

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

ERIC W. MESSINGER,
Bar No. 013062

Respondent.

PDJ 2017-9106

**FINAL JUDGMENT AND
ORDER**

[State Bar Nos. 16-3239, 16-3335,
17-0521, 17-1395, 17-1776, 17-3281]

FILED DECEMBER 14, 2017

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on December 1, 2017, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepted the parties' proposed agreement. Accordingly:

IT IS ORDERED Respondent, **Eric W. Messinger, Bar No. 013062**, is suspended from the practice of law for a period of three (3) years 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 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 Mr. Messinger shall pay restitution to the following individual(s) in the specified amount(s) within ninety (90) days from the

date of this order. Mr. Messinger shall contact the State Bar Compliance Monitor at 602-340-7258, in order to provide proof of timely payment of restitution.

Terrance Campbell: \$300.00

John Van Lint: \$335.00

IT IS FURTHER ORDERED reaffirming the June 16, 2016, order in State Bar of Arizona file number 15-1806 requiring Mr. Messinger to pay the costs associated with participation in diversion.

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

IT IS FURTHER ORDERED Mr. Messinger shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,440.00 within thirty (30) days from the date of this order. There are no costs associated with the Presiding Disciplinary Judge's Office in these disciplinary proceedings.

DATED this 14th day of December, 2017

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copy of the foregoing mailed/emailed this 14th day of December, 2017, to:

Eric W. Messinger
4033 N. Miller Road
Scottsdale, Arizona 85251-4528
Email: eric@messingerlaw.com
Respondent

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

by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

ERIC W. MESSINGER,
Bar No. 013062

Respondent.

PDJ-2017-9106

**DECISION AND ORDER
ACCEPTING DISCIPLINE BY
CONSENT**

[State Bar Nos. 16-3239, 16-3335,
17-0521, 17-1395, 17-1776, 17-3281]

FILED DECEMBER 14, 2017

A Probable Cause order issued on July 21, 2017 and a formal complaint was filed on September 15, 2017. Mr. Messinger has filed no responsive pleading. Default was entered and became effective. An aggravation/mitigation hearing was set for December 5, 2017. The parties filed a notice of settlement, and under Rule 57(a), Ariz. R. Sup. Ct., an Agreement for Discipline by Consent (Agreement) on December 1, 2017. The hearing was ordered vacated.

The Agreement covers: the three-charge complaint; two charges in which probable cause has been found but for which a complaint had not yet been filed; and a charge which has not been submitted for a probable cause determination.

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. Messinger 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 was provided by the State Bar to the complainant on December 1, 2017, with notice of an opportunity to object within five days as required by Rule 53(b)(3), Ariz. R. Sup. Ct. No objections have been filed.

The Agreement details a factual basis to support the conditional admissions. Mr. Porter conditionally admits he violated Rule 42, ERs 1.2, 1.3, 1.4, 8.4(d), and Rules 54(c), and 54(e). The agreed upon sanctions include a three (3) year suspension, restitution of \$635.00, plus State Bar costs totaling \$1,4400.00 to be paid in full within thirty (30) days from this order. The conditional admissions are briefly summarized.

Count One

Mr. Messinger undertook drafted three trusts for a family. After a death of a trustor, he was hired to assist in getting a successor trustee in place. He did nothing for five months despite multiple calls and emails. He failed to provide necessary documentation for another four months and continued to fail to respond to calls and emails.

Mr. Messinger served as trustee of the Joint Trust he drafted. When a beneficiary asked for copies of the trust documents, he failed to act for one year and then failed to provide amendments to the trust. He failed to take promised actions regarding assets, including failing to deposit a \$636,000 check from the decedent's life insurance. It had to be re-issued. He failed to provide an accounting for the Joint Trust.

Complainants hired lawyers who filed a petition with the Superior Court to remove him as Trustee. He failed to appear for a hearing on the petition, failed to prepare the required accounting and at an OSC hearing requested a later deadline to comply. He did not meet that extended deadline. He was ultimately held in contempt. Judgment was entered against him for attorney fees of \$4,775 and damages of \$61,650.53, which he paid.

Count Two

In September 2015 Mr. Messinger was retained to probate an estate. After obtaining the tax ID number, he performed little or no work. He was fired in June 2016 because he continued to fail to do the work he was assigned to do. He wrote the client and apologized stating he would close the estate and not bill for that service. He failed to prepare the paperwork to close the estate. He failed to respond to the State Bar's screening letter and 10 day letter. He later refunded his fees to the client.

Count Three

Mr. Messinger was hired on October 19, 2016 to obtain letters testamentary to facilitate the transfer of an annuity. He told his client it would take 2-3 days to obtain the letters and was paid in advance for those services. Mr. Messinger was non-responsive to his client's multiple requests for those letters into January 2017. He then falsely told his client there was an error in the paperwork he had originally filed. He had done nothing. His client signed a new set of documents on January 11, 2017 and paid Mr. Messinger an additional \$160.00.

He still did not file for the letters. He blamed the Superior Court for the delay, claiming it was backlogged. His client continued to make multiple requests for updates into February 2017, and Mr. Messinger was nonresponsive. When his client filed a bar charge, rather than do the work, he refunded the fees.

Count Four

Mr. Messinger was ordered to diversion in SBA File No. 15-1806 on June 16, 2016 for eighteen months under MAP terms. He was evaluated by Dr. Lett and signed conditions of probation on September 10, 2016, which included terms of counseling. He failed to follow the terms of probation. The Compliance Monitor sent him an email requesting a counseling report. He did not respond and failed to pay his ordered costs.

Count Five

Mr. Messinger was hired in October 2016, to claim \$23,000.00 from the estate of his client's father. The deadline to file was December 26, 2016. His client contacted him and was assured the documents would be timely completed. Mr. Messinger did not provide the documents until February 2017, well after the deadline had passed. Despite multiple calls and voice mails from his client, Mr. Messinger never contacted his client again.

Count Six

In December 2016 Mr. Messinger was hired and paid to remove a property from a LLC's holdings. He failed to do so. He failed to adequately communicate with his client.

Restitution

In Count Five, Mr. Messinger agrees to pay \$300.00 In Count Six, Mr. Messinger agrees to pay \$335.00

The ABA Association *Standards for Imposing Lawyer Sanctions* ("*Standards*")

The parties stipulate Mr. Messinger acted knowingly, violated a duty to his clients and caused actual harm. The presumptive sanction is suspension. In aggravation, there is a pattern of misconduct. In mitigation, there is remorse.

The PDJ finds the imposition of a three (3) year suspension to be appropriate.

Now therefore,

IT IS ORDERED accepting and incorporating the Agreement and any supporting documents by this reference. The agreed upon sanctions are a three (3) year suspension, payment of restitution of \$635.00 within ninety (90) days, and payment of State Bar costs of \$1,440.00 within thirty (30) days. There are no costs incurred by the Office of the Presiding Disciplinary Judge. A final judgment and order is signed this date.

DATED this 14th day of December 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
on this 14th day of December 2017, to:

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

Eric W. Messinger
4033 N. Miller Road
Scottsdale, Arizona 85251-4528
Email: eric@messingerlaw.com
Respondent

by: AMcQueen

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

DEC 1 2017

FILED

BY



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Staff Bar Counsel
State Bar of Arizona
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Telephone (602)340-7247
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Eric W. Messinger, Bar No. 013062
4033 N. Miller Road
Scottsdale, Arizona 85251-4528
Telephone 480-425-7538
Email: eric@messingerlaw.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**ERIC W. MESSINGER
Bar No. 013062**

Respondent.

PDJ 2017- 9106

State Bar File Nos. **16-3239, 16-3335,
17-0521, 17-1395, 17-1776, 17-3281**

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Eric W. Messinger, 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. In State Bar Nos. 16-3239, 16-3335, and 17-0521, a probable cause order

was entered on July 21, 2017. A formal complaint was filed on September 15, 2017. Respondent failed to answer the complaint. The matter is currently set for a default hearing on December 5, 2017. A probable cause order issued in State Bar Nos. 17-1395 and 17-1776 on November 13, 2017, but no formal complaint has been filed. No probable cause order has issued in in State Bar No. 17-3281.

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 complainant(s) by letter on December 1, 2017. Complainant(s) have been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. Copies of Complainants' objections, if any, have been or will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.2, 1.3, 1.4, 3.4(c), 8.4(d), and Rules 54(c) and 54(e). Upon acceptance of this agreement, Respondent agrees to accept imposition of the

following discipline: A three year suspension and restitution in the amount of \$635.00. 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, 19, 1990.

COUNT ONE (File no. 16-3239/ Ross)

2. Respondent drafted three trusts for Susan Ross' family: a personal trust for Al Fisch (Al's Trust), a personal trust for Shirley Fisch (Shirley's Trust), and a joint trust for Al and Shirley (Joint Trust).

3. Upon Al's death, First International Bank and Trust (FIBT) became the trustee of Shirley's trust. FIBT resigned in January 2015 and Ms. Ross hired Respondent to assist in getting a successor trustee in place. Respondent did no work

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.

on the trust between January 2015 and May 2015, despite multiple calls and emails from Ms. Ross urging him to draft the necessary documents to appoint successor trustee.

4. In May 2015, Ms. Ross had to threaten to find a new lawyer to prompt Respondent to contact FIBT. Respondent failed to provide necessary documentation to FIBT until September 2015. Respondent did not return Ms. Ross' calls or emails regarding questions she had about the September 2015 documentation.

5. Respondent was trustee of the Joint Trust.

6. Shirley, Ms. Ross's mother, is a beneficiary of both Shirley's Trust and the Joint Trust. Ms. Ross, as Shirley's power of attorney, requested copies of the trust documents from Respondent. It took Respondent one year to provide the documents and he initially failed to provide the amendments to the trust.

7. Respondent stated he would sell several art pieces through an online auction but failed to do so.

8. Respondent failed to timely deposit checks written to the trust. For example, Respondent failed to deposit a \$636,000.00 check from Al's life insurance. The check was stale by the time it was located by Ms. Ross's new attorney and had to be re-issued.

9. Respondent failed to provide an accounting for the Joint Trust.

10. In January 2016, Complainant's new lawyers filed a petition to have Respondent removed as trustee for the Joint Trust. On February 22, 2016, a hearing was held and the Court granted the petition. Respondent did not attend the hearing.

11. In April 2016, Respondent had still not complied with the order requiring him to create an accounting. Ms. Ross' lawyers requested an order to show cause hearing, which was set for on June 9, 2016.

12. Respondent appeared at the June hearing and asked for more time to prepare an accounting. The Court extended the deadline to June 13, 2016. Respondent failed to meet the new deadline.

13. Another hearing was held in July 2016. Respondent appeared without a prepared accounting. The Court held Respondent in contempt and remanded him into custody until an accounting was prepared. Respondent completed an accounting the next day.

14. The Court ultimately awarded a judgment against Respondent for attorney's fees in the amount of \$4,755.00 and damages in the amount of \$61,650.53. Respondent paid both awards in January 2017.

COUNT TWO (File no. 16-3335/Mock)

15. On September 15, 2015, Respondent was retained to probate Carolyn Mock's mother's estate.

16. Respondent obtained the tax ID number to begin the process on October 5, 2015, but thereafter performed little or no work.

17. Respondent's children attend school where Ms. Mock teaches. Ms. Mock spoke to Respondent at school and Respondent apologized for not returning calls or emails and claimed to be very busy and suffering from a crashed server which deleted Ms. Mock's email address.

18. Ms. Mock fired Respondent in June 2016 because Respondent failed to complete the work he was hired to complete.

19. Respondent sent Ms. Mock a letter stating "I apologize. I am copying the file for you and will return it to you with a check. However, we need to close the estate with the court. I will not bill to close the estate, but will prepare a closing statement for your notarized signature." Respondent failed to provide the closing paperwork to Ms. Mock.

20. Respondent failed to respond to the State Bar's initial screening letter sent October 18, 2016, and the 10-day letter sent November 16, 2016.

21. Respondent submitted a response after being contacted telephonically by Bar Counsel.

22. Respondent refunded Ms. Mock unearned fees after receiving the bar charge.

COUNT THREE (File No. 17-0521/Izumigawa)

23. Joan Izumigawa hired Respondent on October 19, 2016, to obtain letters testamentary to facilitate the transfer of an annuity. Ms. Izumigawa paid \$750.00.

24. Respondent informed Ms. Izumigawa it would take 2-3 days to obtain the letters.

25. Complainant called, emailed, or texted Respondent on October 25, October 30, December 6, 9, 13, 16, and 27, 2016, and January 3, 2017, requesting the letters.

26. Respondent texted Ms. Izumigawa on January 9, 2017, and scheduled a meeting for January 11, 2017. Respondent informed Ms. Izumigawa that there was an error with the paperwork he originally submitted and would need to submit it again. Ms. Izumigawa signed a new set of documents on January 11, 2017, and paid Respondent an additional \$160.00 to get additional copies of the letters.

27. Respondent's statement that there was an error with the paperwork he originally submitted to the Court was untrue. Respondent had not yet submitted documents to the Court.

28. On January 21, 2017, Respondent informed Ms. Izumigawa the probate court was backlogged and asked for an address that he could use to mail the letters to Ms. Izumigawa.

29. Complainant asked for an update on February 1, 3, and 7, 2017, and received no response.

30. Respondent refunded the unearned portion of his fee after receiving the bar charge.

COUNT FOUR (File No. 17-1395/SBA)

31. Respondent was ordered to diversion in SBA File No. 15-1806 on June 16, 2016, for a period of 18 months.

32. Respondent was required to participate in MAP and follow the recommendations made after the evaluation with Dr. Phillip Lett. Respondent was also required to pay discipline costs in the amount of \$600.00 within 30 days of the Order.

33. Respondent met with Dr. Lett on August 9, 2016.

34. Respondent's Terms and Conditions of Probation were signed on September 10, 2016. Respondent was required to attend counseling sessions 1 time per week for four weeks and 2 times per month five months totaling 6 months of counseling sessions. Respondent was to ensure that his counselor submitted quarterly reports to the State Bar regarding his compliance with the counseling term.

35. The SBA Compliance Monitor was not contacted by Respondent or his counselor after Respondent signed the terms and conditions.

36. The Compliance Monitor sent Respondent an email on February 14, 2017, asking for his counseling report. Respondent did not respond to the February 14, 2017, email.

37. The Compliance Monitor sent a second email April 12, 2017, asking for another update and the reporting from his counselor. The Compliance Monitor informed Respondent that failure to respond with the requested information by April 24, 2017, would result in a new screening investigation. Respondent did not respond to the email.

38. Respondent also failed to pay the ordered discipline costs.

COUNT FIVE (File No. 17-1776/Campbell)

39. Terrance Campbell hired Respondent in October 2016, to claim the proceeds from a reverse mortgage totaling approximately \$23,000.00 from Mr. Campbell's father's estate. The deadline to file the claim was December 26, 2016.

40. Mr. Campbell provided Respondent his original birth certificate and \$300.00 to facilitate Respondent obtaining Mr. Campbell's father's death certificate.

41. Mr. Campbell contacted Respondent by phone in December 2016, to check on the status of the case. Respondent indicated he would provide Mr. Campbell the necessary documents to sign.

42. Respondent did not provide the documents until February 2017, after the deadline to file the claim had passed.

43. Mr. Campbell signed the documents and returned them to Respondent.

44. Respondent never contacted Mr. Campbell again despite multiple phone calls and voicemails left for Respondent by Mr. Campbell.

45. Respondent's actions caused Mr. Campbell to miss the deadline to file his claim.

COUNT SIX (17-3281/Van Lint)

46. In December 2016 John Van Lint hired Respondent to remove a property from a LLC's holdings.

47. Mr. Van Lint paid Respondent \$335.00

48. Respondent failed to complete the task for which he was hired.

49. Respondent failed to adequately communicate with Mr. Van Lint about the status of the case.

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 1.2, 1.3, 1.4, 3.4(c), 8.4(d), and Rules 54(c) and 54(e).

RESTITUTION

Respondent shall pay Terrance Campbell \$300.00.

Respondent shall pay John Van Lint \$335.00.

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: a three-year suspension and restitution in the amount of \$635.00.

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 4.42* is the appropriate *Standard* given the facts and circumstances of this matter. *Standard 4.42* provides that suspension is generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client.

In the Ross matter, Respondent engaged in a knowing pattern of neglect that caused him to be found in contempt of court and caused Ms. Ross over \$60,000.00 in damages. In the Mock and Van Lint matters, Respondent failed to complete the task he was hired to complete. In the Izumigawa matter, Respondent misled his client about the status of the matter by saying he filed documents he did not file. In the SBA matter, Respondent failed to abide by his terms of diversion. In the Campbell matter, Respondent's actions cause his client to miss the deadline for filing his claim.

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 knowingly failed to diligently represent his clients and that his conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was actual harm to clients.

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(c) – A pattern of misconduct

In mitigation:

Standard 9.32(l) – 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 appropriate. The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter.

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 three year suspension with restitution and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 30th day of November 2017.

STATE BAR OF ARIZONA

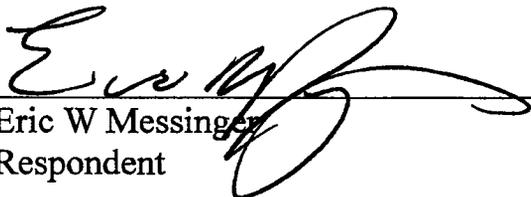


Bradley F Perry
Staff Bar Counsel

Bradley F Perry
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this 30th day of November, 2017.



Eric W Messinger
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

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this _____ day of November, 2017.

Eric W Messinger
Respondent

Approved as to form and content

Maret Vessella
Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 15th day of December, 2017.

Copy of the foregoing emailed
this 15th day of December, 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 15th day of December, 2017, to:

Eric W Messinger
4033 N. Miller Road
Scottsdale, Arizona 85251-4528
Email: eric@messingerlaw.com
Respondent

Copy of the foregoing hand-delivered
this 15th day of December, 2017, to:

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

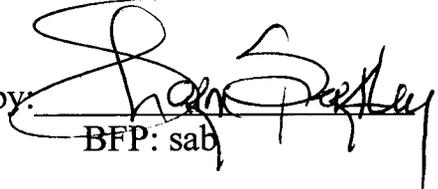
by: 
BFP: sab

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Eric W. Messinger, Bar No. 013062, Respondent

File Nos. 16-3239, 16-3335, 17-0521, 17-1395, 17-1776, 17-3281

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 for each matter over 5 cases where a violation is admitted or proven. (1 over 5 x (20% x 1,200.00)): \$ 240.00

TOTAL COSTS AND EXPENSES INCURRED **\$1,240.00**

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

ERIC W MESSINGER,
Bar No. 013062,

Respondent.

PDJ _____

**FINAL JUDGMENT AND
ORDER**

**State Bar No. 16-3239, 16-3335, 17-
0521, 17-1395, 17-1776, 17-3281**

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, **Eric W Messinger**, is hereby suspended for a period of three years 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, RESTITUTION: Respondent shall pay restitution to the following individual(s) in the specified amount(s) within 90 days

from the date of service of this Order/Agreement, unless otherwise specified herein. Respondent shall contact the State Bar Compliance Monitor at 602-340-7258, to provide proof of timely payment of restitution.

Terrance Campbell: \$300.00

John Van Lint: \$335.00

IT IS FURTHER ORDERED reaffirming the June 16, 2016, order in State Bar of Arizona file number 15-1806 requiring Respondent to pay the costs associated with participation in diversion.

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 November, 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 November, 2017.

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

Eric W Messinger
4033 N Miller Rd
Scottsdale, AZ 85251-4528
Email: eric@messingerlaw.com]
Respondent

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

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

Copy of the foregoing hand-delivered
this ____ day of November, 2017 to:

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

by: _____

FILED

NOV 13 2017

BY *H. Lebrun*

**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,**

**ERIC W. MESSINGER,
Bar No. 013062,**

Respondent.

No. 17-1395

PROBABLE CAUSE ORDER

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on November 3, 2017, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 7-0-2¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 17-1395.

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 13 day of November, 2017.

James F. Winthrop

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

¹ Committee members Donald G. Manning and Jeffrey B. Messing did not participate in this matter.

Original filed this 13th day
of November, 2017, with:

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

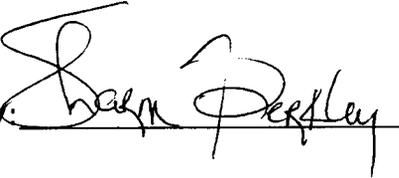
Copy mailed this 14th day
of November, 2017, to:

Eric W. Messinger
4033 N. Miller Road
Scottsdale, Arizona 85251-4528
Respondent

Copy emailed this 14th day
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by: 

FILED

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**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,**

**ERIC W. MESSINGER,
Bar No. 013062,**

Respondent.

No. 17-1776

PROBABLE CAUSE ORDER

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on November 3, 2017, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 7-0-2¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 17-1776.

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 13 day of November, 2017.

Lawrence F. Winthrop

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

¹ Committee members Donald G. Manning and Jeffrey B. Messing did not participate in this matter.

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