

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

KIRK A GUINN,
Bar No. 015448

Respondent.

PDJ 2017-9004

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 16-0776]

FILED MAY 26, 2017

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on May 8, 2017, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED Respondent, **Kirk A Guinn** is suspended for eighteen (18) months for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective thirty (30) days from the date of this order.

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

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

IT IS FURTHER ORDERED Mr. Guinn shall pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,225.40, 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 26th day of May, 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 26th day of May, 2017, to:

Kirk A. Guinn
Guinn Sen & Walton PLLC
4140 East Baseline Road, Suite 101
Mesa, AZ 85206-4413
Email: kirk@gswlawaz.com
Respondent

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

by: MSmith

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

KIRK A. GUINN,
Bar No. 015488

Respondent.

PDJ-2017-9004

**DECISION AND ORDER
ACCEPTING DISCIPLINE
BY CONSENT**

[State Bar File No. 16-0776 and
16-0984]

FILED MAY 26, 2017

Probable Cause issued on December 28, 2016 and the complaint was filed on January 12, 2016. The parties filed their Agreement for Discipline by Consent on May 8, 2017 pursuant to Rule 57(a), Ariz. R. Sup. Ct.¹

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. Guinn 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. Notice of this Agreement and an

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

opportunity to object as required by Rule 53(b)(3), was provided by letter to the complainant(s) on April 24, 2017. No objections have been filed.

The Agreement details a factual basis to support the conditional admissions. Mr. Guinn conditionally admits he violated Rule 42, ERs 1.5 (fees), 1.7 (conflict of interest), 3.3 (candor to tribunal), and 8.4(d) (conduct prejudicial to the administration of justice). The agreed upon sanctions include an eighteen (18) month suspension. The conditional admissions are briefly summarized.

Under Count I, in September 2015, Mr. Guinn filed a bankruptcy for a client dying from terminal cancer who had liens on his vehicles. Mr. Guinn and his daughter appeared at his client's home and personally drove away the vehicles of the client prior to Mr. Guinn filing the bankruptcy for his him. The client died in December 2015. In that same month, the lienholder received a notification from a company called Sperro Towing in Indiana, threatening that if the lender failed to pay towing and storage costs of \$5,232.85 the client's vehicles would be sold. When the lienholder arranged to pay those fees, lienholder was told the cars had already been sold.

When confronted by the lienholder with the fact that his daughter and he had personally taken the vehicles, Mr. Guinn was asked why the vehicles had been taken to Indiana. Mr. Guinn responded, "It was convenient."

In the client bankruptcy matter, the U.S. Trustee moved for Denial of Prior Fees and Request for Disgorgement. In the motion it was stated Mr. Guinn was paid his fee by Fenner & Associates affiliated with Sperro Towing. The Trustee pointed out “the collusive scheme between Mr. Guinn and Mr. Fenner, whereby Mr. Fenner paid Mr. Guinn’s attorney’s fees, in exchange for Mr. Guinn facilitating the transfer of the vehicle to Mr. Fenner.” Mr. Guinn did not respond to the motion and failed to appear for a hearing on the motion. The Court ordered Mr. Guinn to appear.

At the hearing Mr. Guinn revealed he had no written agreement with Fenner explaining how he would receive his fees but he had advised his client to contract with Mr. Fenner and that Mr. Fenner paid Guinn \$1,500. The Court ordered Mr. Guinn to list all the bankruptcy cases in which he received payment from Mr. Fenner or his entities. Mr. Guinn admitted he had a relationship with Mr. Fenner in 24 other cases. The Court ordered he disgorge himself of all fees collected through his involvement with Mr. Fenner. Mr. Guinn and the Trustee settled these matters.

In Count II, Mr. Guinn represented a client in a bankruptcy matter in 2015. The client asked about attorney fees, and Mr. Guinn advised he could participate in his “vehicle surrender program” that would cover his \$1,200 attorney fee. The client agreed to participate in the program, and Mr. Guinn arranged for a transfer of the client’s vehicle to Sperro Towing in Indiana. He assured the client he could file for bankruptcy in three weeks.

After the three weeks passed, his client repeatedly attempted to contact Mr. Guinn with no answer for over a month. The lien holder made demands on the client. When Mr. Guinn finally responded to his client, he told him he was filing the bankruptcy and to have the lienholder contact him directly. Mr. Guinn then told the lienholder his client had transferred the car out of state. Mr. Guinn told his client that the action taken was not illegal. When the lienholder told client he could face criminal prosecution under A.R.S. 13-1813, the vehicle was returned to the lienholder without client's knowledge.

Rule 58(k) provides sanctions shall be determined under the *American Bar Association Standards for Imposing Lawyer Sanctions*, ("*Standards*"). The parties agree *Standard 4.12, Failure to Preserve the Client's Property* applies to Mr. Guinn's violation of ER 1.5 and provides that suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.

Standard 4.3 Failure to Avoid Conflicts of Interest applies to Mr. Guinn's violation of ER 1.7 and Rule 54(d) and provides suspension is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client.

The parties stipulate the mental state of Mr. Guinn was knowingly. When conduct is done with repetition, it at some point, likely earlier than later, becomes

intentional conduct. The personal involvement of Mr. Guinn and his daughter in transferring those vehicles from a dying man to Indiana to assure “storage” and “towing” fees appears to warrant an intentional state of mind. The parties agree the following aggravating factors are present in the record: *Standard 9.22(a)* prior disciplinary offenses; Mr. Guinn was reprimanded for a similar act of misconduct by failing to disclose financial information to the Trustee and Court in his personal bankruptcy filings, 9.22(b) selfish or dishonest motive, 9.22(c) pattern of misconduct, 9.22(d) multiple offenses, and 9.22(i) substantial experience in the practice of law. The sole factor in mitigation is *Standard 9.32(j)* delay in disciplinary proceedings. The parties agree the presumptive sanction is suspension. Upon consideration, the Presiding Disciplinary Judge finds the proposed sanctions of suspension and the payment of costs meets 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: eighteen (18) month suspension, effective (30) thirty days from the date of this order, and costs and expenses of the disciplinary proceeding totaling \$1,225.40, to be paid within thirty (30) days from 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 May 26, 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
on May 26, 2017, to:

Hunter F. Perlmeter
Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Kirk A. Guinn
Guinn Sen & Walton PLLC
4140 East Baseline Road, Suite 101
Mesa, AZ 85206-4413
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Respondent

by: MSmith

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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

MAY 8 2017

FILED

BY



Kirk A Guinn, Bar No. 015448
Guinn Sen & Walton PLLC
4140 East Baseline Road, Suite 101
Mesa, AZ 85206-4413
Telephone 480-862-5072
Email: kirk@gswlawaz.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**KIRK A. GUINN
Bar No. 015448**

Respondent.

PDJ 2017-9004

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

State Bar File Nos. **16-0776 and 16-0984**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Kirk A. Guinn, 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. A probable cause order was entered on December 28, 2016. A formal complaint was

filed on January 12, 2017. 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 letter on April 24, 2017, informing them of their opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. No objection has been received.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.5 (fees), ER 1.7 (conflict of interest), 3.3 (candor to tribunal), and ER 8.4(d) (conduct Prejudicial to the administration of justice.) Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Suspension of eighteen (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.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on May, 21, 1994.

COUNT ONE (File no. 16-0776/ DeStefano)

2. On March 30, 2016, General Counsel for First Credit Union (FCU), Ashely DeStefano, filed a Bar charge against Respondent concerning his representation of a bankruptcy client, Alvin Sersit, who had financed vehicles through FCU.

3. In September 2015, Mr. Sersit filed Chapter 7 bankruptcy (4:15-bk-12519-BMW).

4. In December 2015, FCU received a Notification of Lien from a company called Sperro Towing, threatening that if FCU failed to pay towing and storage costs in the amount of \$5,232.85, Mr. Sersit's liened vehicles would be sold

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.

in Indiana at a public auction scheduled to take place at 1:30 a.m. on an upcoming date.

5. Destefano found this correspondence particularly unusual given that Respondent and Mr. Sersit both resided in Arizona.

6. FCU made arrangements to pay the storage fee for the release of the vehicles, but when it attempted to make payment it was told that the notification had been sent in error and that the cars had already been sold.

7. Around the same time, FCU was contacted by Mr. Sersit's son, who indicated that before Sersit's bankruptcy, Respondent and Respondent's daughter appeared at Mr. Sersit's home and personally drove away his vehicles. Mr. Sersit's son further indicated that he had made several attempts to contact Respondent about the matter, but had been unable to reach him.

8. FCU called Respondent and conveyed the information it had received. Respondent responded: "Do you have a question?" When asked why the client's vehicles had been taken to Indiana, Respondent responded, "It was convenient."

9. Mr. Sersit died from terminal cancer on December 15, 2015.

10. On or about February 22, 2016, the U.S. Trustee filed a Motion for Denial of Prior Fees and Request for Disgorgement" in Mr. Sersit's bankruptcy.

11. In the motion, the Trustee complained that the “Disclosure of Compensation” that Respondent filed in Sersit’s bankruptcy matter provided only that Respondent “agreed to accept” \$1,500 as total compensation for his representation of Mr. Sersit from an entity named “Fenner & Associates.” [Fenner & Associates was affiliated with Sperro Towing.] The Trustee argued that this disclosure was insufficient because it failed to detail, “the collusive scheme between Mr. Guinn [Respondent] and Mr. Fenner, whereby Mr. Fenner paid Mr. Guinn’s attorney’s fees, in exchange for Mr. Guinn facilitating the transfer of the vehicles to Mr. Fenner... .” The trustee argued that this constituted an impermissible conflict of interest.

12. The penultimate paragraph of the Trustee’s motion provided:

Debtor’s counsel should not be paid from third parties who fraudulently take possession of assets of the bankruptcy estate, place mechanic’s liens on these assets, and then sell these assets in violation of the automatic stay. This conduct created a conflict of interest, in that Mr. Guinn’s self-interest in being paid from Fenner conflicted with his duty to represent his client, the Debtor. Attorney Guinn conspired and colluded with Fenner for Fenner to fraudulently take possession of estate assets, in exchange for a kickback of his attorney’s fees. This conduct undermines the integrity of the bankruptcy system and should be stopped.

13. Respondent did not respond to the motion.

14. The court held hearings on the motion on April 12, 2016, and May 10, 2016, regarding the issues raised.

15. Respondent failed to appear for the April 12, 2016, hearing. The court continued the hearing and required Respondent to appear.

16. The continued hearing took place on May 10, 2016.

17. Respondent appeared and revealed that he had no written agreement with Fenner explaining how Respondent was to receive fees, but that there was a writing between the deceased client and Fenner.

18. When he offered this information, the court responded, "I'm having trouble understanding how an officer of the court enters into an agreement with an out of state entity and removes assets of the estate in a Chapter 7 case.... On what basis does an attorney advise his client to enter into such an agreement? Respondent indicated that after a month or two of being "peripherally" involved with Fenner, it was apparent that they weren't very responsive to the lenders and were not taking actions that would be beneficial to all parties, so he discontinued his involvement.

19. The court stated that it might set an order to show cause hearing and admonished Respondent that the disclosure of compensation that he made in the matter was "at best very insufficient." The court further indicated that it believed

Respondent's actions constituted a removal of assets to an out of state entity without court approval.

20. By May 11, 2016, order, the court granted the Trustee's motion and ordered:

- a. Mr. Kirk Guinn shall immediately disgorge his \$1,500 fee to the Chapter 7 estate.
- b. Within ten (10) days from the date of the May 10, 2016, hearing (by May 20, 2016), Mr. Guinn shall file with the Court a list of all bankruptcy cases in which Mr. Guinn received payment from or had a relationship with Mr. Brian K. Fenner, Fenner & Associates, or any of Mr. Fenner's related entities.

21. On May 24, 2016, Respondent filed a list of 24 cases in which he had had a relationship with Fenner.

22. Thereafter, the US Trustee and Respondent reached a settlement agreement.

23. On August 11, 2016, the Trustee filed a motion to approve the settlement. The settlement agreement set forth a schedule by which Respondent was to disgorge fees in 10 cases over the course of several months, with the last payment due on February 1, 2017. The settlement further dictated that if Respondent was to

default on paying judgments in any of the 10 cases, a judgment would be entered against him with respect to 21 cases, in a principal amount not to exceed \$26,835.00.

24. On October 6, 2016, the Bankruptcy Court issued an order approving the settlement.

25. Respondent has satisfied the settlement agreement by disgorging himself of all fees collected through his involvement with Fenner.

Rule Violations

26. Respondent's conduct in Count One violated ERs 1.5, 1.7, 3.3, and 8.4(d).

COUNT TWO (File no. 16-0984/Oster)

27. Kyle Oster first contacted Respondent in early October 2015 regarding representation in a personal bankruptcy. When Mr. Oster asked about Respondent's legal fee, Respondent indicated that Mr. Oster could take part in "his vehicle surrender program and if I surrendered my vehicle through him it would cover \$1,200 fee." Respondent further indicated to Mr. Oster that under the program he would have Mr. Oster's vehicle taken to a storage yard and it would help in getting the creditors to "play ball."

28. In November 2015, Respondent arranged for his vehicle to be transferred by Sperro LLC to Indiana. At the time the vehicle was transferred, Respondent told Mr. Oster that he would be able to file for bankruptcy in approximately three weeks.

29. A Transporting and Storage Authorization Agreement for Oster's 2007 Ford Edge was signed by Oster on November 4, 2015.

30. After three weeks elapsed, Mr. Oster attempted to contact Respondent several times by phone and left several voicemails regarding the status of his matter. Respondent did not answer.

31. In late December 2015, or early January 2016, Mr. Oster received a call from A-L Financial, a creditor.

32. Mr. Oster placed several calls to Respondent and eventually reached him. Respondent told Mr. Oster to direct all creditors to him and that he would file Oster's bankruptcy petition by the end of the week.

33. A-L Financial continued to contact Mr. Oster directly. When they reached Oster, they told him that they had learned from Respondent that his vehicle had been transferred out of state. A-L financial asserted to Mr. Oster that such action was illegal.

34. Mr. Oster performed online research revealing that Sperro LLC was being investigated by law enforcement for illegally taking control of vehicles and that Sperro had been raided by law enforcement agents.

35. Mr. Oster copied the link to the information that he had discovered and sent it to Respondent's paralegal indicating he would take legal action if his vehicle was not returned to him.

36. Respondent later contacted Mr. Oster and indicated that the action that he had taken was not illegal.

37. Shortly thereafter, Mr. Oster received a letter from A-L Financial stating that if his vehicle was not returned in 30 days, he may face criminal prosecution under A.R.S. 13-1813.

38. Without his knowledge, Mr. Oster's vehicle was later returned to A-L Financial.

Rule Violations

39. Respondent's conduct in Count Two violated ERs 1.4, 1.5, 1.7, and 8.4(d).

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 1.5 (fees), ER 1.7 (conflict of interest), 3.3 (candor to tribunal), and ER 8.4(d) (conduct Prejudicial to the Administration of Justice.)

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 sanction is appropriate: Suspension of eighteen (18) months. 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* 8.2 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 8.2 provides that suspension is generally appropriate when a lawyer has been reprimanded for the same or similar misconduct and engages in similar acts of misconduct that cause injury or potential injury to a client, the public, the legal system or the profession. In a prior disciplinary matter, PDJ 2015-9112, Respondent received a reprimand for his failure to disclose financial information to the Trustee and the bankruptcy court in his personal bankruptcy filings. In both that matter, and in the matter underlying Count One in this case,

significant court time was taken in dealing with Respondent's lack of disclosure in his bankruptcy filings.

The duty violated

Respondent's conduct violated his duty to the legal system.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent knowingly omitted information from the "disclosure of compensation" section of his clients' bankruptcies, by disclosing, simply, that he had agreed to accept monetary compensation from Fenner and Associates. This disclosure failed to notify the bankruptcy court, the Trustee, and creditors of the scheme by which Fenner paid Respondent's attorney's fees in exchange for Respondent facilitating the transfer of his clients' vehicles out of state for storage with Fenner. The scheme allowed Fenner to collect exorbitant fees for storage of the vehicles, while putting pressure on Respondent's client's creditors.

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 and actual harm to the legal system. It is noted that after the court discovered Respondent's scheme with Fenner, Respondent complied with the

court's order requiring him to disgorge all funds that he had collected through his association with Fenner.

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.

Respondent received a Reprimand in 15-0660 for 8.4(d) for a lack of disclosure in a personal bankruptcy filing.

Standard 9.22(b): dishonest or selfish motive (Respondent affiliated with Fenner to receive financial benefit from Fenner.)

Standard 9.22(c): a pattern of misconduct (Respondent carried out the same misconduct in many bankruptcy cases.)

Standard 9.22(d): Multiple offenses (Respondent violated the many ERs detailed within this agreement.)

Standard 9.22(i): substantial experience in the practice of law (Respondent has been licensed since 1994.)

Discussion

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

suspension, and that in light of the aggravating factors and no mitigating factors, a long-term suspension of eighteen (18) months is appropriate.

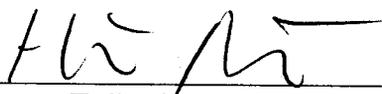
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

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 State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of a suspension of eighteen (18) months and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 8th day of May 2017

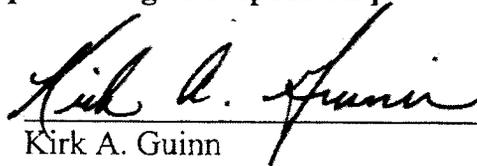
STATE BAR OF ARIZONA



Hunter F. Perlmeter
Staff Bar Counsel

DATED this 8th day of May, 2017.

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.]



Kirk A. Guinn
Respondent

DATED this 8th day of May, 2017.

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 8th day of May, 2017.

Copy of the foregoing emailed
this 8th day of May, 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 8th day of May, 2017, to:

Kirk A Guinn
Guinn Sen & Walton PLLC
4140 East Baseline Road, Suite 101
Mesa, AZ 85206-4413
Email: kirk@gswlawaz.com
Respondent

Copy of the foregoing hand-delivered
this 8th day of May, 2017, to:

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

by: 

HFP: tmn

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Kirk A. Guinn, Bar No. 015448, Respondent

File Nos. 16-0776 & 16-0984

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

02/27/17	Alliance Invoice	\$	7.00
10/05/16	PACER Invoice	\$	9.90
06/27/16	PACER Invoice	\$	8.50
Total for staff investigator charges		\$	25.40

TOTAL COSTS AND EXPENSES INCURRED **\$1,225.40**

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

KIRK A GUINN,
Bar No. 015448,

Respondent.

PDJ 2017-9004

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 16-0776]

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, **Kirk A Guinn**, is suspended for eighteen (18) months for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective 30 days from the date of this order or _____.

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

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 \$ _____, 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 May, 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 May, 2017.

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

Kirk A. Guinn
Guinn Sen & Walton PLLC
4140 East Baseline Road, Suite 101
Mesa, AZ 85206-4413
Email: kirk@gswlawaz.com
Respondent

Copy of the foregoing emailed/hand-delivered
this ____ day of May, 2017, to:

Hunter F. Perlmeter
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 May, 2017 to:

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

by: _____