

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**ANDREW J. RANKIN,**

Respondent.

**PDJ-2018-9023**

**FINAL JUDGMENT  
AND ORDER**

[State Bar No. 16-3071]

**FILED NOVEMBER 9, 2018**

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on October 25, 2018, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepts the parties' proposed agreement. Accordingly:

**IT IS ORDERED** imposing an admonition on Respondent, **Andrew J. Rankin**, for conduct that violated the Arizona Rules of Professional Conduct, as outlined in the consent documents effective the date of this order.

**IT IS FURTHER ORDERED** Mr. Rankin shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,296.92 within thirty (30) days from the date of this order. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in these disciplinary proceedings.

**DATED** this 9th day of November, 2018.

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

Copies of the foregoing mailed/mailed  
this 9th day of November, 2018, to:

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

Andrew J. Rankin  
11748 Golden Moments Avenue  
Las Vegas, NV 89138  
Email: andrewrankin1975@gmail.com  
Respondent

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**ANDREW J. RANKIN,**

Respondent.

**PDJ-2018-9023**

**DECISION ACCEPTING  
DISCIPLINE BY CONSENT**

[State Bar Nos. 16-3071]

**FILED NOVEMBER 9, 2018**

Under Rule 57(a), Ariz. R. Sup. Ct.,<sup>1</sup> an Agreement for Discipline by Consent (“Agreement”), was filed on October 25, 2018. A Probable Cause Order issued on November 13, 2017 and the formal complaint was filed on March 27, 2018. Mr. Rankin is *pro-per* 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 If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding.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. Rankin has voluntarily waived the right to an adjudicatory hearing, and waived all

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<sup>1</sup> 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. Notice of the Agreement and an opportunity to object within five (5) days pursuant to Rule 53(b)(3), was provided to the complainant by email on October 4, 2018. No objections have been filed.

The Agreement details a factual basis to support the conditional admissions. It is incorporated by this reference. Mr. Rankin admits violating Rule 42, ER 5.5(a) and 5.5(b) (unauthorized practice of law), and Rule 31(b) (authority to practice law) and 33(c) (practice in courts). The parties stipulate to an admonition and the payment of costs of \$1,296.92 within thirty (30) days from the date of this order.

In Count One, Mr. Rankin was hired for an in-house counsel position in Arizona. Although not admitted in Arizona, Mr. Rankin was admitted to practice law in Indiana in 2001 and in Nevada in 2002. He was however, administratively suspended in Indiana in 2004 and in Nevada in 2006. In 2016, when he applied for the in-house counsel position, he negligently failed to list his administrative suspensions on his resume and incorrectly noted that he had practiced law continuously from October 2002 – August 2016. He had not taken steps to cure his administrative suspensions in either state and had not applied for an Arizona Certificate of Registration of In-House Counsel (Registration Certificate). Overall, he failed to ensure his resume was accurate and not misleading and for a brief period, engaged in the unauthorized practice of law.

Upon motion by the State Bar, Count Two was dismissed by order of the Presiding Disciplinary Judge on October 4, 2018.

The parties agree *Standard 7.4, Violations of Duties Owed as a Professional* is applicable and provides that admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether the lawyer's conduct violates a duty owed as a professional and causes little or no actual potential injury to a client, the public, or the legal system.

Mr. Rankin negligently violated his duty to the legal profession by engaging in the unauthorized practice of law and his misconduct caused little potential injury.

The parties agree there is one aggravating factor, 9.22(i) substantial experience in the practice of law. The parties stipulate the mitigating factors are 9.32(a) absence of prior disciplinary offenses, 9.32 (b) absence of selfish or dishonest motive, and 9.32(j) delay in disciplinary proceedings.

Now Therefore,

**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 9th day of November, 2018.

*William J. O'Neil*  

---

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

COPY of the foregoing e-mailed/mailed  
on this 9<sup>th</sup> day of November, 2018, to:

James D. Lee  
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

Andrew J. Rankin  
11748 Golden Moments Avenue  
Las Vegas, NV 89138  
Email: andrewrankin1975@gmail.com  
Respondent

by: AMcQueen

James D. Lee, Bar No. 011586  
Senior Bar Counsel  
State Bar of Arizona  
4201 North 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Telephone: (602) 340-7272  
Email: LRO@staff.azbar.org

OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

OCT 25 2018

FILED  
BY 

Andrew J. Rankin  
11748 Golden Moments Avenue  
Las Vegas, NV 89138  
Telephone: (317) 296-9319  
Email: andrewrankin1975@gmail.com  
Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**ANDREW J. RANKIN,**

Respondent.

**PDJ-2018-9023**

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

[State Bar File No. 16-3071]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Andrew J. Rankin, 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 November 13, 2017. A formal complaint was filed on March 27, 2018. Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant by email on October 4, 2018. The complainant has 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 complainant's objection(s), if any, will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER 5.5(a) and (b), and Rules 31(b) and 33(c), Ariz. R. Sup. Ct. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Admonition. Respondent also agrees to pay \$1,200 for 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.

## FACTS

### GENERAL ALLEGATIONS

1. Respondent has never been licensed to practice law in the state of Arizona. He was admitted to practice law in Indiana on November 19, 2001, but was administratively suspended from the practice of law in that state on April 30, 2004. Respondent was also admitted to practice law in Nevada on October 11, 2002, but was administratively suspended from the practice of law in that state on April 25, 2006.

### COUNT ONE (File No. 16-3071/Dodson)

2. During 2016, Respondent applied for and was hired for an in-house counsel position (titled Senior Counsel) with PetSmart, Inc., in Phoenix, Arizona. The resume that Respondent provided to PetSmart indicated he had been admitted to practice law in both Indiana and Nevada, but failed to note that he had been administratively suspended in both states. It also incorrectly reflected that he had practiced law continuously from October 2002 through August 2016.

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<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.

3. PetSmart hired Respondent based upon his representation that he was admitted to practice law in two jurisdictions. Prior to being hired by PetSmart, Respondent had not yet taken steps to return to active status in either Indiana or Nevada. He also had not yet applied for an Arizona Certificate of Registration of In-House Counsel (“Registration Certificate”).

4. Respondent was employed by PetSmart in Phoenix, Arizona for approximately two to three weeks. He began preparing legal documents for PetSmart, but no documents were distributed outside the company.

5. In September 2016, PetSmart learned for the first time that Respondent had been suspended from the practice of law in both Indiana and Nevada. Thereafter, Respondent was promptly terminated from his position with PetSmart.

#### **COUNT TWO (Failure to Respond to Bar Counsel)**

6. The State Bar filed a motion to dismiss Count Two. By order dated October 4, 2018, Count Two has been dismissed.

#### **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 Rule 42, ER 5.5(a) and (b), and Rules 31(b) and 33(c), Ariz. R. Sup. Ct.

### **CONDITIONAL DISMISSALS**

The State Bar has conditionally agreed to dismiss the allegation that Respondent violated ER 8.4(c) because the misrepresentations in his resume were negligent or careless, rather than knowing or intentional (i.e., he failed to adequately ensure that his resume was not misleading).

### **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: Admonition.

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. 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* 7.4 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 7.4 states, "Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence that is a violation of a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system."

#### **The duty violated**

As described above, Respondent's conduct violated his duty to the legal profession. *Standards for Imposing Lawyer Sanctions*, Theoretical Framework, p. 5

(2005).

**The lawyer's mental state**

For purposes of this agreement the parties agree that Respondent negligently engaged in the practice of law in Arizona while he was administratively suspended from the practice of law in Indiana and Nevada, and prior to being eligible to obtain an Arizona Certificate of Registration of In-House Counsel ("Registration Certificate"). The parties also agree that Respondent's conduct violated the Rules of Professional Conduct.

**The extent of the actual or potential injury**

For purposes of this agreement, the parties agree there was little potential injury to the legal profession (based upon the limited period of time he was employed by PetSmart and the fact that none of his work was distributed outside the company).

**Aggravating and mitigating circumstances**

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

**In aggravation:**

*Standard 9.22(i)* – Substantial experience in the practice of law. Respondent

was admitted to practice law in Indiana on November 19, 2001, and in Nevada on October 11, 2002.

**In mitigation:**

*Standard 9.32(a)* – Absence of a prior disciplinary record in any jurisdiction.

*Standard 9.32(b)* – Absence of a dishonest or selfish motive (he did not intend his resume to be inaccurate or misleading).

*Standard 9.32(j)* – Delay in the disciplinary proceedings (a probable cause order was entered on November 13, 2017).

**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 also 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: Respondent engaged in the practice of law in Arizona, ostensibly as in-house counsel under Rule 38, Ariz. R. Sup. Ct., but he was not eligible to apply for—and had not yet obtained—a Registration Certificate because he had not yet returned to active status in Indiana or Nevada.

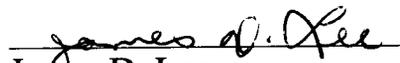
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanctions and will serve the purposes of lawyer discipline.

### 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 admonition and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

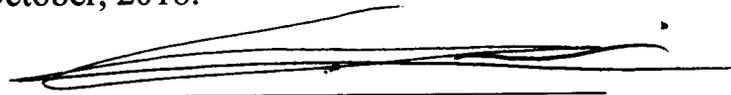
DATED this 27<sup>th</sup> day of October, 2018.

### 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 17<sup>th</sup> day of October, 2018.

  
Andrew J Rankin  
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 25<sup>th</sup> day of October, 2018.

Copy of the foregoing emailed  
this 25<sup>th</sup> day of October, 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](mailto:officepdj@courts.az.gov)

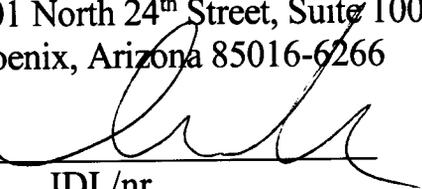
Copy of the foregoing mailed/emailed  
this 25<sup>th</sup> day of October, 2018, to:

Andrew J. Rankin  
11748 Golden Moments Avenue  
Las Vegas, NV 89138  
Email: [andrewrankin1975@gmail.com](mailto:andrewrankin1975@gmail.com)  
Respondent

Copy of the foregoing hand-delivered  
this 25<sup>th</sup> day of October, 2018, to:

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

by:

  
JDL/nr

**EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Non-Member of the State Bar of Arizona,  
Andrew J. Rankin, Respondent

File No. 16-3071

### 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

01/12/17	Accurint invoice	\$ 17.92
04/04/18	First Legal Network, LLC invoice: process service	\$ 79.00
Total for staff investigator charges		\$ 96.92

TOTAL COSTS AND EXPENSES INCURRED \$1,296.92

**EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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**ANDREW J. RANKIN,**

Respondent.

**PDJ-2018-9023**

**FINAL JUDGMENT  
AND ORDER**

[State Bar No. 16-3071]

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

**IT IS ORDERED** imposing an admonition on Respondent **Andrew J. Rankin** for conduct that violated the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,296.92 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.

**DATED** this \_\_\_\_\_ day of October, 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 October, 2018.

Copies of the foregoing mailed/emailed this \_\_\_\_\_ day of October, 2018, to:

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11748 Golden Moments Avenue  
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