BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **VALARIE A. MCNEICE,** **Bar No. 021555** Respondent.	**PDJ-2018-9115** **ORDER OF INTERIM SUSPENSION** [State Bar Nos. 18-1070, 18-3131, 18-3333, & 18-3199] **FILED DECEMBER 6, 2018**

On November 28, 2018, the State Bar of Arizona filed a Stipulated Motion for Interim Suspension ("Consent") of Respondent, Valarie A. McNeice, Bar No. 021555 under Rule 61, Ariz. R. Sup. Ct.[1] The State Bar is represented by Staff Bar Counsel Kelly J. Flood. Ms. McNeice represents herself.

"An interim suspension may be entered upon a showing of probable cause that a lawyer…is engaging in conduct that has caused or is likely to cause immediate and substantial harm to clients, the public, or the administration of justice." Rule 61(a). Rule 61(c)(2)(B) states, that after receiving the response, "the presiding disciplinary judge may rule on the motion or order an evidentiary hearing." If an evidentiary hearing is ordered, that Rule requires it be conducted within ten (10) days of this order.

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

Under Rule 61(c)(2)(B), the State Bar must establish that *probable cause* for the factual basis for the relief sought exists and that interim suspension is appropriate. Probable cause is most frequently defined in criminal cases. "Probable cause" to search is information sufficient to justify a belief by reasonable person that offense has been or is being committed, and that items connected with crime will be found in place that officer proposes to search. *State v. Swanson* 172 Ariz. 579 (1992). "Probable cause" for arrest without warrant is something less than proof needed to convict and something more than a raw unsupported suspicion; it is a suspicion or belief of guilt that is well-grounded. *State V. Vaughn* 471 Ariz.744 (1970).

State v. Houlf, 27 Ariz. App. 633, (1976), states a definition that is well suited to attorney regulation. Probable cause is "exists when the facts and circumstances within the law enforcement officer's knowledge, and of which he has reasonably trustworthy information, is sufficient, in itself, to warrant a reasonable man to conclude that a crime has been or is being committed by the suspect." In attorney regulation, probable is established when information is presented that is sufficient to justify a belief by a reasonable person that an ethical violation has been committed or is being committed by the respondent. The parties have stipulated that probable cause exists for the interim suspension and have requested that there be no hearing.

Factual Allegations

A formal complaint was filed against Respondent in PDJ 2018-9097. Nearly $7,000 is alleged to be missing of which half was to be placed in her trust account but was never deposited. The other half involves an agreed upon refund which has never been returned to her client. Default has been entered but is not yet effective. A prerequisite of the filing was the finding of probable cause by the Attorney Discipline Probable Cause Committee. The parties acknowledge that one of the central allegations in that case is the conversion of client funds.

It is also stated there are three other matters in screening and Respondent is currently on probation in SB 2017-3938, but admittedly is out of compliance with those terms. It is stipulated that Respondent intends to close her present practice. Based on the record, the PDJ finds Ms. McNeice has waived any right to present evidence and cross-examine witnesses. The PDJ also finds the stipulated consent to interim suspension was knowingly, intelligently and voluntarily entered.

Finding

The stipulated Motion has established that probable cause exists for the requested relief sought and interim suspension is appropriate by stipulation. Ms. McNeice has agreed that upon entry of this Order that 1) she will not accept for representation any new clients, 2) will provide a list of current clients to the State Bar, 3) comply with all existing court orders and deadlines, 4) communicate with all

clients regarding her current and impending status, and 5) continue to cooperate with the State Bar. The parties stipulate for the interim suspension to be effective on December 28, 2018.

The stipulated consent is accepted. The fact of the consent of Ms. McNeice and the entry of this interim suspension order may not be presented to establish the merits of any disciplinary complaint filed against her.

NOTICE

Ms. McNeice is cautioned that nothing within this order has stayed the prosecution of the complaint in PDJ 2018-9097. Default has been entered and will be effective absent a timely answer being filed. Ms. McNeice is directed to Supreme Court Rule 58(d). If default becomes effective, the allegations in the complaint "shall be deemed admitted." She is encouraged to govern herself accordingly.

Now Therefore,

IT IS ORDERED accepting the consent to interim suspension.

IT IS FURTHER ORDERED finding probable cause based upon the stipulated motion for interim suspension that Valarie A. McNeice, State Bar No. 021555 has engaged in conduct that has caused or is likely to cause immediate and substantial harm to clients, the public, or the administration of justice.

IT IS FURTHER ORDERED under Rule 61, **Valarie A. McNeice, State Bar No. 021555,** is suspended from the practice of law effective December 28, 2018 on an interim basis.

IT IS FURTHER ORDERED as provided in Rule 61(d), such interim suspension shall continue in force until final disposition of all pending disciplinary proceedings against Valarie A. McNeice, unless vacated or modified.

IT IS FURTHER ORDERED effective immediately, Valarie A. McNeice shall: 1) not accept for representation any new clients; 2) provide a list of current clients to the State Bar; 3) comply with all existing court orders and deadlines; 4) communicate with all clients regarding her current and impending status; and 5) continue to cooperate with the State Bar.

IT IS FURTHER ORDERED freezing all trust accounts of Valarie A. McNeice until further order of the PDJ. Expenditures from that account may be made by a signed agreement between the State Bar and Respondent, otherwise only by order of the PDJ.

IT IS FURTHER ORDERED under Supreme Court Rule 72(a), Valarie A. McNeice shall immediately notify all clients of the terms of this order within ten days of the date of this order, and upon the effective date of the suspension shall timely file with the Disciplinary Clerk and the Supreme Court, notice of compliance with this Order as provided by Rule 72(e).

IT IS FURTHER ORDERED setting a telephonic status review pursuant to Rule 61(c)(D), on **March 5, 2019 at 11:00 a.m.** The State Bar is reminded that under that Rule it must expeditiously proceed with any related disciplinary investigation and proceeding. This status review shall automatically be vacated without further order upon the filing by the State Bar of a complaint regarding this matter.

DATED this 6th day of December, 2018.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing emailed/mailed
this 6th day of December, 2018 to:

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