

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

ERIK C. SEVERINO
Nevada Bar No. 10221

Respondent.

PDJ 2018-9030

**FINAL JUDGMENT AND
ORDER BY CONSENT**

[State Bar Nos. 16-3003 and 16-3861]

FILED APRIL 25, 2018

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on April 17, 2018, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepted the parties' proposed Agreement. Accordingly:

IT IS ORDERED Respondent, **ERIK C. SEVERINO, Nevada Bar No. 10221**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

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

DATED this 25th day of April, 2018.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copy of the foregoing mailed/mailed
this 25th day of April, 2018, to:

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

Erik C. Severino
Law Office of Erik Severino
7251 W. Lake Mead Blvd., Ste. 300
Las Vegas, NV 89128
Email: erik@bankruptcymail.com
Respondent

by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

ERIK C. SEVERINO
Nevada Bar No. 10221

Respondent.

PDJ 2018-9030

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar Nos. 16-3003 and 16-3861]

FILED APRIL 25, 2018

Under Rule 57(a), Ariz. R. S. Ct.,¹ an Agreement for Discipline by Consent (“Agreement”), was submitted for filing on April 17, 2018. This matter was not submitted to the Attorney Regulation Probable Cause Committee. Erik C. Severino represents himself in this proceeding. The State Bar of Arizona is represented by Senior Bar Counsel, Craig D. Henley.

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 If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Gardner has voluntarily waived the right to an adjudicatory hearing, and waived all

¹ Unless otherwise stated all Rule references are to the Ariz. R. S. 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(s) by email on April 18, 2018. No objections have been received by the PDJ.

The Agreement details a factual basis to support the conditional admissions. Mr. Severino was never a licensed lawyer in Arizona. It is incorporated by this reference. Mr. Severino admits Rule 42 violations of: ER 1.3, Diligence; ER 5.3(a), Responsibilities regarding nonlawyers assistants; ER 7.2(b), Referral fees to nonlawyer; and ER 8.4(d), Conduct prejudicial to the administration of justice.

For purposes of the agreement, the parties stipulate Mr. Severino acted negligently. His negligent conduct caused actual harm to clients, the legal system and the public. The presumptive sanction is reprimand. The parties agree there are no mitigating factors nor aggravating factors and the admitted misconduct warrants a reprimand. The parties further stipulate to the imposition of costs of \$1,200.00, which Mr. Severino shall pay within thirty (30) days.

The purposes of attorney discipline include maintaining the integrity of the profession, protecting the public and the courts, and deterring other attorneys from engaging in similar misconduct. The modified agreement serves those purposes.

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 25th day of April, 2018.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed on this 25th day of April, 2018, to:

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

Erik C. Severino
Law Office of Erik Severino
7251 W. Lake Mead Blvd., Ste. 300
Las Vegas, NV 89128
Email: erik@bankruptcymail.com
Respondent

by: AMcQueen

Craig D. Henley, Bar No. 018801
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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

APR 17 2018

FILED
BY 

Erik C. Severino, Nevada State Bar No. 10221
Law Office of Erik Severino
7251 W. Lake Mead Blvd., Ste. 300
Las Vegas, NV 89128
Telephone (702) 370-0155
Email: erik@bankruptcymail.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**ERIK C. SEVERINO
Bar No. 10221 (NV)**

Respondent.

PDJ 2018-9030

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

State Bar File Nos. 16-3003 and 16-3861

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Erik C. Severino, 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 has not been filed in this matter.

Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant(s) by email on April 13, 2018. Complainant(s) have 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 Complainants' objections, if any, have been or will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, Ariz. R. Sup. Ct.:

1. ER 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client;
2. ER 5.3(a) – A partner shall make reasonable efforts to ensure that the firm had in effect measures giving reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer;
3. ER 7.2(b) – A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may...pay the usual

charges of a legal service plan or a not-for-profit or qualified lawyer referral service...;

4. ER 8.4(d) – A lawyer shall not engage in conduct that is prejudicial to the administration of justice.

Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand.

Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order, and if costs are not paid within the 30 days, interest will begin to accrue at the legal rate.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in the State of Nevada on October 17, 2006.
2. Respondent has never been licensed to practice law in the State of Arizona.

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

COUNT ONE (File No. 16-3003/ Hodyno)

3. In or around 2009, Respondent began the Law Office of Erik Severino, a Nevada law firm, and has always been the sole partner in the firm.

4. In 2009, Severino began using the marketing and office management services of Kimberly Richter, the owner of an Arizona company named Want a Fresh Start LLC (hereinafter referred to as “Richter”).

5. Arizona attorney Kirk Guinn also independently contracted Fresh Start’s marketing services but ended the relationship in 2014.

6. Richter claimed to operate as a private marketing and advertising company that contracted with internet vendors to “purchase” bankruptcy client leads on behalf of attorneys in Colorado, Nevada and Arizona.

7. If potential bankruptcy clients contacted Richter for an initial consultation, Richter would schedule the appointments with the appropriate attorney(s).

8. Richter’s written agreement with the attorneys states that “[i]f an individual selects a service offered by Attorney, [Fresh Start] will recite, collect and process the set, advertised fees of Attorney (Advertised Fees). [Fresh Start]

will immediately remit Advertised Fees to Attorney, less any fees earned by [Fresh Start].”

9. In or around 2014, Respondent decided to expand his law firm’s bankruptcy practice to the State of Arizona.

10. At Respondent’s request, Richter interviewed a number of attorneys licensed in the State of Arizona for employment.

11. In or around October 2014, Respondent hired Arizona attorney Brant Hodyno.

12. During Hodyno’s employment, Richter was responsible for scheduling all client appointments and providing all of the firm’s daily management.

13. Hodyno and Richter would meet with prospective client and ultimately decide whether to accept or decline the representation. Hodyno and Richter would also negotiate and accept fees from the prospective clients.

14. While Hodyno would occasionally discuss legal questions about certain cases with Respondent, Respondent failed to exercise any direct supervision of Hodyno or Richter regarding the firm’s Arizona bankruptcy cases.

15. In January 2015, Hodyno filed his first Chapter 7 bankruptcy case on behalf of one of the firm's Arizona client.

16. In or around mid-2015, the firm had a significant backlog of cases and began receiving a number of client complaints regarding, among other things, the lack of diligence and communication.

17. In or around October 2015, Respondent decided to terminate the firm's presence in Arizona and Hodyno's employment with the firm.

18. Following Respondent's decision to terminate the law firm's Arizona operation, Hodyno attended a lunch meeting with Richter, Guinn and Arizona attorney Chad Walton.

19. At this meeting, Richter informed all three attorneys that she was changing the current employment model and all attorneys would now work independently of Respondent.

20. Richter further informed the attorneys that the legal fees generated would be split 80/20 between the Fresh Start entity and the individual attorney(s).

21. When Hodyno expressed concerns over the proposed "fee-splitting" arrangement, Richter changed the proposal to Hodyno receiving a flat-fee for all bankruptcy filings.

22. Between October and December 2016, Respondent allowed Hodyno to assist finalizing some of the firm's Arizona bankruptcy cases.

23. On or about December 19, 2015, Richter and Guinn met with Hodyno and informed him that he would be terminated if he did not agree to the new "fee-splitting" arrangement.

24. Hodyno accepted the offer, but was terminated on January 6, 2016.

25. As the relationships between the individuals became increasingly contentious, the firm's Arizona bankruptcy cases became dormant and backlogged in the bankruptcy court.

26. In May 2016, the US Trustee's Office requested Hodyno to file a Notice of Separation from the Law Office of Erik Severino. The notices included an attached e-mail from Respondent indicating that his law firm would continue the various representations, even though Respondent was not authorized to practice law in the State of Arizona.

27. To date, the State Bar has not received any bar charges from the firm's Arizona clients except for Wanda Sticht (SB16-3861) herein described in Count Two, below.

COUNT TWO (File No. 16-3861/Sticht)

28. The State Bar incorporates the paragraphs above as though fully set forth herein.

29. In or around 2015, Arizona resident Wanda Sticht paid the firm \$1100.00 to represent her in an Arizona bankruptcy.

30. Despite repeated promises to initiate the bankruptcy proceedings, the firm failed to do so.

31. On April 4, 2017, approximately five months after the initiation of the Sticht bar charge, Respondent refunded Sticht the \$1100.00 of prepaid fees.

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, as set forth below, violated Rule 42, Ariz. R. Sup. Ct.:

1. ER 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client;
2. ER 5.3(a) – A partner shall make reasonable efforts to ensure that the firm had in effect measures giving reasonable assurance that the

- nonlawyer's conduct is compatible with the professional obligations of the lawyer;
3. ER 7.2(b) – A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may...pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service...;
 4. ER 8.4(d) – A lawyer shall not engage in conduct that is prejudicial to the administration of justice.

CONDITIONAL DISMISSALS

The State Bar has not agreed to dismiss any allegations.

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:

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 the following *Standards* are the appropriate *Standards* given the facts and circumstances of this matter:

Standard 4.43 [ER 1.3 – Diligence]

Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

Standard 7.3 [ER 5.3 – Supervision; ER 7.2 - Advertising]

Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public or the legal system.

Standard 6.23 [ER 8.4(d) – Administration of Justice]

Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

The duty violated

As described above, Respondent's conduct violated his duty to his client, the legal system, the public.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent negligently failed to act diligently or properly supervise his Arizona nonlawyers which caused prejudice to the administration of justice in the Arizona bankruptcy court 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 clients, the legal system and the public.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is reprimand. The parties conditionally agree that there are no aggravating or mitigating factors that should be considered.

Discussion

The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction is appropriate.

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter.

This agreement was based on the following:

Respondent is an attorney licensed in the State of Nevada. His attempts to expand his bankruptcy practice to the State of Arizona was unsuccessful due, in part, to his failure to properly supervise his Arizona nonlawyers. The resulting actions and inaction by Respondent caused prejudice to administration of justice in the Arizona bankruptcy courts. To date, the State Bar has not received any additional bar charges against Respondent from any of his firm's clients.

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

DATED this 17th day of April, 2018.

STATE BAR OF ARIZONA



Craig D. Henley
Senior Bar Counsel

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

DATED this 13th day of April, 2018.

Law Office of Erik Severino



Erik C. Severino
Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this ___ day of April, 2018.

Copy of the foregoing emailed
this ___ day of April, 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

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

DATED this _____ day of April, 2018.

Law Office of Erik Severino

Erik C. Severino
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 17 day of April, 2018.

Copy of the foregoing emailed
this 17 day of April, 2018, to:

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

Copy of the foregoing mailed/mailed
this 17th day of April, 2018, to:

Erik C. Severino
Law Office of Erik Severino
7251 W. Lake Mead Blvd., Ste. 300
Las Vegas, NV 89128
Email: erik@bankruptcymail.com
Respondent

Copy of the foregoing hand-delivered
this 17th day of April, 2018, to:

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

by: 
CDH:lr

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Non-Member of the State Bar of Arizona,
ERIK C. SEVERINO, Nevada Bar No. 10221, Respondent

File No's. 16-3003 & 16-3861

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
NON-MEMBER OF
THE STATE BAR OF ARIZONA,

ERIK C. SEVERINO,
Bar No. 10221 (NV)

Respondent.

PDJ

**FINAL JUDGMENT AND
ORDER**

[State Bar Nos. 16-3003 and 16-3861]

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, **Erik C Severino**, is hereby reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, 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 April, 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 April, 2018.

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

Erik C. Severino
Law Office of Erik Severino
7251 W. Lake Mead Blvd., Ste. 300
Las Vegas, NV 89128
Email: erik@bankruptcymail.com
Respondent

Copy of the foregoing emailed/hand-delivered
this ____ day of April, 2018, to:

Craig D. Henley
Senior Bar Counsel
State Bar of Arizona
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Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this ____ day of April, 2018 to:

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

by: _____