Respondent asserted that the growth of the firm resulted in a great deal of time and effort on his part to foster positive firm culture and integration. Further, a review of current procedures and practices during this transition led to the implementation of some new office management practices, including the upgrade of the accounts payable/receivable and trust account software. The firm utilized a trust account program from Software Technologies Inc.

8. Respondent has had the same office manager for the last 15 years, Maria Agunzo. Ms. Agunzo was responsible for the law firm's accounts payable, accounts receivable and for trust account record keeping. Although all attorneys had signatory authority on the trust account, Respondent signed almost all trust account checks. Per Respondent, Ms. Agunzo's responsibilities increased with the firm's growth.

9. Upon receipt of the insufficient funds notice, Respondent asked Ms. Agunzo for an explanation, and assumed that, as the D&F IOLTA was reaching the end of its "useful life," a small clerical or banking error had caused the account to be overdrawn. However, Respondent soon learned that, during the expansion, some fees had been withdrawn from the D&F trust account before they were earned, while other funds had been disbursed to clients before they were authorized.

10. Respondent further offered to the State Bar that, "No theft or embezzlement had occurred, but our trust account management protocols had not been followed. I take responsibility for not having discovered the deviations from our protocols and corrected them before the overdraft occurred." Respondent further noted that he did not discover any management issues with the new DB&F trust account.

11. Upon notification of the deficiencies, Respondent personally balanced the trust account and restored all client funds. Respondent realized that this event had clearly illuminated the need for new policies and procedures in a firm of that size to ensure that the IOLTA is properly maintained and managed.

12. Specific measures were then taken by Respondent, to include: a) scheduling Lynda Shely to teach trust account management classes; and b) hiring the accounting firm of Desert Rose to perform a forensic accounting to ensure that all transactions have been properly accounted for, and that the new software was up to date for balancing and compliance matters.

13. The State Bar sent Respondent one request for additional information. Respondent timely complied. The Examiner completed the review of the records, which revealed various discrepancies, discussed below.

NEGLIGENT MISAPPROPRIATION

14. The most serious violations involved client accounts that were drawn in excess of the funds that were held on deposit for each matter. The oldest appears to have originated on July 29, 2015 after check number 1572 was disbursed as payable to Respondent for earned fees in the amount of \$1,350.00. However, the

client balance at the time was \$750.00, leaving a negative <\$600.00> unexpended balance.

15. Respondent identified a total of five individual client ledgers that maintained negative balances totaling <\$71,080.96> as of the date of the overdraft. The Examiner determined four of the five held deficits that preceded the period of review, while the fifth was caused during the period of review. Moreover, a sixth client account resulted in a negative balance of <\$119.15> during the period of review. Additional instances of negative balances were evident on the ledgers provided, but those matters were corrected by the start of the period of review. Respondent deposited offsetting administrative funds in September 2016, thereby making the account whole again.

16. It is important to note that the highest deficit balance were solely on the administrative transactions ledger, not on the ledger of a client. Said deficit was <\$33,900.00> at the onset of the period of review. At one point, the administrative deficit was <\$79,000.00>.

17. Respondent explained that, as a result of the work tasks placed on Ms. Agunzo, she had disbursed funds from the administrative ledger despite there not being funds allocated to that ledger. Respondent stated that Ms. Agunzo had

intended to come back and allocate said amounts to the appropriate client ledgers since, in most instances, the amounts held on deposit were funds “to be earned” by the firm. In other words, to save time, she had noted disbursements on the administrative ledger, intending to later allocate them to the appropriate client ledger. Because of her work load with the firm transition, however, she had not gone back and made the adjustments.

18. Respondent further offered that Ms. Agunzo began listing deposits to the administrative ledger in order to reimburse the account, “again with the intention of reconciling that ledger when she had time.” Respondent claimed that he did not become aware of what Ms. Agunzo was doing, or the trust account errors, until the overdraft notice was received. At that time, the aforementioned efforts were immediately made to balance the account.

COMINGLING

19. The administrative funds ledger reflected that deposits in the amounts of \$457.35, \$1,114.84, and \$10,202.14 were erroneously deposited into the IOLTA between September 12, 2014 and September 14, 2015, when they should have been deposited into the operating account. This resulted in the comingling of personal funds for periods ranging from one to 32 days. In addition, on or about July 18, 2016,

a \$100,000.00 recovery was erroneously deposited into the operating account when it should have been deposited into the DB&F IOLTA. The funds were subsequently deposited into the D&F IOLTA on July 25, 2016, and disbursed to the corresponding parties.

20. Respondent explained that the funds were originally received by way of a check mistakenly dated by the issuing party for 2013. The item was properly deposited into the DB&F IOLTA, but rejected by the bank as a result of the date error. The replacement check was mistakenly deposited into the operating account. The Examiner confirmed that at all times the funds were held on deposit in the operating account and not drawn against. The error resulted in the comingling of client funds in Respondent's operating account for approximately seven days.

21. Consultation fees charged by Larry Shafer, the firm's Arizona Long Term Care System Specialist and Public Benefits Coordinator, were held on deposit in the IOLTA. Respondent explained that, following a consultation, if additional services are contracted within a few days of the initial consultation, the fee is credited toward the fees in the new matter. Alternatively, if the prospective clients do not retain the firm for future services, the funds are ultimately disbursed as earned fees to the operating account.

22. It is unclear if said consultation funds resulted in instances of comingling. Nonetheless, Respondent recognizes that earned fees and costs should be promptly disbursed from the IOLTA when due and legally available to avoid comingling earned funds.

UNCLAIMED TRUST FUNDS

23. The trust examination revealed that check number 1202 was drafted on November 4, 2014, in the amount of \$54.60 made payable to the client. However, the check remained outstanding as of at least April 17, 2017. Respondent was unsuccessful in reaching the client by telephone. Respondent stated that the attorney assigned to the matter would renew the efforts to locate the client.

INTERNAL CONTROLS

24. As demonstrated by Respondent's personal reconciliation of the account, and remedial actions taken, it is evident that Respondent has the knowledge and capability of maintaining compliance with the trust account rules. Furthermore, Respondent has in place adequate equivalents of the mandatory records and the appropriate processes to maintain compliance. Nonetheless, a lack of supervision and his staff's failure to maintain accurate and complete records, even though the errors in this case occurred during a period of the firm's growth, resulted in the

conversion of client funds for a prolonged period of time, and such deficiencies subsequently caused an overdraft.

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 Rule 42, ER 1.15(a), 1.15(d), and Rule 43(a), (a)(4), (b)(1)(A), (b)(1)(B), (b)(1)(C), (b)(2)(A), and (b)(2)(C).

CONDITIONAL DISMISSALS

There are no charges being conditionally dismissed.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that, based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: Reprimand with Probation.

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* 4.12 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 4.13 provides that: "Reprimand is

generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.” The “Commentary” to this Standard states: “... reprimand is appropriate for lawyers who simply fail to follow their established procedures.” Respondent had in place appropriate procedures but, during the period of the firm’s growth, those procedures were not followed.²

The duty violated

As described above, Respondent’s conduct violated his duty to his clients.

The lawyer’s mental state

For purposes of this agreement the parties agree that Respondent’s management of his trust account was negligent to a degree that, over a period of time, he knew or should have known of the mismanagement of the trust, which resulted in commingled and misappropriated funds, as well as the failure to preserve complete accounting records.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was potential harm

² If this case were to proceed to a hearing, the State Bar would reserve the right to argue that Standard 4.12 should apply, which calls for a presumptive sanction of suspension. However, for purposes of this agreement, the parties agree that, whether the presumptive sanction is reprimand or suspension, consideration of the aggravating and mitigating factors nevertheless results in the sanction proposed herein.

to Respondent's clients.

Aggravating and mitigating circumstances

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

In aggravation:

Standard 9.22(i) substantial experience in the practice of law.

In mitigation:

Standard 9.32(a) absence of prior disciplinary record.

Standard 9.32(d) timely good faith effort to make restitution or to rectify consequences of misconduct. Respondent promptly took control of the accounting measures to ensure proper IOLTA procedures and also quickly made an administrative deposit to cover the deficiency upon discovery.

Standard 9.32(g) character or reputation. Dyer is a well-respected estate and probate attorney. He has been a School Board member for Ball Charter Schools for over 15 years; served on his Church Elder Board; served on the Maricopa County Bar Association Mental Health and Elder Law Section Board; and has been serving as Judge *Pro Tem* in the Probate and Mental Health Court for the last several years.

Standard 9.32(1): Remorse. By his admissions to the State Bar of fault and acceptance of responsibility throughout the State Bar's screening investigation, Respondent has demonstrated remorse.

Discussion

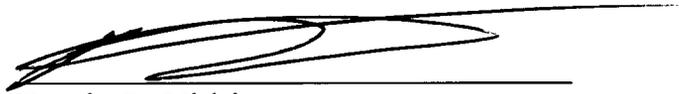
The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction is, or should be mitigated to, reprimand and probation. Respondent's mitigating factors outweigh his aggravating factors, and the demanding probation terms will suffice to protect the public and serve the other purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Reprimand with Probation and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 12 day of July, 2017.

STATE BAR OF ARIZONA



Dustin P. Vidrine
Staff Bar Counsel

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

DATED this _____ day of July, 2017.

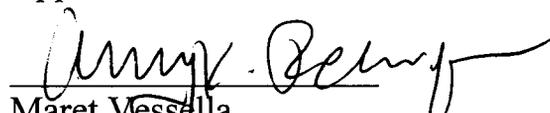
Charles M. Dyer
Respondent

DATED this _____ day of July, 2017.

Jennings Strouss & Salmon PLC

J. Scott Rhodes
Counsel for Respondent

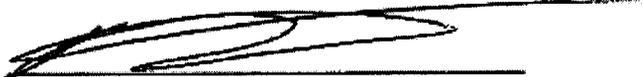
Approved as to form and content



Maret Vessella
Chief Bar Counsel

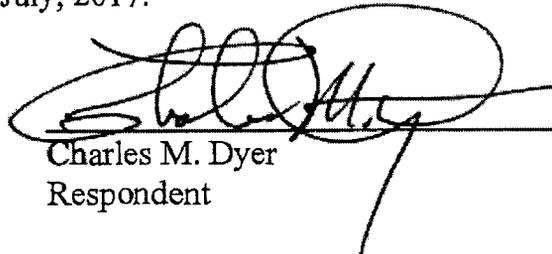
DATED this 12 day of July, 2017.

STATE BAR OF ARIZONA


Dustin P. Vidrine
Staff Bar Counsel

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

DATED this 24th day of July, 2017.

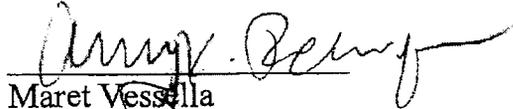

Charles M. Dyer
Respondent

DATED this _____ day of July, 2017.

Jennings Strouss & Salmon PLC

J. Scott Rhodes
Counsel for Respondent

Approved as to form and content


Maret Vessella
Chief Bar Counsel

DATED this 12 day of July, 2017.

STATE BAR OF ARIZONA


Dustin P. Vidrine
Staff Bar Counsel

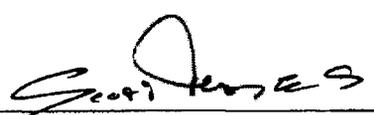
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Charles M. Dyer
Respondent

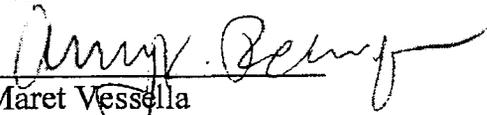
DATED this 24th day of July, 2017.

Jennings Strouss & Salmon PLC



J. Scott Rhodes
Counsel for Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 25th day of July, 2017.

Copy of the foregoing emailed
this 25th day of July, 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 25th day of July, 2017, to:

J. Scott Rhodes
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Email: srhodes@jsslaw.com
Respondent's Counsel

Copy of the foregoing hand-delivered
this 25th day of July, 2017, to:

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

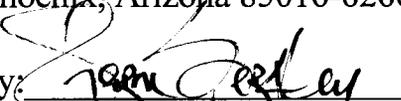
by: 
DPV: sab

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Charles M. Dyer, Bar No. 017994, Respondent

File No. 16-2675

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 MEMBER
OF THE STATE BAR OF ARIZONA,**

**CHARLES M. DYER,
Bar No. 017994,**

Respondent.

PDJ 2017-_____

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 16-2675]

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, **Charles M. Dyer**, is hereby reprimanded 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 or _____.

IT IS FURTHER ORDERED that Respondent shall be placed on probation for a period of 18 months, on the following terms:

- a. Respondent shall undergo an evaluation and audit of his trust account management by the State bar's Law Office management Assistance Program (LOMAP). Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258 within ten (10) days from the date of service of

this Order to arrange the evaluation and audit. Respondent shall comply with any reasonable recommendations following the evaluation and audit. Respondent will be responsible for any costs associated with LOMAP;

- b. Respondent shall attend a half-day Trust Account Ethics Enhancement Program (TAEEP). Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258 within ten (10) days from the date of service of this Order to schedule attendance at the next available class. Alternatively, Respondent may attend TAEEP electronically. If he attends electronically, he shall provide a copy of his class notes to the State bar's probation compliance officer. Respondent will be responsible for the cost of attending the program.

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 thirty (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 Respondent pay the costs and expenses of the State Bar of Arizona in the amount of Six Hundred Dollars (\$ 600.00), within thirty (30) days from the date of service of this Order.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within thirty (30) days from the date of service of this Order.

DATED this _____ day of July, 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 July, 2017.

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

J. Scott Rhodes
Jennings Strouss & Salmon, PLC
One East Washington Street, Suite 1900
Phoenix, Arizona 85004-2554
Email: srhodes@jsslaw.com
Respondent's Counsel

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

Dustin P. Vidrine
Staff Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this _____ day of July, 2017, to:

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

by: _____