

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**JAMES R. ECKLEY,  
Bar No. 010854**

Respondent.

**PDJ 2016-9133**

**FINAL JUDGMENT AND ORDER**

[State Bar File No. 15-1846]

**FILED JANUARY 20, 2017**

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on December 30, 2016, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepted the parties' proposed agreement. Accordingly:

**IT IS ORDERED** Respondent, **James R. Eckley**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective the date of this order.

**IT IS FURTHER ORDERED** Mr. Eckley shall be placed on probation for eighteen (18) months, subject to early termination, with the State Bar's Law Office Management Program (LOMAP). Mr. Eckley shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this order. Mr. Eckley shall submit to a LOMAP examination of his office procedures. Mr. Eckley shall sign terms and conditions of participation, including reporting requirements, which are incorporated by this reference. Mr. Eckley shall be responsible for any costs associated with LOMAP.

**NON-COMPLIANCE LANGUAGE**

If Mr. Eckley 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, whether to enter a 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. Eckley shall pay the costs and expenses of the State Bar of Arizona totaling \$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 with these disciplinary proceedings.

**DATED** this 20<sup>th</sup> day of January, 2017.

*William J. O'Neil*

---

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

Copies of the foregoing mailed/emailed  
this 20th day of January, 2017, to:

Shauna R. Miller  
Senior Bar Counsel  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: LRO@staff.azbar.org

Mark I. Harrison  
William D. Furnish PA  
Osborn Maledon PA  
2929 N. Central Ave., Ste 2100  
Phoenix, AZ 85012-2765  
Email: mharrison@omlaw.com

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

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

**JAMES R. ECKLEY,  
Bar No. 010854**

Respondent.

**PDJ-2016-9133**

**DECISION AND ORDER  
ACCEPTING DISCIPLINE BY  
CONSENT**

[State Bar File No. 15-1846]

**FILED JANUARY 20, 2017**

The Probable Cause Order was filed on November 1, 2016. No formal complaint has been filed. The parties filed their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. on December 30, 2016.

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. Eckley has 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 not required as the State Bar is the complainant.

The Agreement details a factual basis to support the conditional admissions. Mr. Eckley conditionally admits he violated Rule 43(b)(1)(B) and (C), 43(b)(2)(B) and (C), 43(b)(4)(B) and 43(d)(3). The agreed upon sanctions include reprimand and

probation for eighteen (18) months and the payment of costs within thirty (30) days). Restitution is not an issue.

Mr. Eckley has been licensed to practice law in Arizona since January 5, 1988. He was censured and placed on probation in Fine No. SB-09-0082-D. He received training and his trust account procedures were reviewed in 2010 for the months of May, June and July of that year. It is uncontested that he fully cooperated with the State Bar's training and trust account inspections. The State Bar filed a notice of his successful completion of probation on May 4, 2012.

On July 9, 2015, check number 1660 for \$9,386.99 was presented for payment against the firm's trust account, but had a balance of \$7,364.08. An overdraft resulted, which Mr. Eckley soon remedied. Mr. Eckley received an overdraft notice from the bank on July 14, 2015 of which the bank notified the State Bar which then sent Mr. Eckley a copy of the overdraft notice. An explanation was requested. The transaction dates of the records provided to the State Bar conflicted. The general ledger was requested, but initially not provided as the employee of Respondent who maintained the records had not been adequately trained by Mr. Eckley.

The two sets of client ledgers showed that certain client accounts had carried negative balances beginning in 2011. Other errors were uncovered. Two checks were outstanding. One from 2010 and the other from 2011. Because of the Bar examiner's review of the documents provided by Mr. Eckley, it was concluded one employee who handled the trust accounts was not adequately trained by Mr. Eckley and another employee adequately trained had been negligent. It is stipulated Mr. Eckley was negligent in maintaining adequate internal controls to safeguard client funds, his

accounting staff did not properly maintain accounting ledgers regarding some clients and a disbursement was made without funds in the account to cover it.

Rule 58(k) provides sanctions shall be determined in accordance with the *American Bar Association Standards for Imposing Lawyer Sanctions*, ("Standards").

The parties agree *Standard* 4.13 applies to the violations of Mr. Eckley. That provides reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client. The parties stipulate Mr. Eckley negligently violated his duty to his clients causing potential injury.

The parties agree under *Standard* 9.22, the four prior disciplinary offenses of Mr. Eckley and his substantial experience in the practice of law are aggravating factors. The parties stipulate under *Standard* 9.32, the absence of dishonest or selfish motive, timely good faith effort to rectify the consequences of the misconduct, the full and free disclosure to the State Bar and cooperative attitude towards the proceedings and remoteness of prior offenses are applicable mitigating factors.

The Presiding Disciplinary Judge finds the proposed sanctions of reprimand and probation meets the objectives of attorney discipline. The Agreement is therefore accepted.

**IT IS ORDERED** incorporating the Agreement and any supporting documents by this reference. The agreed upon sanction are: reprimand, eighteen (18) months of probation, (LOMAP), which is subject to early termination, 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** the Agreement is accepted. Costs as submitted are approved for \$1,200.00. A final judgment and order is signed this date.

**DATED** this January 20, 2017.

*William J. O'Neil*

---

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

COPY of the foregoing e-mailed/mailed on January 20, 2017, to:

Shauna R. Miller  
Senior Bar Counsel  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: LRO@staff.azbar.org

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Osborn Maledon PA  
2929 N. Central Ave., Ste 2100  
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Respondent's Counsel

by: AMcQueen

Shauna R. Miller, Bar No. 015197  
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OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

DEC 30 2016

FILED



BY \_\_\_\_\_

Mark I. Harrison, Bar No. 001226  
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2929 N. Central Ave., Ste. 2100  
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Respondent's Counsel

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**JAMES R. ECKLEY**  
**Bar No. 010854**

Respondent.

**PDJ 2016-** 9133  
[State Bar File No. 15-1846]

**AGREEMENT FOR DISCIPLINE BY  
CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, James R Eckley, who is represented in this matter by counsel, Mark I. Harrison and William D. Furnish, submit their agreement for discipline by consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on October 1, 2016. No formal complaint has been filed in this matter. Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

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 43, Ariz. R. Sup. Ct. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand and Probation for 18 months. 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.<sup>1</sup> The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A. Pursuant to Section B of the Final Judgment and Order, attached hereto as Exhibit B, upon the completion of the terms of Probation, the Bar will file a Notice of Successful Completion of Probation, with the Presiding Disciplinary Judge of the Supreme Court of Arizona and de-publish the Probation from the Bar's website in accordance with Rule 49(a)(2)(C)(ii), Ariz. R. Sup. Ct.

## **FACTS**

### **GENERAL ALLEGATIONS**

1. Respondent was licensed to practice law in Arizona on January 5, 1988.
2. Respondent was censured and placed on probation in SB-09-0082-D. As part of his probation his trust account procedures were reviewed in 2010. Ms. Traylor, a State Bar employee at the time, provided trust account training and reviewed his trust account documents, *i.e.*, bank statements, canceled checks and reconciliations

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<sup>1</sup> 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.

for the month of May, June, and July 2010. If this matter were to proceed to a contested hearing, Respondent would testify that he fully cooperated with the State Bar's training and trust account inspections. For purposes of this agreement, the State Bar does not contest this proffered testimony. On May 4, 2012, the State Bar filed the notice of successful completion of probation in that matter.

**COUNT ONE (File no. 15-1846/ Trust Account)**

3. On July 9, 2015, the check number 1660 in the amount of \$9,386.99 was presented for payment against the Firm's client trust account, which at the time had a balance of \$7,364.08.

4. If this matter were to proceed to hearing, Respondent would testify that the Firm was unaware that the client trust account had a low balance because the Firm's administrative staff had mistakenly used a credit card machine linked to the Firm's operating account, rather than the client trust account, when making a deposit intended for the client trust account. The bank paid the check and did not charge an overdraft fee, leaving the account with a negative balance of <\$522.91>. For purposes of this agreement, the State Bar does not contest this proffered testimony.

5. On July 14, 2015, Respondent received an overdraft notice from the bank. If this matter were to proceed to hearing, Respondent would testify that on July 14, 2015, he deposited a check for \$2,500.00 from the Firm's operating account into the trust account to bring the account to the correct balance. For purposes of this agreement, the State Bar does not contest this proffered testimony.

6. On July 13, 2015, the State Bar received an insufficient funds notice on Respondent's client trust account. On July 21, 2015, the State Bar's trust account examiner (the Bar's examiner) sent Respondent a copy of the overdraft notice, and

requested an explanation of the overdraft and copies of the related mandatory records. On July 24, 2015, Respondent advised the Bar's examiner that his accountant was out on sick leave and would provide the documents when she returned.

7. In response to the request for trust account records, Respondent provided the Bar's examiner with records from TimeSlips, which tracks client bills and attorney time, and QuickBooks, which is used for accounting. The transaction dates conflicted on the two sets of ledgers.

8. The Bar's examiner also requested that Karen Eckley ("Karen"), Respondent's employee who maintained the trust account records, provide the mandatory general ledger. Karen was unsure about how to generate the requested document, and the ledger was later provided to the Bar by the firm's accountant, Mark Kroh ("Mark"). If this matter were to proceed to hearing, Respondent would testify that Karen had not been trained in generating a general ledger at the time of the overdraft, but was subsequently trained to do so by Mark. For purposes of this agreement, the State Bar does not contest this proffered testimony.

9. If this matter were to proceed to hearing, the Bar's examiner would testify that the two sets of client ledgers showed that certain clients had temporarily carried negative balances, indicating that funds for those clients had been improperly disbursed. Based on the QuickBooks client ledgers, the negative balances began in 2011. Additional trust account documents were then requested for the years 2010 and forward, which were provided by Respondent.

10. On October 15, 2015, the Bar's examiner met with Respondent, Karen, and Mark. The Bar's examiner noted that some entries to client ledgers on QuickBooks

examiner that the adjusting entries were sub-accounts he created for each client who held funds on deposit in the trust account to establish the beginning balance for each client when the Firm adopted QuickBooks as its accounting software.

11. The Bar's examiner also noted that Respondent corrected certain negative balances using book-entry general journal adjustments. Mark explained that these adjustments were made to each client's sub-account to reflect the accurate balance for each client with an offsetting general journal credit or debit to the Firm's administrative funds sub-account. This is an acceptable accounting technique, but it is not an acceptable practice in keeping client trust account records. Respondent has since discontinued this practice.

12. The Bar's examiner also noted that the Firm had two outstanding stale-dated checks: one from 2010 for Client J and one from 2011 for Client L. Karen was initially unsure whether the checks were outstanding or if they had been returned. Respondent thereafter confirmed that the checks were outstanding, made several efforts to contact Clients J and L, closed out the accounts and provided documentation to the Bar.

13. During the meeting, the Bar's examiner informed Karen and Mark that a negative balance on the ledgers indicated conversion of other client funds. Karen advised that the negative balances may not be accurate. Karen then produced a third set of records containing hand-written individual client ledgers. Karen stated that the negative balance may have been inaccurately recorded including entries for amounts billed as earned, amounts received and trust account deposits and disbursements. Karen explained that the negative balance in Client K's account was the result of a deposit error that had been corrected in 2011 without Bar involvement.

14. Respondent has been advised that maintaining a backup ledger is cumbersome, redundant, and leads to data entry errors, as in the case of Client K, in QuickBooks and TimeSlips, and can result in the mishandling of client funds. These errors can arise when TimeSlips and QuickBooks entries for specific dates and amounts do not match the entries in the backup ledger.

15. As a result of the Bar's examiner's review of documents provided by Respondent and interview with the Firm's accounting staff, the Bar concluded that Respondent's employee, Karen, was not adequately trained in generating general ledger reports, although his other accounting employee, Mark, was adequately trained; Respondent was negligent in maintaining adequate internal controls to safeguard client funds; Respondent's accounting staff did not properly maintain accounting ledgers with respect to certain clients; and a disbursement was made without appropriate funds in the account to cover it that was corrected by Respondent prior to Bar contact with Respondent regarding the 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 43(b)(1)(B) and (C), 43(b)(2)(B) and (C), 43(b)(4)(B); and 43(d)(3), Ariz. R. Sup. Ct.

#### **CONDITIONAL DISMISSALS**

There are no conditional dismissals.

#### **RESTITUTION**

Restitution is not an issue in this matter.

## **SANCTION**

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

Reprimand and Probation for 18 months as set forth in the final judgment and order.

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* 4.13 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 comments to Standard 4.13 state in part:

Reprimand is appropriate for lawyers who simply fail to follow their established procedures. Reprimand is also appropriate when a lawyer is negligent in training or supervising his or her office staff concerning proper procedures in handling client funds.

Respondent has previously been advised how to properly maintain his trust account. Respondent's support staff have not been sufficiently trained in the handling of client funds.

**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 negligently mishandled his obligations with regard to maintaining his client trust account and that his conduct was in violation of the Rules of Professional Conduct. Respondent has not been found to have intentionally violated any of his obligations regarding his client trust account.

**The extent of the actual or potential injury**

For purposes of this agreement, the parties agree that there was potential harm to Respondent's clients. The parties further agree that no actual injury occurred 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

- (a) prior disciplinary offenses.
  - Informal Reprimand, **ER 4.2**. *February 22, 1994*: File no. 93-1416.
  - Informal Reprimand and Probation, **ERs 1.4(b) and 5.3**. *February 9, 2004*: File nos. 02-0504 & 02-0872.
  - Censure and Probation, **ERs 1.8(a), 5.7 and Rules 43 and 44**. *August 24, 2009*, File nos. 05-2050, 06-0657, 06-1062, 06-1742, and 07-1217.
  - Admonition and Probation, **ERs 1.4, 1.5, 1.7, 1.15, and 1.16** *July 27, 2015* File no. 14-1948 (Respondent had terms in his fee agreement that improperly waived protections afforded to clients by the Rule of Professional Conduct).
- (i) substantial experience in the practice of law.

### **In mitigation:**

#### Standard 9.32

- (b) absence of a dishonest or selfish motive.
- (d) timely good faith effort to rectify consequences of misconduct.
- (e) full and free disclosure to disciplinary board and cooperative attitude toward proceedings.
- (m) remoteness of prior offenses.

### **Discussion**

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: Reprimand is "generally appropriate" in cases of lawyer negligence in dealing with client property. Standard 4.13. Respondent further acknowledges that unintentional clerical errors occurred in his trust account practices, that he has been previously disciplined by the Bar, and that he is an attorney with over 20 years of experience.

These aggravating factors, however, do not warrant a greater sanction than reprimand when weighed against the evidence of mitigation in Respondent's favor. First, Respondent's trust account practices were not motivated by any effort to conceal improper conduct or financially benefit Respondent at his client's expense. See Standard 9.32(b). Second, immediately upon receiving an insufficient fund notice from the bank, and prior to contact from the Bar, Respondent corrected the erroneous charge to the client trust account. See *id.* 9.32(d). Respondent has taken further steps to train his existing bookkeeping staff, supplement that staff with new staff who have extensive experience in accounting practices and financial reporting, and Respondent has increased his own review of trust account reconciliations. See *id.* Third, Respondent and his staff cooperated fully with the Bar's trust account examiner, participated in lengthy interviews, and provided all requested information to the Bar. See *id.* 9.23(e). Fourth, Respondent's prior trust account discipline occurred approximately six years before this current discipline. See *id.* 9.23(m).

Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that a reprimand and probation 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 State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction

of Probation and Reprimand and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

**DATED** this 30<sup>th</sup> day of December 2016

**STATE BAR OF ARIZONA**

  
\_\_\_\_\_  
Shauna R. Miller  
Senior Bar Counsel

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

**DATED** this \_\_\_\_\_ day of December, 2016.

\_\_\_\_\_  
James R. Eckley  
Respondent

**DATED** this \_\_\_\_\_ day of December, 2016.

Osborn Maledon PA

\_\_\_\_\_  
Mark I. Harrison  
Counsel for Respondent

Approved as to form and content

  
\_\_\_\_\_  
Maret Vessella  
Chief Bar Counsel

Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that a reprimand and probation 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 State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Probation and Reprimand and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 29<sup>th</sup> day of December 2016

### STATE BAR OF ARIZONA

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Shauna R. Miller  
Senior Bar Counsel

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

DATED this 29<sup>th</sup> day of December, 2016.

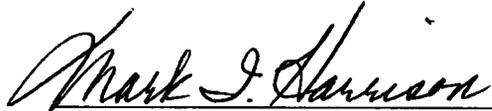
James R. Eckley

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James R. Eckley  
Respondent

DATED this 29<sup>th</sup> day of December, 2016.

Osborn Maledon PA



Mark I. Harrison  
Counsel for Respondent

Approved as to form and content

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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 \_\_\_ day of December, 2016.

Copy of the foregoing emailed  
this \_\_\_\_ day of December, 2016, 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](mailto:officepdj@courts.az.gov)

Copy of the foregoing mailed/emailed  
this \_\_\_\_\_ day of December, 2016, to:

Mark I. Harrison  
William D. Furnish  
Osborn Maledon PA  
2929 N. Central Ave., Ste. 2100  
Phoenix, AZ 85012-2765  
Email: [mharrison@omlaw.com](mailto:mharrison@omlaw.com)  
Respondent's Counsel

Copy of the foregoing hand-delivered

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 30<sup>th</sup> day of December, 2016.

Copy of the foregoing emailed  
this 30<sup>th</sup> day of December, 2016, 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](mailto:officepdj@courts.az.gov)

Copy of the foregoing mailed/emailed  
this 30<sup>th</sup> day of December, 2016, to:

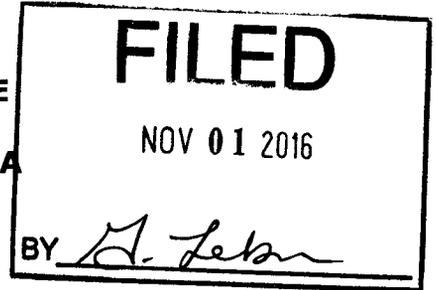
Mark I. Harrison  
William D. Furnish  
Osborn Maledon PA  
2929 N. Central Ave., Ste. 2100  
Phoenix, AZ 85012-2765  
Email: [mharrison@omlaw.com](mailto:mharrison@omlaw.com)  
Respondent's Counsel

Copy of the foregoing hand-delivered  
this 30<sup>th</sup> day of December, 2016, to:

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

by: Karen E. Calce  
SRM:jb

**BEFORE THE ATTORNEY DISCIPLINE  
PROBABLE CAUSE COMMITTEE  
OF THE SUPREME COURT OF ARIZONA**



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

No. 15-1846

**JAMES R. ECKLEY  
Bar No. 010854**

**PROBABLE CAUSE ORDER**

Respondent.

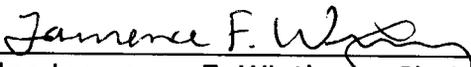
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on October 14, 2016, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Respondent's Response.

By a vote of 7-0-2<sup>1</sup>, the Committee finds probable cause exists to file a complaint against Respondent in File No. 15-1846.

**IT IS THEREFORE ORDERED** pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

**DATED** this 28 day of October 2016.

  
\_\_\_\_\_  
Judge Lawrence F. Winthrop, Chair  
Attorney Discipline Probable Cause Committee  
of the Supreme Court of Arizona

<sup>1</sup> Committee members Ella G. Johnson and Charles Muchmore did not participate in this matter.

Original filed this 2nd day  
of November, 2016, with:

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

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of November, 2016, to:

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2929 N. Central Avenue, Suite 2100  
Phoenix, Arizona 85012-2765  
Respondent's Counsel

Copy emailed this 2nd day  
of November, 2016, to:

Attorney Discipline Probable Cause Committee  
of the Supreme Court of Arizona  
1501 West Washington Street, Suite 104  
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E-mail: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

by: YBf. Neal

# EXHIBIT A

## **Statement of Costs and Expenses**

In the Matter of a Member of the State Bar of Arizona,  
James R Eckley, Bar No. 010854, Respondent

File No. 15-1846

### **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

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**TOTAL COSTS AND EXPENSES INCURRED** **\$1,200.00**

# EXHIBIT B

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**JAMES R ECKLEY,**  
**Bar No. 010854,**

Respondent.

**PDJ**

**FINAL JUDGMENT AND ORDER**

[State Bar File No. 15-1846]

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, **James R. Eckley**, is hereby reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** that Respondent is placed on Probation under the following terms and conditions:

- a. LOMAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of this Order. Respondent shall submit to a LOMAP examination of his trust account procedures within 30 days from the date of this Order. Terms of probation will be prepared by the State Bar based on the LOMAP examination. Respondent shall sign and return the terms and conditions of participation, including reporting requirements, within 40 days from the date of this Order. The

terms and conditions shall be incorporated herein by this reference. Respondent will be responsible for any costs associated with LOMAP.

- b. The period of probation is 18 months from the date of this Order but is subject to early termination after two reporting periods if Respondent's trust account records are in compliance with Rule 43, Ariz. R. Sup. Ct. Bar counsel will determine whether Respondent's records are in compliance with Rule 43. If the records are not in compliance, Respondent will continue submitting reports as indicated in the terms and conditions until they are in compliance, or until the end of the probation term, whichever comes first. Upon completion of probation, the State Bar will file a notice of completion with the presiding disciplinary judge.

#### **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 Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within 30 days from the date of service of this Order.

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

**DATED** this \_\_\_\_\_ day of December, 2016

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**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 December, 2016.

Copies of the foregoing mailed/emailed this \_\_\_\_\_ day of December, 2016, to:

Mark I Harrison  
William D. Furnish  
Osborn Maledon PA  
2929 N Central Ave Ste 2100  
Phoenix, AZ 85012-2765  
Email: mharrison@omlaw.com  
Respondent's Counsel

Copy of the foregoing emailed/hand-delivered this \_\_\_\_\_ day of December, 2016, to:

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

Copy of the foregoing hand-delivered  
this \_\_\_\_ day of December, 2016 to:

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

by: \_\_\_\_\_