

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

G. GREGORY EAGLEBURGER,
Bar No. 002695

Respondent.

PDJ-2018-9108

**FINAL JUDGMENT
AND ORDER**

[State Bar No. 16-1288]

FILED DECEMBER 7, 2018

The Presiding Disciplinary Judge, having reviewed the Agreement for Discipline by Consent filed on November 16, 2018, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED Respondent, **G. Gregory Eagleburger, Bar No. 002695**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents effective the date of this order.

IT IS FURTHER ORDERED placing Mr. Eagleburger on probation for a period of one (1) year, with the terms set forth below.

IT IS FURTHER ORDERED Mr. Eagleburger shall participate in the following programs:

Continuing Legal Education: In addition to annual MCLE requirements, Respondent shall complete six hours of Continuing Legal Education (“CLE”) programs pertaining to conflicts of interest and supervision of nonlawyer assistants. Prior to attending the programs, Respondent shall obtain consent from bar counsel for the programs he seeks to complete. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the programs by providing a copy of his handwritten notes. Respondent shall contact the Compliance Monitor at 602-340-7258 to make arrangements to submit his handwritten notes. Respondent shall be responsible for the cost of the CLE programs.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, bar counsel will file a notice of noncompliance with the Presiding Disciplinary Judge pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED Respondent's probation may be terminated upon successful completion of the CLE requirement.

IT IS FURTHER ORDERED Respondent shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within thirty (30) days from the date of this order. Interest will begin to accrue at the legal rate until paid.

DATED this 7th day of December, 2018.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed
on this 7th day of December, 2018,
And mailed December 10, 2018, to:

G. Gregory Eagleburger
The Eagleburger Law Firm
11201 North Tatum Blvd, Suite 300
Phoenix, Arizona 85028-6064
Email: Greg@eagleburgerlawfirm.com
Respondent

James D. Lee
Senior Bar Counsel
State Bar of Arizona
4201 North 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,

G. GREGORY EAGLEBURGER,
Bar No. 002695

Respondent.

PDJ 2018-9108

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar No. 16-1288]

FILED DECEMBER 7, 2018

Under Rule 57(a), Ariz. R. Sup. Ct.,¹ an Agreement for Discipline by Consent (“Agreement”), was filed on November 16, 2018. A Probable Cause Order issued on October 30, 2018, however, no formal complaint has been filed. Mr. Eagleburger is representing himself and the State Bar of Arizona is represented by Senior Bar Counsel James D. Lee.

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. Eagleburger has voluntarily waived the right to an adjudicatory hearing, and waived

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

all motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. Notice of the Agreement and an opportunity to object within five (5) days pursuant to Rule 53(b)(3), was sent to the complainant by email on November 2, 2018. No objections have been filed.

The Agreement details a factual basis to support the conditional admissions and are briefly summarized. It is incorporated by this reference. Mr. Eagleburger admits to violating Rule 42, specifically ERs 1.3 (diligence), 1.7(a) (conflict of interest/current clients), 1.8(c) (conflict of interest/current clients/special rules, 5.3(b) and 8.4(d) (conduct prejudicial to the administration of justice). The parties stipulate to a sanction of reprimand and one year of probation. The sole term of probation requires the completion of 6 hours of continuing legal education (CLE) in the area of conflict of interest and supervision of non-lawyer assistants. These hours are in addition to the annual mandatory CLE required. Mr. Eagleburger also agrees to pay costs in the amount of \$1,200.00 within 30 days from the date of this order.

For purposes of the Agreement, the parties stipulate Mr. Eagleburger was retained in 2008 to draft a will for his client that included the distribution of property. Mr. Eagleburger then negligently failed to ensure the will was properly prepared. Mr. Eagleburger was named as the personal representative and also identified as a residual beneficiary. He also improperly filed for informal probate.

The parties agree Mr. Eagleburger negligently violated his duties to his client and his misconduct cause potential and actual harm to the client, his client's children and the legal system

The parties further agree aggravating factors 9.22(h) (vulnerability of victim) and (i) (substantial experience in the practice of law) are present, and in mitigation are factors 9.32(a) (absence of prior disciplinary offenses), (b) (absence of dishonest or selfish motive), (e) (full and free disclosure to disciplinary board or cooperative attitude toward proceedings), (j) (delay in proceedings) and (l) (remorse). The PDJ notes that no evidence of remorse is present, however, the absence of this factor does not change the outcome.

IT IS ORDERED accepting the Agreement and incorporating it with any supporting documents by this reference. A final judgment and order is signed this date.

DATED this 7th day of December, 2018.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed on this 7th day of December, 2018,
And mailed December 10, 2018, to:

James D. Lee
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

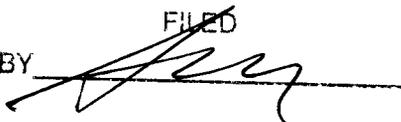
G. Gregory Eagleburger
11201 North Tatum Blvd., Suite 300
Phoenix, AZ 85028-6064
Email: greg@eagleburgerlawfirm.com
Respondent

by: AMcQueen

James D. Lee, Bar No. 011586
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
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Email: LRO@staff.azbar.org

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

NOV 19 2018

FILED
BY 

BEFORE THE PRESIDING DISCIPLINARY JUDGE

In the Matter of a Member of
the State Bar of Arizona,

G. GREGORY EAGLEBURGER,
Bar No. 002695,

Respondent.

PDJ-2018-9108

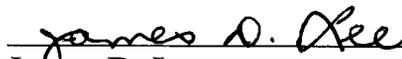
**STATE BAR'S NOTICE
OF ERRATA RE: AGREEMENT
FOR DISCIPLINE BY CONSENT**

[State Bar No. 16-1288]

The State Bar of Arizona, by undersigned bar counsel, hereby notifies the Presiding Disciplinary Judge and all parties of an inadvertent error in the *Agreement for Discipline by Consent*, which was filed on November 16, 2018. Paragraph 15, on page 7 of the Agreement, referred to the Maricopa County Superior Court Probate Registrar, but it should have been the Pima County Superior Court Probate Registrar.

DATED this 19th day of November, 2018.

STATE BAR OF ARIZONA


James D. Lee
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 19th day of November, 2018.

Copy of the foregoing emailed
this 19th day of November, 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 19th day of November, 2018, to:

G. Gregory Eagleburger
The Eagleburger Law Firm
11201 N Tatum Blvd, Ste 300
Phoenix, Arizona 85028-6064
Email: Greg@eagleburgerlawfirm.com
Respondent

Copy of the foregoing hand-delivered
this 19th day of November, 2018, to:

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

by: 
JDL/kc

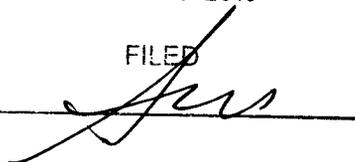
James D. Lee, Bar No. 011586
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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

NOV 16 2018

FILED

BY



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The Eagleburger Law Firm
11201 North Tatum Blvd, Suite 300
Phoenix, Arizona 85028-6064
Telephone: (602) 388-8866
Email: Greg@eagleburgerlawfirm.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

In the Matter of a Member of
the State Bar of Arizona,

G. GREGORY EAGLEBURGER,
Bar No. 002695,

Respondent.

PDJ-2018-9108

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar File No. 16-1288]

The State Bar of Arizona, through undersigned bar counsel, and Respondent,
G. Gregory Eagleburger, 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 October 30, 2018, but no formal complaint has been filed in this matter. Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainants by email on November 2, 2018. Complainants have been notified of the opportunity to file a written objection to the agreement with the State Bar within five business days of bar counsel's notice. Copies of the 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, Ariz. R. Sup. Ct., specifically ER 1.3, ER 1.7(a), ER 1.8(c), ER 5.3(b) and ER 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: reprimand and one year of probation (additional continuing legal education). 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 April 3, 1971.

COUNT ONE (File No. 16-1288/Shepherd and Longenbaugh)

2. Respondent represented Joseph D. Yancey (Decedent²) in various matters for approximately 20 years, until he died on November 3, 2014. Decedent was married to Rondie Yancey, but divorced in 2003 (ostensibly to prevent any financial harm to Rondie due to one of Decedent's business relationships). Rondie and Decedent continued to live together post-divorce.

3. In 2008, Respondent and one of his nonlawyer assistants met with Decedent. During that meeting, Respondent directed his nonlawyer assistant to draft a will that included the distribution of property described by Decedent. Respondent failed to adequately supervise his assistant or review the printed version of the will

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.

² "Decedent" refers to Joseph Yancey both prior to and after his death.

to ensure that it was properly prepared. Respondent knew he was named as the personal representative (per Decedent's request), but failed to note that the will also identified him as a residual beneficiary (i.e., a beneficiary subject to other, priority distributions). Decedent signed the will on April 10, 2008. Employees at Sanders & Parks, the law firm with which Respondent was affiliated, witnessed and notarized the will.

4. Paragraph Two of the will stated:

TWO: I hereby incorporate by reference a list of specific bequests which by [sic] Personal Representative may find written in my hand and placed into my safe deposit box or attached to the original of this Will. Should such a list be found, I direct my Personal Representative to make the distributions listed herein as if the same were fully and completely detailed in this Will.

5. Paragraph Three of the will was a residual beneficiary paragraph, which would become effective in the event the instructions in Paragraph Two could not be carried out or did not dispose of all estate assets. Paragraphs Three and Four stated:

THREE: All property interests owned by me at my death, subject however to the provisions of paragraph TWO above, are hereby devised to G. GREGORY EAGLEBURGER of Phoenix, Arizona.

FOUR: If G. GREGORY EAGLEBURGER predeceases me, I devise all property interests which I own at my death, subject, however[,] to the provisions of paragraph TWO above, to JOE DENNIS YANCEY[,] II.

6. Immediately after Decedent signed the will, Respondent placed (a) a typed 2003 letter from Decedent (contrary to the term of the will); and (b) a 2008 document handwritten by Respondent (contrary to the term of the will) and signed by Decedent, in an envelope, which was placed in the file that Respondent maintained on Decedent's behalf. Neither the 2003 letter nor the 2008 note were attached to the will or placed in a safety deposit box, as required by the will.

7. Decedent owned assets not specifically listed in the 2003 letter or the 2008 document.

8. During or about March 2014, J. Dennis Yancey retained Arizona attorney Brian Longenbaugh to represent him regarding a claim by Rondie, Decedent's agent under a General Power of Attorney, that he had taken money and gold coins from Decedent while he was vulnerable and suffering from dementia. In an email message to Respondent dated March 21, 2014, Longenbaugh admitted that J. Dennis Yancey took the money and gold coins and asked Respondent to disclaim his residual beneficiary interest under the will.

9. On March 27, 2014, Respondent sent a letter to attorney Longenbaugh. In it, he rejected Longenbaugh's demand to disclaim his interest in the will unless Rondie was named Decedent's conservator (Decedent had not yet died) and J.

Dennis Yancey returned money and gold coins that belonged to Decedent.

Respondent stated in part:

With regard to your reference to ER 1.8(c)[,] your paraphrase is not exactly correct. It is only if the attorney “solicits” the gift and prepares the Will. I did not “solicit” anything. This is the way Joe wanted his Will drawn and he wanted it drawn that way for a very particular reason[,], which apparently is now proving to me that Joe had a vision of the future which was correct. Joe’s Will may have created a deal of distrust of me by Dennis and his siblings[,], but not by Joe.

I am not willing to disclaim my interest in Joe’s eventual estate because if I did so Joe’s wishes would not be carried out and Dennis would be entitled to the entire estate to the exclusion of his brother and sister. . . .

10. In a letter from Respondent to attorneys Longenbaugh and Denice Shepherd dated July 22, 2014, Respondent again addressed the request to disclaim his residual beneficiary interest in the will. The July 22 letter stated in part:

As far as declining my position as beneficiary under [Decedent]’s Will, unless we resolve the matters as to possession and control of all of [Decedent]’s assets, I will not do that. [Decedent] made me the beneficiary for a very good reason and I know what he wants done with whatever assets he owns at his death.

If I disclaimed my position I would violate my duties to [Decedent,] and Dennis would be the sole beneficiary who would not have to share with Lisa and Craig.

11. Decedent died on November 3, 2014. Respondent and attorneys Longenbaugh and Shepherd immediately began discussing a probate proceeding to address Decedent’s estate.

12. On November 13, 2014, Respondent filed an *Application for Informal Appointment of Personal Representative* (“*Application*”), and attempted to admit the will he drafted, which named him as personal representative and a potential residual beneficiary (*In the Matter of the Estate of Joseph D. Yancey*, Pima County Superior Court No. PB2014-1243) (“the probate case”). He filed the probate case because he was designated as the personal representative in Decedent’s will and in an effort to recover assets that J. Dennis Yancey had allegedly inappropriately taken.

13. Attorney Shepherd filed an *Objection to Application for Informal Probate and Appointment of Personal Representative* on Lisa Omstead’s behalf (Lisa Omstead was one of Decedent’s three children).

14. Respondent did not contest the objection to the informal probate proceeding. He discontinued his efforts to enforce the terms of the will when he learned that Decedent’s three children agreed to share the estate equally in an intestate probate proceeding (which he claimed would accomplish Decedent’s wish that each of his three children receive one-third of his estate).

15. On November 24, 2014, the Maricopa County Superior Court Probate Registrar declined Respondent’s *Application*, noting that formal probate proceedings were required due to Lisa Omstead’s objection.

16. On January 20, 2015, attorney Shepherd filed a *Petition for Formal Probate* on Lisa Omstead's behalf in the probate case.

17. On April 7, 2015, Pima County Superior Court Judge Peter Hochuli entered an order in the probate case finding the April 10, 2008 will invalid and appointing Lisa as personal representative. That order stated in part:

The Decedent allegedly executed a Will dated April 10, 2008, which was the product of undue influence and was drafted in violation of the *Code of Professional Responsibility for Attorneys [sic], Rule 42, Rules of Supreme Court, ER 1.8c [sic]* because the drafting attorney [Respondent] named himself as devisee [sic].

18. On May 10, 2016, during the pendency of the probate case, Complainant Shepherd filed a petition in that case against Rondie Yancey, Respondent and his wife, and Sanders & Parks, P.C. (Respondent's law firm) on the personal representative's (Lisa Omstead's) behalf (*Omstead v. Yancey, Eagleburger and Sanders & Parks*, Pima County Superior Court No. PB2014-1243). The pleading alleged, *inter alia*, financial exploitation of an adult, unreasonable attorney's fees (by Respondent), and legal malpractice based on a conflict of interest.

19. On February 2, 2017, the court denied Respondent's motion to dismiss a claim for attorney's fees pursuant to A.R.S. § 14-1105(C). The court stated:

Petitioner [Lisa Omstead] certainly pleads sufficient facts showing Respondent[s] [Eagleburger and Sanders & Parks] engaged in unreasonable conduct which incurred professional fees to Decedent's [e]state. For instance, [Respondent] Eagleburger filed an application for

informal probate of a will under which he was the sole devisee [sic]. The Petitioner hired an attorney to oppose the will's probate. Inferences favorable to Petitioner dictate attorney's fees were incurred by the estate as a result of that litigation.

20. The court also found on February 2, 2017, that Respondent "should not informally probate a will under which he was the sole devisee [sic]." The court, in denying Respondent's motion to dismiss the professional malpractice claim, stated:

Petitioner presents well-pleaded facts asserting [Respondent] Eagleburger owed and breached his fiduciary duty to Joseph Yancey [hereinafter "Decedent"] and that the breach caused damage to Decedent and his estate. Respondents do not challenge the sufficiency of facts pleaded. Respondents instead request dismissal of the professional malpractice claim contending it is non-assignable.

(Second bracket in original).

21. Attorney Shepherd filed two amended petitions against Respondent, his wife and Sanders & Park, which included allegations related to Respondent's interactions with Decedent, including his identification as a residual beneficiary in Decedent's will.

22. On February 16, 2018, counsel for Respondent and Complainant Shepherd (on personal representative Lisa Omstead's behalf) filed a notice of settlement. The terms of settlement are confidential.

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 ER 1.3, ER 1.7(a), ER 1.8(c), ER 5.3(b), and ER 8.4(d).

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: reprimand and one year of probation (the sole term is that Respondent complete six hours of continuing legal education (CLE), in addition to the 15 hours of mandatory continuing legal education, pertaining to conflicts of interest and supervision of nonlawyer assistants). Probation may be terminated upon successful completion of the CLE requirement.

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. 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 *Standards* 4.33, 4.43 and 7.3 are the appropriate *Standards* given the facts and circumstances of this matter. *Standard* 4.33 states, "Reprimand is generally appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes injury or potential injury to a client." *Standard* 4.43 states, "Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client." *Standard* 7.3 states, "Reprimand is generally appropriate when a lawyer negligently

engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system.”

Respondent violated ER 1.3 by failing to act with reasonable diligence in representing a client (he failed to review the will his staff drafted, which included him as a residual beneficiary, and the court found on February 2, 2017, that he had improperly filed for informal probate). Respondent violated ER 1.7(a) by engaging in a conflict of interest (he allowed his staff to draft a will that could have personally benefited him as a residual beneficiary and filed for informal probate that could have resulted in the distribution of estate assets to himself). Respondent violated ER 1.8(c) by allowing his staff to prepare an instrument giving him a substantial gift (he was a residual beneficiary in a client’s will even though he was not related to Decedent).

Respondent violated ER 5.3(b) by failing to adequately supervise a nonlawyer assistant who included him as a residual beneficiary in Decedent’s will. Respondent violated ER 8.4(d) by engaging in conduct that was prejudicial to the administration of justice (although Respondent did not contest or participate in the formal probate of Decedent’s estate—to avoid incurring expenses to the estate—hearings were held and documents filed with the court based in part on the fact that he was a residual beneficiary in a will his staff prepared for his client).

The duty violated

As described above, Respondent's conduct violated his duty to his client by violating ER 1.3, ER 1.7(a), ER 1.8(c) and ER 5.3(b), and violated his duty to the legal system by violating ER 8.4(d).

The lawyer's mental state

For purposes of this agreement, the parties agree that Respondent violated the Rules of Professional Conduct by negligently failing to ensure he was not listed as a residual beneficiary in a will his office drafted for Decedent, negligently and improperly filing for informal probate after Decedent's death, and negligently failing to adequately supervise his nonlawyer staff regarding the drafting of a will for Decedent.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree there was potential and actual harm to Decedent, his children and the legal system. Actual harm arose insofar as documents were filed with the court and at least one hearing held to address Respondent's conduct. Potential injury existed because Respondent could have asserted his rights as a residual beneficiary, which could have resulted in the distribution of estate assets to himself although no assertion of such right was ever undertaken by Respondent.

Aggravating and mitigating circumstances

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

In aggravation:

Standard 9.22(h) – vulnerability of the victim (Decedent relied on Respondent's advice regarding appropriate terms for a will, and Decedent's family members had no control over Respondent's decision to file for informal probate).

Standard 9.22(i) – substantial experience in the practice of law (Respondent was admitted to the State Bar of Arizona on April 3, 1971 and has practiced probate and estate law for a number of years).

In mitigation:

Standard 9.32(a) – absence of a prior disciplinary record.

Standard 9.32(b) – absence of a dishonest or selfish motive (Respondent eventually did not object to the children's desire to have the estate pass by intestate succession rather than as set forth in the will; Respondent did not object because intestate succession would fulfill Decedent's wish that all three of his children receive one-third of his estate).

Standard 9.32(e) - full and free disclosure to the State Bar and cooperative attitude toward the proceedings (including his willingness to enter into this consent agreement).

Standard 9.32(j) – delay in the disciplinary proceedings (the initial charge was received on April 19, 2016).

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. This agreement was based on the following: The misconduct was primarily negligent in nature and Respondent eventually disclaimed any rights as a residual beneficiary; there was some harm, however, due to additional efforts expended by opposing counsel and the court to address Respondent's conduct.

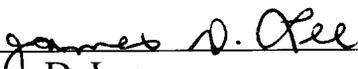
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanctions and will serve the purposes of lawyer discipline.

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, one year of probation (the sole term is that Respondent complete six hours of continuing legal education, in addition to the 15 hours of mandatory continuing legal education, pertaining to conflicts of interest and supervision of nonlawyer assistants; Respondent must obtain consent from bar counsel before attending the continuing legal education programs, and must provide the State Bar Compliance Monitor with handwritten notes taken during the programs), and the imposition of costs and expenses related to this disciplinary proceeding. Probation may be terminated upon successful completion of the CLE requirement. A proposed form of order is attached hereto as Exhibit B.

DATED this 16th day of November, 2018.

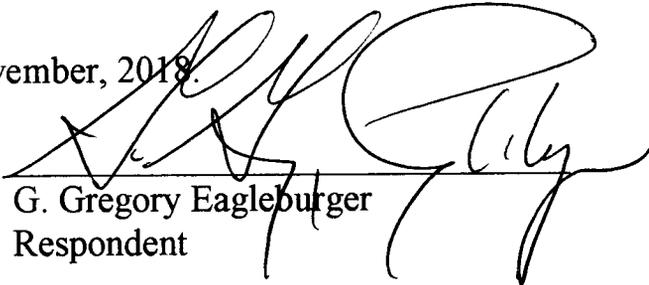
STATE BAR OF ARIZONA



James D. Lee
Senior Bar Counsel

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

DATED this 16th day of November, 2018.



G. Gregory Eagleburger
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 November, 2018.

Copy of the foregoing emailed
this _____ day of November, 2018, to:

The Honorable William J. O'Neil
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DATED this _____ day of November, 2018.

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Respondent

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Chief Bar Counsel

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The Eagleburger Law Firm
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Phoenix, Arizona 85028-6064
Email: Greg@eagleburgerlawfirm.com
Respondent

Copy of the foregoing hand-delivered
this 16th day of November, 2018, to:

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

by:

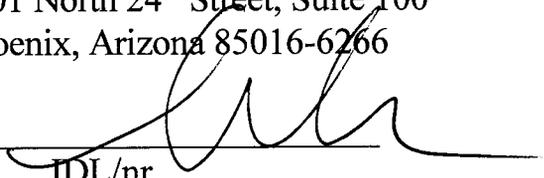

JDL/nr

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
G. Gregory Eagleburger, Bar No. 002695, Respondent

File No. 16-1288

Administrative Expenses

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

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

***General Administrative Expenses
for above-numbered proceedings*** **\$ 1,200.00**

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

Staff Investigator/Miscellaneous Charges

Total for staff investigator charges \$ 0.00

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

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

In the Matter of a Member of
the State Bar of Arizona,

G. GREGORY EAGLEBURGER,
Bar No. 002695,

Respondent.

PDJ-2018-_____

**FINAL JUDGMENT
AND ORDER**

[State Bar No. 16-1288]

The Presiding Disciplinary Judge, having reviewed the Agreement for Discipline by Consent filed on November ____, 2018, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED that Respondent, **G. Gregory Eagleburger**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED placing Respondent on probation for a period of one year, with the terms set forth below.

IT IS FURTHER ORDERED that Respondent participate in the following programs:

1. CLE: In addition to annual MCLE requirements, Respondent shall complete six hours of Continuing Legal Education (“CLE”) programs pertaining to conflicts of interest and supervision of nonlawyer assistants. Prior to attending the programs, Respondent must obtain consent from bar counsel for the programs he wishes to complete. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the programs by providing a copy of his handwritten notes. Respondent should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit his handwritten notes. Respondent will be responsible for the cost of the CLE programs.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, bar counsel will file a notice of noncompliance with the Presiding Disciplinary Judge pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of

proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED that probation may be terminated upon successful completion of the CLE requirement.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200, within thirty (30) days from the date 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.

IT IS FURTHER ORDERED that if Respondent fails to pay the costs and expenses within 30 days, interest will begin to accrue at the legal rate.

DATED this _____ day of November, 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 November, 2018.

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

G. Gregory Eagleburger
The Eagleburger Law Firm
11201 North Tatum Blvd, Suite 300
Phoenix, Arizona 85028-6064
Email: Greg@eagleburgerlawfirm.com
Respondent

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

James D. Lee
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

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this _____ day of November, 2018, to:

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Phoenix, Arizona 85016-6266

by: _____