

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

REBECCA LYNN COVELL,
Bar No. 021033

Respondent.

PDJ 2018-9109

**SECOND AMENDED FINAL
JUDGMENT AND ORDER**

[State Bar No. 18-2153]

FILED JANUARY 17, 2019

The Presiding Disciplinary Judge accepted the Agreement for Discipline by Consent filed on December 12, 2018. Accordingly:

IT IS ORDERED Respondent, **Rebecca Lynn Covell, Bar No. 021033**, is reprimanded for her 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 approving the costs and expenses of the State Bar in the amount of \$1,200.00. Ms. Covell having been granted relief under Rule 60(b), Ariz. R. Sup. Ct., shall pay a reduced amount totaling \$100.00 within ninety (90) days from the date of this order. There are no costs or expenses incurred by the disciplinary clerk and/or the Presiding Disciplinary Judge's Office in these disciplinary proceedings.

DATED this 17th day of January, 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing e-mailed
this 17th day of January, 2019, and
mailed January 18, 2019, 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

Rebecca Lynn Covell
109 Mummert Circle
Winchester, Virginia 22601-2856
Email: beckycovell@yahoo.com
Respondent

by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

REBECCA LYNN COVELL,
Bar No. 021033

Respondent.

PDJ 2018-9109

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar No. 18-2153]

FILED DECEMBER 20, 2018

Under Rule 57(a), Ariz. R. Sup. Ct.,¹ an Agreement for Discipline by Consent (“Agreement”), was filed December 12, 2018. A Probable Cause Order issued on October 31, 2018 and the formal complaint was filed on November 19, 2018. Ms. Covell is representing herself and the State Bar of Arizona is represented by Staff Bar Counsel, Bradley F. Perry.

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 If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Ms. Covell has voluntarily waived the right to an adjudicatory hearing, and waived all

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

motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. Ms. Covell self-reported and is listed as the complainant therefore, notification pursuant to Rule 53(b)(3) is not necessary.

The Agreement details a factual basis to support the conditional admissions. It is incorporated by reference. Ms. Covell conditionally admits she violated Rule 42, ER 3.3(a) (knowingly make false statement of material fact) and 8.4(c) (engage in conduct involving dishonesty, fraud, deceit or misrepresentation). The misconduct is briefly summarized.

In 2007, Ms. Covell represented a client in two separate lawsuits (First and Second Action). A potential witness in the First Action, who was also a plaintiff in the second action (Gordon), met with Ms. Covell and the client to help with the First Action. Gordon was not represented by counsel at the time of the meeting. After discussions regarding the First Action concluded, Ms. Covell asked Gordon questions regarding the Second Action. Subsequently, counsel for another plaintiff in the Second Action became aware of Respondent's conversations with Gordon and filed a motion to disqualify. The court held a hearing to determine if Ms. Covell obtained, ex parte, substantive information from a represented party. During that proceeding, the court asked Ms. Covell who had initiated the discussion with Gordon in the Second Action. Ms. Covell misrepresented to the court that she could not recall who initiated the

conversation and the motion to disqualify was denied. Ms. Covell self-reported her misconduct in 2018.

The parties stipulate that Ms. Covell violated her duty to the legal system by knowingly misrepresenting to the Court the state of her memory regarding who initiated the conversation in the Second Action. Her misconduct caused potential harm to the legal system.

Rule 58(k) provides sanction shall be determined under the *American Bar Association Standards for Imposing Lawyer Sanctions*, (“Standards”). The parties stipulate that *Standard 6.12, False Statements, fraud, and Misrepresentation* applies. It provides that Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding or causes an adverse or potentially adverse effect on the legal proceeding.

The parties further stipulate to the presence of sole aggravating factor 9.22(b) (selfish or dishonest motive) and mitigating factors 9.32 (a) absence of a prior disciplinary record, 9.32(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings, and 9.32(l) remorse. The parties agree that the presumptive sanction is suspension and that based on the mitigation factors present, a reduction to reprimand is appropriate.

Accordingly:

IT IS ORDERED accepting and incorporating the Agreement and any supporting documents by this reference. The agreed upon sanction is reprimand and the payment of costs totaling \$1,2000 within 90 days. A final judgment and order is signed this date.

DATED this 20th day of December 2018.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 20th day of December, 2018, to:

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

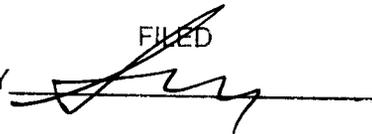
Rebecca L. Covell
109 Mummert Circle
Winchester, VA 22601-2856
Email: beckycovell@yahoo.com
Respondent

by: AMcQueen

Bradley F. Perry, Bar No. 025682
Staff Bar Counsel
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4201 N. 24th Street, Suite 100
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Telephone: (602) 340-7247
Email: LRO@staff.azbar.org

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

DEC 12 2018

FILED
BY 

Rebecca Lynn Covell, Bar No. 021033
109 Mummert Circle
Winchester, Virginia 22601-2856
Telephone: (602) 908-9308
Email: beckycovell@yahoo.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**REBECCA LYNN COVELL,
Bar No. 021033,**

Respondent.

PDJ 2018 - 9109

State Bar File No. 18-2153

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Rebecca Lynn Covell, who is not represented by counsel in this matter, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A Probable Cause Order was entered on October 31, 2018, and a formal Complaint was filed in this matter on November 19, 2018. Respondent voluntarily

waives the right to an adjudicatory hearing, unless otherwise ordered. Respondent plans to file a motion, under Rule 60(b), Ariz. R. Sup. Ct., for waiver or reduction of costs and expenses associated with this proceeding. Aside from that motion and all other related defenses, objections, and/or requests that can be asserted in connection with that motion, Respondent waives all other motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter if the Presiding Disciplinary Judge files a decision with the disciplinary clerk accepting this Agreement and issues a Final Judgment And Order.

Respondent admits that her conduct, as set forth below, violated Rule 42, Ariz. R. Sup. Ct., ERs 3.3(a)(1) and 8.4(c). If the Presiding Disciplinary Judge files a decision with the disciplinary clerk accepting this Agreement and issues a final judgment and order, Respondent agrees to accept imposition of the following discipline: Reprimand. Respondent understands that if the costs are not paid within ninety (90) days of the Final Judgment and Order, post-judgment interest will begin to accrue at the legal rate defined under A.R.S. § 44-1201. ¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

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,

FACTS

1. At the time of the conduct that gave rise to Respondent's self-report to the Arizona State Bar and the State Bar's subsequent investigation,² Respondent was a lawyer licensed to practice law in the state of Arizona, having been first admitted to practice in Arizona on October 29, 2001.

2. In 2007, an individual named Melody Gordon contacted Respondent's client and offered to help him with his lawsuit. Respondent and her employer at the time, a law firm, represented the client in two separate lawsuits ("First Action" and "Second Action"). Ms. Gordon was a potential witness in the First Action, but was not a party to that lawsuit. She was a named plaintiff in the Second Action.

3. On November 20, 2007, Respondent, her client, and another attorney in the First Action met with Ms. Gordon and her friend to discuss Ms. Gordon's request to help with the lawsuit. At the outset of the meeting, Ms. Gordon advised everyone present at the meeting that she was not represented by counsel.

~~the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.~~

² Respondent's license is currently inactive. Therefore, she is not, and was not at the time she made her self-report to the Arizona State Bar, authorized to practice law in the state of Arizona.

4. When discussions regarding the First Action concluded, Respondent continued the meeting with Ms. Gordon and asked her questions about the Second Action. Ms. Gordon informed Respondent and the others present at the meeting that she had just recently discovered that she had been named as a plaintiff in that action and that she was looking for an attorney to help her dismiss her claims.

5. Counsel for one of the plaintiffs in the Second Action advised Respondent that he subsequently learned of the conversation and filed a motion to disqualify Respondent's firm and/or Respondent from the Second Action. He claimed that he was representing Ms. Gordon at the time she met with Respondent. Ms. Gordon, however, maintained that he did not represent her in that lawsuit at any time and that she was not represented by counsel at the time she met with Respondent to discuss the Second Action.

6. The court held a hearing on the motion to disqualify.

7. The issue before the court was whether Respondent had obtained, *ex parte*, substantive information from a represented party.

8. Toward the end of the hearing, the court asked Respondent whether she or Ms. Gordon had initiated the conversation regarding the Second Action.

Respondent informed the court that she did not remember who had initiated the conversation.

9. Respondent's answer was a misrepresentation. Respondent initiated the conversation regarding the Second Action with Ms. Gordon and, at the time of the hearing on the motion to disqualify, Respondent recalled she was the initiator. However, at the time the conversation occurred, Ms. Gordon was not represented by counsel.

10. The court denied the motion to disqualify.

11. Approximately two months after the hearing, Respondent and her employer withdrew from the representation for an unrelated reason.

12. Respondent did not advise her client or her employer that she made the misrepresentation to the court.

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 admits that her conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ERs 3.3(a)(1) and 8.4(c).

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 throughout this Agreement, Respondent shall be reprimanded for her conduct. 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), Ariz. R. Sup. Ct. 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. They are also designed to "promote . . . consideration of all factors relevant to imposing the appropriate level of sanction in an individual case; [and] consideration of the appropriate weight of such factors in light of the stated goals of lawyer discipline," which are to "protect the public and the administration of justice." *Standards* 1.1 and

1.3. 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, 769-770 (2004); *In re Rivkind*, 164 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990). However, they are merely a model that allows for “flexibility and creativity in assigning sanctions in particular cases.” *Standard 1.3*.

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. *Standard 3.0*; *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard 3.0*.

The parties agree to apply *Standard 6.12* given the facts and circumstances of this matter. *Standard 6.12* provides that suspension is generally appropriate when a lawyer knows false statements or documents are being submitted to the court or that material information is being improperly withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

The duty violated

As described above, Respondent’s conduct violated her duty to the legal system.

The lawyer's mental state

The parties agree that Respondent knowingly misrepresented the state of her memory when asked whether she or Ms. Gordon initiated the conversation about the Second Action and that her conduct was in violation of the Arizona Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this Agreement, the parties agree that there was potential harm to the legal system. It appears from the facts and circumstances of this case that the determination of who initiated the conversation had little or no bearing on the Court's ruling on the motion to disqualify because Ms. Gordon was not represented by counsel at the time of the conversation.

Aggravating and mitigating circumstances

The presumptive sanction pursuant to *Standard* 6.12 is suspension. The parties agree that the following aggravating and mitigating factors should be considered.

In aggravation:

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9.22(b) – Dishonest or selfish motive. Respondent acted with a dishonest motive; she spoke out of fear and an effort to protect herself from what appeared to be a threatening question at the time.

In mitigation:

9.32(a) – Absence of a prior disciplinary record. Respondent has never been disciplined by the Arizona State Bar or any other state’s Bar.

9.32(e) – Cooperative attitude toward the proceedings. Respondent has fully and freely disclosed information to the State Bar, and has cooperated fully with its investigation. Respondent has been open and truthful with the State Bar, and has acknowledged the wrongful nature of her conduct.

9.32(l) – Remorse. Respondent is extremely remorseful, and deeply regrets her actions. Her remorse is shown by that fact that she contacted the State Bar in 2018 to self-report her 2008 conduct. No one would have known the misconduct occurred had Respondent not self-reported. Respondent also attempted to self-report to the judge who presided over the hearing but he is no longer on the bench.

Other acts of misconduct

Respondent wishes to notify the court of additional instances of misconduct, detailed in attached Exhibit B. The State Bar does not consider the information

directly relevant to the misconduct at issue, but acknowledges Respondent's desire to provide the information.

Discussion

The parties have agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the mitigated sanction of a reprimand should be imposed.

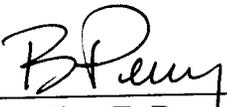
The parties have agreed that a greater or lesser sanction should not be imposed under the facts and circumstances of this matter. Based on the *Standards* and in light of the facts and circumstances of this matter, the parties agree that the sanction set forth above is within the applicable range of 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 Reprimand. A proposed form of order is attached hereto as Exhibit C.

DATED this 11th day of December 2018.

STATE BAR OF ARIZONA



Bradley F. Perry
Staff Bar Counsel

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

DATED this _____ day of December, 2018.

Rebecca Lynn Covell
Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of December, 2018.

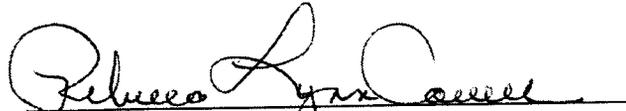
DATED this _____ day of December 2018.

STATE BAR OF ARIZONA

Bradley F. Perry
Staff Bar Counsel

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

DATED this 10th day of December, 2018.



Rebecca Lynn Covell
Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of December, 2018.

Copy of the foregoing emailed
this 12th day of December, 2018, 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 12th day of December, 2018, to:

Rebecca Lynn Covell
109 Mummert Circle
Winchester, Virginia 22601-2856
Email: beckycovell@yahoo.com
Respondent

Copy of the foregoing hand-delivered
this 12th day of December, 2018, to:

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

by:

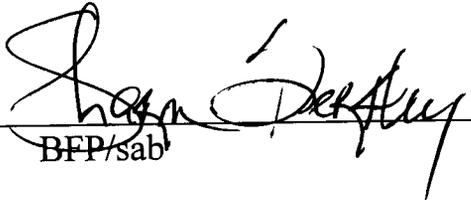

BFP/sab

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Rebecca Lynn Covell, Bar No. 021033, Respondent

File No. 18-2153

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

Total for staff investigator charges \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED \$1,200.00

EXHIBIT B

Rebecca L. Covell
109 Mummert Circle
Winchester, Virginia 22601
(602) 908-9308
beckycovell@yahoo.com

December 10, 2018

The Honorable William J. O'Neil
Presiding Disciplinary Judge
Arizona Supreme Court
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007

Re: PDJ 2018-9109
Arizona State Bar File No. 18-2153
Respondent: Rebecca L. Covell

Dear Judge O'Neil:

I am the Respondent in the above-referenced proceeding, and I am writing to disclose other acts of misconduct that I believe are aggravating factors in Arizona State Bar File No. 18-2153 and PDJ 2018-9109. I have disclosed the following information to the Arizona State Bar, but it does not consider this information directly relevant to the misconduct at issue, and would not agree to include it in the Agreement for Discipline by Consent, but instead agreed to attach it as an exhibit to the Agreement.

In my opinion, the following information falls under the *ABA Standards for Imposing Lawyer Sanctions* ("Standards") 9.22(a) and 9.22(c). In 1996 and 2000, while earning my undergraduate and law degrees, I committed plagiarism. Late last year and earlier this year, I reported that conduct to the respective colleges, who affirmed my degrees. I also reported it to the Arizona State Bar, who decided not to take action. While exiting my former employer's premises in 2012, I took some documents in violation of an employment policy, but I later contacted the firm and followed its instructions with respect to those documents. In 2012 and 2013, I revealed the name of a client to other people, and I gave a few people a one-sentence summary of the general allegations against the client. During the representation, I also learned personal information about the client's spouse, and I shared that information with other people. However, my disclosures did not prejudice my client's legal matter in any way. In approximately 2013, I billed one or more clients for time that I did not spend working on their cases. I do not know which client or clients was or were affected and I do not know how much time I overbilled.

I have also engaged in unrelated illegal conduct, which I believe falls under *Standard* 9.22(k). I have intentionally violated traffic laws and driven under the influence of alcohol in the past, but I have not done so in several years. In 2011, I had a prescription for Adderall XR (extended release). I left town on a flight that year, and I forgot to take my medication with me.

EXHIBIT B

The Honorable William J. O'Neil
Arizona Supreme Court

December 10, 2018
Page Two

While I was away, I mentioned my problem to another person I knew who also had a prescription for Adderall, but that person's prescription was for short-acting Adderall. That individual gave me a couple of doses from that individual's prescription, and I took the medication. Therefore, I took medication that was prescribed to someone else, although I had a prescription for the long-acting version of the same medication.

Sincerely,

A handwritten signature in cursive script that reads "Rebecca L. Covell". The signature is written in black ink and is positioned above the printed name.

Rebecca L. Covell

EXHIBIT B

EXHIBIT C

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**REBECCA LYNN COVELL,
Bar No. 021033,**

Respondent.

PDJ 2018-9109

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 18-2153]

The Presiding Disciplinary Judge, having reviewed the Agreement for Discipline by Consent filed on _____, pursuant to Rule 57(a), Ariz.

R. Sup. Ct., accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED that Respondent, **Rebecca Lynn Covell**, is Reprimanded for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

DATED this _____ day of December, 2018

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, 2018.

Copies of the foregoing mailed/mailed
this _____ day of December, 2018, to:

Rebecca Lynn Covell
109 Mummert Circle
Winchester, Virginia 22601-2856
Email: beckycovell@yahoo.com
Respondent

Copy of the foregoing emailed/hand-delivered
this _____ day of December, 2018, to:

Bradley F. Perry
Staff Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
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Copy of the foregoing hand-delivered
this _____ day of December, 2018, to:

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

by: _____
BFP/sab