

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**CARL D. LEE,**  
**Bar No. 007439**

Respondent.

**PDJ 2017-9129**

**FINAL JUDGMENT AND  
ORDER**

[State Bar No. 17-0709]

**FILED JANUARY 3, 2018**

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on December 22, 2017, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' Agreement.

Accordingly:

**IT IS ORDERED** Respondent, **CARL D. LEE, Bar No. 007439**, is reprimanded and placed on two (2) years of probation for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective thirty (30) days from the date of this order.

**IT IS FURTHER ORDERED** Mr. Lee shall be placed on probation for a period of two (2) years under the following terms and conditions:

- a) TAEPP: Mr. Lee shall complete a half-day Trust Account Ethics Enhancement Program (TAEPP). Mr. Lee shall contact the State Bar

Compliance Monitor at (602) 340-7258 within ten (10) days from the date of this order to schedule attendance at the next available TAEEP class. Mr. Lee shall be responsible for any costs associated with TAEEP.

- b) LOMAP: Mr. Lee shall contact the State Bar Compliance Monitor at (602) 340-7258 within ten (10) days from the date of this order. Mr. Lee shall submit to a LOMAP examination of his trust account procedures. The State Bar will prepare the terms of probation, incorporating any specific terms identified by the LOMAP Director, and including the standard trust account terms. Mr. Lee shall sign the terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Mr. Lee shall sign and return the terms of probation within 30 days from the date of this order. Mr. Lee shall be responsible for any costs associated with LOMAP.
- c) Mr. Lee shall continue to adhere to the terms of his April 2017 agreement with the IRS for payment of his prior-year's taxes, including timely making monthly and quarterly payments and remaining current on his existing and future taxes. Mr. Lee shall make quarterly reports to the State Bar regarding the status of the IRS matter.

## **NON-COMPLIANCE WITH PROBATION**

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

**IT IS FURTHER ORDERED** Mr. Lee shall pay the costs and expenses of the State Bar of Arizona of \$1,200.00 within thirty (30) days from the date of this order.

**IT IS FURTHER ORDERED** finding there are no costs associated with the Presiding Disciplinary Judge's Office in these disciplinary proceedings.

**DATED** this 3<sup>rd</sup> day of January, 2018.

*William J. O'Neil*  

---

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

Copies of the foregoing mailed/mailed  
this 3rd day of January, 2018, to:

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

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

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**CARL D. LEE,**  
**Bar No. 007439**

Respondent.

**PDJ 2017-9129**

**DECISION AND ORDER  
ACCEPTING AGREEMENT FOR  
DISCIPLINE BY CONSENT**

[State Bar No. 17-0709]

**FILED JANUARY 3, 2018**

A Probable Cause order issued on September 6, 2017. No formal complaint has been filed. The parties filed their Agreement for Discipline by Consent (Agreement) on December 22, 2017 pursuant to Rule 57(a), Ariz. R. Sup. Ct.

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. Lee 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. The Agreement states that the State Bar

is the complainant and as a result formal notice of the Agreement is not required under Rule 53(b)(3), Ariz. R. Sup. Ct.

The Agreement details a factual basis to support the conditional admissions. Mr. Lee conditionally admits he violated Rule 42, ER1.15(a) and Rules 43(a)(4), 43(b)(1)(A), 43(b)(1)(C), 43(b)(2)(A), 43(b)(2)(B), 43(b)(2)(C), 43(b)(2)(D), 43(b)(5), 43(c), and 43(d)(3). The agreed upon sanctions include a reprimand with probation for two (2) years under the Law Office Management Assistance Program (LOMAP), including submitting to a LOMAP examination of his trust account procedures, complete a half-day Trust Account Ethics Enhancement Program (TAEEP) class, continue to adhere to the terms of his April 2017 agreement with the IRS for payment of his prior-year's taxes and payments, and pay State Bar costs totaling \$1,200.00 in full within thirty (30) days from the date of this order. The conditional admissions are briefly summarized.

Mr. Lee had a dispute with the IRS regarding unpaid taxes. Mr. Lee's tax attorney informed Mr. Lee that his accounts, including his client trust account would be levied upon. Mr. Lee removed the monies from his client trust account to "Protect from the IRS." However, he incorrectly calculated the balance left in his trust account, wrote himself a check for what he believed was the balance, cashed the check and placed it in a safe (this has not been confirmed by the State Bar.)

The IRS levied and a legal order debit for \$200.00 was made to the IRS and a bank fee of \$125.00 left a deficit resulting in an overdraft which was reported to the State Bar. Mr. Lee then wrote a check for \$2,000 payable to a lien holder on behalf of a client when the account had a negative balance. However, the check was not posted for over a week and Mr. Lee had funds sufficient in the account at the time of that check being posted.

Mr. Lee reached an agreement with the IRS regarding a substantial amount owed in back taxes for the period 2002 through 2014. This Agreement does not preclude the State Bar from taking appropriate action regarding the fitness of Mr. Lee to practice if further actions are taken by the IRS.

A review of his trust account records revealed numerous violations of the trust account rules. Mr. Lee acknowledges his practices were not in full compliance with Rule 43 and his annual certification that he was complying with those rules was done despite his knowledge to the contrary. He had comingled earned funds and failed to maintain various ledgers and registers as required.

Rule 58(k) provides sanctions shall be determined under the *American Bar Association Standards for Imposing Lawyer Sanctions*, (“Standards”). The parties agree *Standard 4.13 Failure to Preserve the Client’s Property* applies to Mr. Lee. “Reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.” As stipulated, Mr.

Lee negligently violated his duties to clients and there was potential for harm to his clients.

The parties agree factors 9.22 (a), prior disciplinary offenses, (c), a pattern of misconduct, and (i) substantial experience in the practice of law are present in aggravation. In mitigation are factors 9.32(c), personal or emotional problems, (d) timely good faith effort to make restitution or to rectify consequences of his misconduct, (e), full and free disclosure to disciplinary board or cooperative attitude toward proceedings, and (m), remoteness of his prior disciplinary offenses.

Upon review of these factors, the parties agree that a reduction in the presumptive sanction of suspension is justified. The objectives of discipline are met by imposing a reprimand and probation. Accordingly:

**IT IS ORDERED** accepting and incorporating the Agreement and any supporting documents by this reference. The agreed upon sanctions are reprimand, two (2) years of probation with the specified terms, and costs and expenses totaling \$1,200.00. There are no costs incurred by the Office of the Presiding Disciplinary Judge. A final judgment and order is signed this date.

**DATED** this 3rd day of January, 2018.

*William J. O'Neil*  

---

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

COPY of the foregoing e-mailed/mailed  
on this 3<sup>rd</sup> day of January, 2018, to:

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

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

by: AMcQueen

Shauna R. Miller, Bar No. 015197  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Telephone (602) 340-7386  
Email: LRO@staff.azbar.org

OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

DEC 22 2017

BY \_\_\_\_\_

FILED



Mark I. Harrison, Bar No. 001226  
William D. Furnish, Bar No. 028725  
Osborn Maledon PA  
2929 N. Central Ave., Ste. 2100  
Phoenix, AZ 85012-2765  
Telephone (602) 640-9000  
Email: [mharrison@omlaw.com](mailto:mharrison@omlaw.com)  
[wfurnish@omlaw.com](mailto:wfurnish@omlaw.com)  
Respondent's Counsel

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**CARL D. LEE**  
**Bar No. 007439**

Respondent.

PDJ 2017- 9129  
State Bar File No. 17-0709

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Carl D. Lee, who is represented in this matter by counsel, Mark I. Harrison and William D. Furnish, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on September 6, 2017, 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.

The State Bar is the complainant in this matter, therefore no notice of this agreement is required pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.15(a), and Rule 43(a)(4), 43(b)(1)(A) and (C), 43(b)(2)(A),(B),(C), and (D), 43(b)(5), 43(c), 43(d)(3). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: **Reprimand with two years' probation.** Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order, and if costs are not paid within the 30 days, interest will begin to accrue at the legal rate.<sup>1</sup> The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

#### **COUNT ONE (File no. 17-0709/ Trust Account)**

1. Respondent was licensed to practice law in Arizona on October, 23, 1982.

---

<sup>1</sup> Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

2. Respondent had a dispute with the IRS regarding unpaid taxes. On February 21, 2017, Respondent's tax attorney informed Respondent that the IRS would levy Respondent's bank accounts, including his client trust account.

3. On February 21, 2017, Respondent removed \$2,300.00 from his client trust account to "Protect from IRS." The State Bar's Trust Account Examiner (Examiner) determined that, as of this date, the amount held in the trust account was at least \$2,500.00; \$2,000 belonged to client EG and \$330.98 belonged to client BL. Respondent incorrectly identified the balance left in client trust account as \$200.00, instead of \$169.02. Respondent wrote check number 6536 for \$2,300.00, payable to himself, and cashed the check. Respondent placed the funds in a safe at his home for safekeeping until after the IRS issued its levy to his client trust account, but this assertion has not been confirmed by the State Bar.

4. On February 24, 2017, a legal order debit for \$200.00 was made to the IRS, leaving Respondent's trust account with a zero balance. At the same time, a bank fee of \$125.00 to process the IRS debit attempted to pay against the account when the balance was zero. The bank charged Respondent's account the fee to process the IRS levy, leaving Respondent's trust account with a negative balance of \$125.00. The overdraft was reported to the State Bar.

5. On February 24, 2017, Respondent wrote check number 6537 for \$2,000.00 payable to a lien holder on behalf of client EG. On that date, the balance in the client trust account was negative \$125.00.

6. Check number 6537 was not posted by the bank until March 6, 2017, at which time Respondent's client trust account had sufficient funds to cover this amount.

7. On February 27, 2017, Respondent deposited an \$11,265.00 settlement recovery for client KR into the client trust account. Respondent applied a portion of the contingency fee he earned from client KR to the \$125.00 negative balance caused by the legal order processing fee and the \$200.00 levied by the IRS.

8. On April 22, 2017, Respondent reached an agreement with the IRS to resolve his dispute regarding a substantial amount owed in back taxes for the period of 2002 through 2014. Under his agreement with the IRS, Respondent is required to pay \$68.00 per month with an additional \$3,000.00 payable per quarter in forward-looking estimated taxes. Respondent must also remain current on his existing taxes. The Parties agree that this consent agreement does not address Respondent's failure to pay taxes, and, if further action is taken by the IRS that implicates Respondent's fitness to practice, the Agreement does not preclude the State Bar from taking appropriate action.

9. Respondent acknowledged during the State Bar's investigation that his accounting practices were not in full compliance with Rule 43. Despite this, on April 14, 2016, and April 11, 2017, Respondent filed his annual dues statement with the acknowledgement that he read and understood Rule 42, ER 1.15, and Rule 43, Ariz. R. Sup. Ct., and certified compliance with these rules.

10. A review of the trust account records revealed numerous violations of the trust account rules, including, but not limited to, the following:

- a. Respondent comingled earned funds in the client trust account by failing to remove said funds when due and legally available.
- b. Respondent failed to maintain:
  - i. individual client ledgers;
  - ii. an administrative funds ledger;
  - iii. a compliant checkbook register;
  - iv. monthly reconciliations; and
  - v. checks labeled as a disbursement from trust account.

If the matter were to proceed to a formal hearing, Respondent would acknowledge that he did not maintain a separate administrative funds ledger or perform monthly reconciliations. All of Respondent's client matters are taken on a contingency basis, and he receives lump-sum recoveries containing his client's recovery, his legal fees, and litigation costs paid into his client trust account.

Respondent prepared settlement statements for the clients identified during the period of review, reflecting these amounts.

11. Respondent's check ledger contained an entry for a check payment to Respondent for client BL, in the amount of \$964.77 in excess of Respondent's attorney's fees for the matter. The Examiner was unable to determine if the excess amounts identified as being paid to Respondent resulted in the actual conversion of client funds, or were undisbursed earned funds from prior cases that were improperly recorded as belonging to client BL. The settlement statement for BL reflected the settlement obtained, Respondent's contingency fee, healthcare and other-third party liens, litigation costs, and BL's recovery. Respondent provided a settlement statement dated December 1, 2016, that was signed by client BL, and paid BL in accordance with that settlement statement.

12. Respondent's check ledger contained an entry for a payment to Respondent for client EG, in the amount of \$511.90 in excess of Respondent's attorney's fees for the matter. The Examiner was unable to determine if the excess amounts identified as being paid to Respondent resulted in the actual conversion of client funds, or were undisbursed earned funds from prior cases that were improperly recorded as belonging to client EG. The settlement statement for EG, which erroneously referenced client BL, reflected the settlement obtained for EG, Respondent's contingency fee, healthcare and other-third party liens, litigation

costs, and EG's recovery. Respondent provided a settlement statement dated December 13, 2016, that was signed by client EG, and paid EG in accordance with that settlement statement.

13. Respondent was asked to provide the State Bar with compliant trust account records covering the period of August 2017. Respondent cooperated with the State Bar's requests and produced accurate trust account records.

### **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, ERs 1.15(a), and Rule 43(a)(4), 43(b)(1)(A) and (C), 43(b)(2)(A),(B),(C), and (D), 43(b)(5), 43(c), 43(d)(3).

### **CONDITIONAL DISMISSALS**

There are no conditional dismissals.

### **RESTITUTION**

Restitution is not an issue in this matter.

## **SANCTION**

Respondent and the State Bar of Arizona agree that, based on the facts and circumstances of this matter set forth above, the following sanctions are appropriate: Reprimand and Two Years' Probation.

## **PROBATION TERMS**

As part of the terms of probation, Respondent shall continue to cooperate with the IRS, make his monthly and quarterly payments on time, and remain current on his existing and future taxes. Respondent will participate in an evaluation conducted by the State Bar's Law Office Management Assistance Program (LOMAP), specifically focusing on his client trust account. The State Bar will prepare the terms of probation, incorporating any specific terms identified by the LOMAP Director, as well as the standard trust account terms. Respondent will be required to participate in the Trust Account Ethics Enhancement Program and attend the first available class after acceptance of the consent agreement.

If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

## **LEGAL GROUNDS IN SUPPORT OF SANCTION**

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the

imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 4.13 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 4.13 provides that: "Reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client."

#### **The duty violated**

As described above, Respondent's conduct violated his duty to his clients.

#### **The lawyer's mental state**

For purposes of this agreement the parties agree that Respondent negligently failed to maintain appropriate client trust account records 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 potential for harm to Respondent's clients.

### **Aggravating and mitigating circumstances**

The parties conditionally agree that the following aggravating and mitigating factors should be considered in deciding what sanction to impose.

**In aggravation:** Under Standard 9.22, aggravating factors include:

- (a) prior disciplinary offenses: In 2003, Respondent was censured and placed on probation for 12 months due to violation of trust account ethical rule 1.15 (safekeeping property); File no. 03-1798.
- (c) a pattern of misconduct: As stated above, Respondent was previously censured and placed on probation for 12 months due to violations of ER 1.15.
- (i) substantial experience in the practice of law: Respondent has practiced law in Arizona since 1982.

**In mitigation:** Under Standard 9.32, mitigating factors include:

- (c) personal or emotional problems: Respondent suffers from clinical depression and anxiety, which worsened leading up to the IRS levy of his accounts. Respondent has since voluntarily commenced regular treatment for these illnesses, and letters from his doctors confirm that he has shown improvement in his mental health as a result of this treatment. With treatment, mental health issues do not preclude Respondent from the competent practice of law.
- (d) timely good faith effort to make restitution or to rectify consequences of misconduct: Respondent complied with State Bar requests for information related to his trust account practices, has remedied his trust accounting, has hired a bookkeeper to perform a monthly review of his trust accounts and perform three-way reconciliations, and has provided the State Bar with

accurate trust account records. Respondent voluntarily entered into treatment for his clinical depression and anxiety, and has shown improvement in his mental health as a result of this treatment.

- (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings: As noted above, Respondent unconditionally admitted to the deficiencies in his trust account practices, timely complied with several State Bar requests for records related to his trust account practices, including providing the State Bar with accurate trust account records for August 2017.
- (m) remoteness of prior offenses: Respondent's prior misconduct occurred approximately 14 years ago, and he successfully completed the terms of probation imposed in connection with that misconduct over nine years ago.

### **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.

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

DATED this \_\_\_\_\_ day of December 2017

**STATE BAR OF ARIZONA**

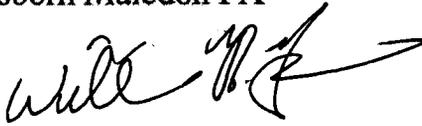
\_\_\_\_\_  
Shauna R. Miller  
Senior Bar Counsel

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

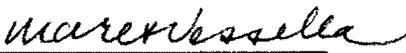
DATED this 18<sup>th</sup> day of December, 2017.

  
\_\_\_\_\_  
Carl D. Lee  
Respondent

DATED this 18<sup>th</sup> day of December, 2017.

Osborn Maledon PA  
  
\_\_\_\_\_  
Mark I. Harrison  
William D Furnish  
Counsel for Respondent

Approved as to form and content

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

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

**DATED** this 22nd day of December 2017.

**STATE BAR OF ARIZONA**

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

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

**DATED** this \_\_\_\_\_ day of December, 2017.

\_\_\_\_\_  
Carl D. Lee  
Respondent

**DATED** this \_\_\_\_\_ day of December, 2017.

Osborn Maledon PA

\_\_\_\_\_  
Mark I. Harrison  
William D Furnish  
Counsel for 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 22<sup>nd</sup> day of December, 2017.

Copy of the foregoing emailed  
this 22<sup>nd</sup> day of December, 2017, to:

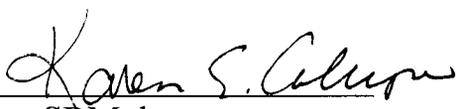
The Honorable William J. O'Neil  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
1501 West Washington Street, Suite 102  
Phoenix, Arizona 85007  
E-mail: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

Copy of the foregoing mailed/emailed  
this 22<sup>nd</sup> day of December, 2017, to:

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

Respondent's Counsel  
Copy of the foregoing hand-delivered  
this 22<sup>nd</sup> day of December, 2017, to:

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

by:   
SRM: kec

# **EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,  
Carl D. Lee, Bar No. 007439, Respondent

File No. 17-0709

### 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,

**CARL D. LEE,**  
**Bar No. 007439,**

Respondent.

**PDJ 2017-\_\_\_\_\_**  
[State Bar File No. 17-0709]

**FINAL JUDGMENT AND  
ORDER**

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, **Carl D. Lee**, is hereby reprimanded for violation of ERs 1.15, and Rule 43, Ariz. R. Sup. Ct., for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** that, Respondent shall be placed on probation for a period of two years under the following terms and conditions:

- a. TAEPP: Respondent shall attend a half-day Trust Account Ethics Enhancement Program (TAEPP). Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order/Agreement, to schedule attendance at the next available class. Respondent will be responsible for the cost of attending the program.
  
- b. LOMAP: Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of this Order. Respondent shall submit to a LOMAP examination of his trust account procedures. The State Bar will prepare the terms of probation, incorporating any specific terms identified by the LOMAP Director, and including the standard trust account terms. Respondent shall sign the terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent shall sign and return the terms of probation within 30 days from the date of this order. Respondent will be responsible for any costs associated with LOMAP.

- c. Respondent shall continue to adhere to the terms of his April 2017 agreement with the IRS for payment of prior-year's taxes, including timely making monthly and quarterly payments and remaining current on his existing and future taxes. Respondent shall make quarterly reports to the State Bar regarding the status of the IRS matter.

#### **NON-COMPLIANCE LANGUAGE**

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

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

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

**DATED** this \_\_\_\_\_ day of December, 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 December, 2017.

Copies of the foregoing mailed/mailed  
this \_\_\_\_\_ day of December, 2017, to:

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

Copy of the foregoing emailed/hand-delivered  
this \_\_\_\_ day of December, 2017, to:

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

Copy of the foregoing hand-delivered  
this \_\_\_\_ day of December, 2017 to:

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

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

**FILED**

SEP 06 2017

BY



**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,**

**CARL D. LEE  
Bar No. 007439**

Respondent.

No. 17-0709

**PROBABLE CAUSE ORDER**

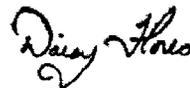
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on August 11, 2017, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 8-0-1<sup>1</sup>, the Committee finds probable cause exists to file a complaint against Respondent in File No. 17-0709.

**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 14<sup>th</sup> day of September, 2017.



\_\_\_\_\_  
Daisy Flores, Vice Chair  
Attorney Discipline Probable Cause Committee  
of the Supreme Court of Arizona

<sup>1</sup> Committee member Judge Lawrence F. Winthrop did not participate in this matter.

Original filed this 6<sup>th</sup> day  
of September, 2017 with:

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

Copy mailed this 7<sup>th</sup> day  
of September, 2017, to:

William D. Furnish  
Osborn Maledon, PA  
2929 N. Central Ave., Ste 2100  
Phoenix, AZ 85012-2765  
Respondent's Counsel

Copy emailed this 7<sup>th</sup> day  
of September, 2017, to:

Attorney Discipline Probable Cause Committee  
of the Supreme Court of Arizona  
1501 West Washington Street, Suite 104  
Phoenix, Arizona 85007  
E-mail: [ProbableCauseComm@courts.az.gov](mailto:ProbableCauseComm@courts.az.gov)

Lawyer Regulation Records Manager  
State Bar of Arizona  
4201 N. 24<sup>th</sup> St., Suite 100  
Phoenix, Arizona 85016-6266  
E-mail: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

by: Karen E. Calcaque