

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**SAL J. RIVERA,**  
**Bar No. 016728**

Respondent.

**PDJ-2018-9123**

**FINAL JUDGMENT AND  
ORDER**

[State Bar No. 17-3550]

**FILED DECEMBER 31, 2018**

The Presiding Disciplinary Judge accepted the Agreement for Discipline by Consent filed by the parties on December 6, 2018.

Accordingly:

**IT IS ORDERED** Respondent, **SAL J. RIVERA, Bar No. 016728**, is reprimanded with probation 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** Mr. Rivera shall be placed on probation for a period of six (6) months.

**IT IS FURTHER ORDERED** Mr. Rivera shall participate in the following program:

Continuing Legal Education (CLE). Respondent shall complete the CLE program 10 Deadly Sins of Conflict within ninety (90) days from the date of this

order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes. Respondent shall contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent shall be responsible for the cost of the CLE.

**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** Mr. Rivera 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. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in these disciplinary proceedings.

**DATED** this 31st day of December, 2018

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

Copies of the foregoing emailed  
this 31st day of December, 2018, and  
mailed January 2, 2019, to:

Kelly J. Flood  
Staff 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)

Geoffrey M. T. Sturr  
Osborn Maledon, PA  
2929 N. Central Avenue, Suite 2100  
Phoenix, Arizona 85012-2765  
Email: [gsturr@omlaw.com](mailto:gsturr@omlaw.com)  
Respondent's Counsel

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**SAL J. RIVERA,**  
**Bar No. 016728**

Respondent.

**PDJ 2018-9123**

**DECISION ACCEPTING  
DISCIPLINE BY CONSENT**

[State Bar No. 17-3550]

**FILED DECEMBER 31, 2018**

Under Rule 57(a), Ariz. R. Sup. Ct.,<sup>1</sup> an Agreement for Discipline by Consent (“Agreement”), was filed on December 6, 2018. No Probable Cause Order has issued, and no formal complaint has been filed. Mr. Rivera is represented by Geoffrey M.T. Sturr, *Osborn Maledon, PA* and the State Bar of Arizona is represented by Bar Counsel Kelly J. Flood.

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. Rivera 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 sent to the complainant by letter on December 4, 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. Rivera admits to violating Rule 42, specifically, ERs 1.4 (communication) and 1.7 (conflict of interest/current clients). The parties stipulate to a sanction of reprimand and six months of probation with terms including obtaining continuing legal education (CLE), and the payment of costs of \$1,200.00 within 30 days from this order.

For the Agreement, the parties stipulate that in July 2017, Mr. Rivera represented 3 family members in a criminal matter. A criminal complaint was filed that asserted zoning and traffic violations related to the large number of cars stores on the property. Father lived on the property, and his son and wife of the son owned the property but lived in another state. Mr. Rivera did not discuss the benefits and associated risks with each individually regarding joint representation and did not obtain informed consent from each client. Mr. Rivera did not communicate with Father to confirm that he wanted to be jointly represented or that he wanted Mr. Rivera to file a notice of appearance and not guilty plea waiving any argument regarding service of

the criminal complaint that Father had. He filed his notice of appearance and not guilty plea regarding all three defendants anyway.

Mr. Rivera did not communicate directly with the Father but instead the son communicated for him with Father. The fee agreement stated Mr. Rivera represented all three but never identified Father by name and was not sent to nor signed by him. A plea offer was extended that would dismiss the case against the son and his wife and provided Father would plead guilty. When Father refused, the son and his wife demanded Mr. Rivera stop representing Father. They then requested he represent them to evict the Father from their property. Mr. Rivera failed to quickly withdraw from representation once a conflict of interest arose.

The parties agree Mr. Rivera negligently violated his duty to his client and his misconduct caused actual harm to the client. *Standard 4.33* applies to Mr. Rivera's violation of ER 1.7 and provides that 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* applies to Mr. Rivera's violation of ER 1.4 and provides 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.

The parties further agree aggravating factors 9.22(d) (multiple offenses) and (i) substantial experience in the practice of law) are present, and in mitigation are factors 9.32(a) (absence of prior disciplinary offenses), (e) (full and free disclosure to disciplinary board or cooperative attitude towards proceedings) and (l) (remorse). The PDJ notes there is no evidence to support mitigating factor 9.32(l) remorse, however, the absence of this factor does not affect 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 31st day of December 2018.

*William J. O'Neil*  

---

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

COPY of the foregoing e-mailed on this 31st day of December 2018, and mailed January 2, 2019, to:

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

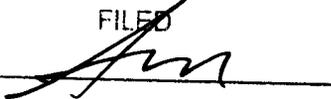
Geoffrey M.T. Stuff  
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Respondent's Counsel

by: AMcQueen

Kelly J. Flood, Bar No. 019772  
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OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

DEC 6 2018

FILED  
BY 

Geoffrey M. T. Sturr, Bar No. 014063  
Osborn Maledon PA  
2929 N. Central Avenue, Suite 2100  
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Respondent's Counsel

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**SAL J. RIVERA**  
**Bar No. 016728**

Respondent.

**PDJ 2018-9123**

State Bar File No. 17-3550

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Sal J Rivera, who is represented in this matter by counsel, Geoffrey M. T. Sturr, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order has not yet been entered 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 Complainant by letter on December 4, 2018. Complainant has been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. Copies of Complainant's 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, ER 1.4 and ER 1.7 Ariz. R. Sup. Ct. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand with Probation (6 months), and completion of the CLE "The 10 Deadly Sins of Conflict." 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.

## FACTS

### GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on October 21, 1995.

#### **COUNT ONE (File no. 17-3550/ David Novak)**

2. On July 3, 2017, the Town of Fountain Hills (FH) filed a criminal complaint against David Novak, his son Ryan Novak, and Ryan's wife, Alexandra. The complaint asserted various zoning and traffic violations relating to the large number of cars stored on the property where David resided. Ryan and Alexandra lived in New York, but owned the FH home in which David lived. In addition to being served by mail with a criminal complaint, Ryan met with two law enforcement officers who traveled to New York from Phoenix to seize his mobile phone for evidentiary purposes.

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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. Late in the day on Thursday, August 10, 2017, Respondent was retained by Ryan, who asked him to represent all three family members and to appear on their behalf at a hearing scheduled for the following Monday, August 14, 2017. On August 14, 2017, Respondent's associate filed a notice of appearance and entered a not-guilty plea on behalf of all three family members. Respondent sent Ryan an engagement agreement on August 16, 2017, that confirmed his law firm, Rivera Law Group, had been retained to represent all three family members. The engagement letter is addressed to Ryan in New York, states Respondent will represent Ryan, Alexandra, and "your father" at stated hourly rates, with a retainer of \$5,000. The letter was neither addressed nor sent to David, nor identified him by name. The letter did not include any information regarding potential conflicts of interest.

4. Respondent admits that he failed to communicate with David Novak between August 10 and August 14, 2017 to confirm that David wished to be jointly represented by Rivera Law Group and that he wanted the firm to appear on his behalf and enter a not-guilty plea.

5. Respondent states that "he understood from Ryan" that he should communicate with Ryan about the status of the criminal prosecution, who would

act as a conduit to David, and that he should not communicate with David. Respondent admits he and his associate never communicated directly with David while Rivera Law Group jointly represented Ryan, Alexandra and David, including during the period when Rivera Law Group sought to withdraw from representation of David. Respondent relied exclusively on Ryan to forward information to and from David.

6. Email communications between Respondent, his firm, and Ryan demonstrate that Respondent would send emails to Ryan about developments in the case, Ryan would separately email with David, and then Ryan would forward to Respondent Ryan's email threads with David.

7. Respondent asserts that these communications also demonstrate that, at least initially, the interests of all three family members were aligned, and that David was kept sufficiently informed about the case.

8. On August 29, 2017 and again on August 30, 2017, approximately two weeks after the Rivera Law Group's initial appearance, the FH prosecutor extended a plea offer that would require David to plead guilty while dismissing charges against Ryan and Alexandra. Ryan forwarded to Respondent and his associate his email exchanges with David about the plea offer. In those email

exchanges Ryan informed David that David should no longer be jointly represented by Rivera Law Group. On August 31, 2017, Respondent's associate sent Ryan an email which stated, in part, "[o]ne area of concern for us is that your interests and David's interests are starting to divert and we may have to withdraw from representing David if it looks like we will have to proceed to trial."

9. The email communications that Ryan forwarded to Respondent and his associate on August 29, 2017 show that both Ryan and David thought of Respondent as Ryan's lawyer. For example, throughout the email threads Ryan consistently refers to Respondent as "my lawyer." Likewise, David consistently refers to Respondent as "your lawyer."

10. On September 1, 2017, Ryan emailed Respondent to inform him that David had rejected the plea and stated Ryan wanted to "remove my dad from representation," and asked what paperwork David would need to sign for Respondent to withdraw.

11. On September 2, 2017, Ryan emailed Respondent and his associate to inform them that he and David "had a fairly severe falling out over this whole situation," and that he had "asked [David] to find another place to live by the end of . . . 2017." On September 5, 2017, Ryan sent Respondent and his associate an

email stating he “will need your help if it comes to eviction – is that something you can assist with?” Respondent responded that date to say David “could argue that we have a conflict,” and Respondent indicated it would be better to refer Ryan to another firm for assistance.

12. On September 25, 2017, Respondent filed a Motion to Withdraw, which was mailed to David. Respondent separately emailed a copy of the motion to Ryan along with a draft consent document for David, and asked Ryan to obtain David’s signature on the consent document, stating “[i]t will help expedite the process.” The Motion to Withdraw stated that “professional considerations require withdrawal.”

13. Although Respondent had received David’s email address on August 29, 2017, he did not use that email address to communicate with David.

14. Respondent admits that he should have moved more quickly to withdraw from representing David, and has stated that he failed to do so because of other commitments.

15. On September 26, 2017, the FH prosecutor objected to Respondent’s withdrawal because trial was scheduled for November 8, 2017, and Respondent’s

motion provided no assurances that David or substitute counsel were aware of and would be prepared to proceed to trial.

16. On September 28, 2017, Respondent emailed Ryan two draft forms of consent for David. One referred to substitute counsel, and the other stated David would represent himself. Both drafts included an attestation that David was aware of and would be ready to proceed to trial on November 8, 2017.

17. David edited the second version, including removing the language that he knew about and would be ready for trial. David forwarded a signed and notarized version to Ryan, who forwarded it to Respondent at 4:03 p.m. on October 3, 2017. As modified by David, the consent form read:

IT IS HEREBY CONSENTED THAT Sal J. Rivera and Rivera Law Group, P.C. be permitted to withdraw as attorney of record for David Novak, in the above-entitled action. I do not wish to be represented by Sal J. Rivera and Rivera Law Group, P.C. I wish to represent myself in this matter, unless I feel that it is necessary to hire an attorney. I have never met or talked to the above attorney on this matter, nor have I ever been served with the complaint nor was I present or aware of any arraignment on this matter. It is necessary under due process to learn of the status of this action. This Motion is not brought for delay, but to allow Defendant to be represented by himself instead of counsel.

THEREFORE, David Novak requests that the Court enter an order allowing Sal J. Rivera and Rivera Law Group, P.C. to withdraw from representing David Novak to allow him to represent himself in this matter.

18. On October 3, 2017, at 5:34 p.m., Respondent's associate attached David's executed consent document to a Reply in Support of Motion to Withdraw. The Reply stated that David "wishes to represent himself and he attests that he will be ready for trial on November 8, 2017." The Reply was mailed to David.

19. A few minutes later, Respondent's associate noticed the changes that David had made to the consent document, and she drafted an amended Reply to delete the erroneous language that suggested David avowed that he knew of and would be ready for trial. This amended Reply was filed at 5:51 p.m., and emailed to the Court and prosecutor. The amended Reply was mailed to David.

20. On October 19, 2017, Respondent filed a motion to dismiss on behalf of Ryan and Alexandra Novak.

21. Respondent's associate, after being informed by Court staff that the motion to withdraw had been granted, mailed David a letter dated October 26, 2017 that informed David of Respondent's withdrawal from representation, and attached the Court order scheduling trial for November 8, 2017, as well as all of the discovery and other filings from the case.

22. Trial commenced on November 8, 2017. Although David appeared at the beginning, he left almost immediately and was tried in absentia. Respondent's associate defended Ryan and Alexandra Novak.

23. David contacted the State Bar by phone on November 16, 2017 and then submitted a written charge on December 10, 2017.

24. Through a December 6, 2017 minute entry, the Court (Judge Robert E. Melton), found that David Novak had been properly served, by mail, through the notice of appearance filed by Rivera Law Group, and through his appearance at trial. The Court rejected the legal arguments made in the motion to dismiss and found David guilty under counts one through three of the criminal complaint, and Ryan and Alexandra guilty under counts four through nine of the criminal complaint.

25. David retained counsel to assist him after the conviction. On December 22, 2017, David's new counsel filed a Motion for Judgment of Acquittal or, in the Alternative, Motion for New Trial, to which the FH prosecutor responded on January 9, 2018. On January 29, 2018, David's new counsel filed a Motion to Vacate Judgment, to which the FH prosecutor responded on February 2, 2018.

26. After a February 5, 2018 hearing, Judge Melton issued a minute entry denying both motions. With respect to “Service of the complaint/representation by Counsel,” Judge Melton wrote:

A long form complaint was filed against [David] along with other, numerous, civil parking tickets. The mode of service was detailed in this court’s Minute Entry dated December 6, 2017. [David] has offered nothing new concerning the court’s previous determination concerning service.

Moreover, [David] has complained about his previous counsel, Sal Rivera, Esq. of the Rivera Law Group, P.C. and has raised an ineffective assistance of counsel argument. While the court is intrigued as to why David Novak was part of the *Notice of Appearance* filed by Mr. Rivera, the fact remains that the Rivera Law Group was not allowed to address the *Notice of Appearance* or their conduct in this case because of an on-going investigation by the State Bar of Arizona due to a complaint filed by Mr. Novak. Mr. Novak has effectively silenced counsel on this issue and this court is unwilling to render a decision on these issues until both sides can be heard and an informed decision made.

27. In early April 2018, David’s new counsel filed a motion for reconsideration, attached to which was Respondent’s written response to David’s bar charge.

28. At a hearing on April 11, 2018, Judge Melton ruled from the bench that he was granting a new trial as to David only, and postponed sentencing of Ryan and Alexandra.

29. David was served at the April 11, 2018 hearing. After filing various motions, David entered into a guilty plea on November 14, 2018. The charges against Ryan and Alexandra have 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 ER 1.4 and ER 1.7.

### **CONDITIONAL DISMISSALS**

The State Bar has conditionally agreed to dismiss allegations regarding ERs 1.9, 1.16, 3.3, 8.4(c) and (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 probation (6 months), and completion of the CLE program “The 10 Deadly Sins of Conflict.”

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 *Standards* 4.33 and 4.43 are the appropriate *Standards* given the facts and circumstances of this matter. *Standard* 4.33, applicable to violations of ER 1.7, provides that a reprimand is appropriate when a lawyer is negligent in determining whether the representation of a client will adversely affect another client. Respondent was negligent by undertaking a joint representation in a criminal matter without discussing with each jointly represented client the benefits and risks of joint representation and obtaining each client's informed consent. When an actual conflict arose, Respondent should have moved more quickly to withdraw from representation. *Standard* 4.43, applicable to violations of ER 1.4, provides that a reprimand is appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client. Respondent was negligent in failing to communicate directly with David Novak at the outset of the representation to confirm that he wished to be jointly represented, and then by relying on Ryan Novak to communicate with David Novak about the status of the criminal prosecution and withdrawing from his representation of David Novak.

**The duty violated**

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

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

For purposes of this agreement the parties agree that Respondent negligently failed to (1) communicate with the client at the outset of the representation to confirm the client wished to be jointly represented, (2) discuss with the client the benefits and risks of joint representation and obtain the client's informed consent to be jointly represented, and (3) communicate directly with the client, rather than through another client, about the course of the representation and Respondent's withdrawal from representing the client, and (4) move more quickly to withdraw from representing the client when an actual conflict arose, 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 actual harm to the client. The client did not wish to be jointly represented and did not want Respondent to enter a notice of appearance and not-guilty plea entered on his behalf, thereby waiving one of the client's arguments with respect to service of the criminal complaint. After the client appeared at the November 8, 2017 trial, he declined to stay, was found guilty, and hired successor counsel to contest his conviction on the grounds of, *inter alia*, improper service.

### **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(i)*: Substantial experience in the practice of law.

*Standard 9.22(d)*: Multiple offenses.

#### **In mitigation:**

*Standard 9.22 (a)*: Absence of a prior disciplinary record. Respondent does not have a prior disciplinary record.

*Standard 9.22 (e)*: Full and free disclosure to disciplinary board or cooperative attitude toward proceedings. Respondent has cooperated fully with the State Bar's screening investigation and has acknowledged that he negligently violated ERs 1.4 and 1.7.

*Standard 9.22(l)*: Remorse. Respondent has acknowledged that he negligently violated ERs 1.4 and 1.7.

### **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 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 with Probation (6 months), the completion of the CLE program “The 10 Deadly Sins of Conflict,” and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

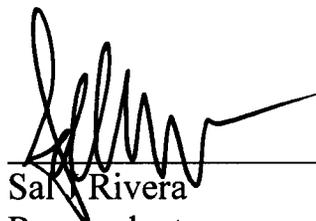
DATED this 6<sup>th</sup> day of December 2018.

STATE BAR OF ARIZONA

  
\_\_\_\_\_  
Kelly J. Flood  
Staff Bar Counsel

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

DATED this 5<sup>th</sup> day of December, 2018.

  
\_\_\_\_\_  
Sal Rivera  
Respondent

DATED this 5<sup>th</sup> day of December, 2018.

Osborn Maledon PA

  
\_\_\_\_\_  
Geoffrey M. T. Sturr  
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 6<sup>th</sup> day of December, 2018.

Copy of the foregoing emailed  
this 6<sup>th</sup> day of December, 2018, to:

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

Copy of the foregoing mailed/emailed  
this 6<sup>th</sup> day of December, 2018, to:

Geoffrey M. T. Sturr  
Osborn Maledon PA  
2929 N. Central Avenue, Suite 2100  
Phoenix, Arizona 85012-2765  
Email: [gsturr@omlaw.com](mailto:gsturr@omlaw.com)  
Respondent's Counsel

Copy of the foregoing hand-delivered  
this 6<sup>th</sup> day of December, 2018, to:

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

by: Marquita Goode  
KJF/mg

**EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,  
Sal J. Rivera, Bar No. 016728, Respondent

File No. 17-3550

### 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,**

**SAL J. RIVERA  
Bar No. 016728**

Respondent.

**PDJ**

**FINAL JUDGMENT AND  
ORDER**

[State Bar No. 17-3550]

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

**IT IS ORDERED** that Respondent, **Sal J. Rivera**, is Reprimanded with Probation for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** Respondent shall be placed on probation for a period of six (6) months.

**IT IS FURTHER ORDERED** Sal J. Rivera shall participate in the following program:

1. TEN DEADLY SINS: Respondent shall complete the CLE program 10 Deadly Sins of Conflict within 90 days from the date of service of this Order. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program by providing a copy of handwritten notes. Respondent should contact the Compliance Monitor at 602-340-7258 to make arrangements to submit this evidence. Respondent will be responsible for the cost of the CLE.

#### **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 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 December, 2018

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

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

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

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Respondent's Counsel

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

Kelly J. Flood  
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Phoenix, Arizona 85016-6266  
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Copy of the foregoing hand-delivered  
this \_\_\_\_\_ day of December, 2018 to:

Lawyer Regulation Records Manager  
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Phoenix, Arizona 85016-6266

by: \_\_\_\_\_  
KJF/mg