

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

WILLIAM S. LAWLER,
Bar No. 028434

Respondent.

PDJ 2019-9050

**FINAL JUDGMENT AND
ORDER**

[State Bar File Nos. 14-3053, 17-0816]

FILED AUGUST 14, 2019

The Presiding Disciplinary Judge accepted the parties' Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct.

Accordingly:

IT IS ORDERED Respondent, **WILLIAM S. LAWLER, Bar No. 028434**, is reprimanded for his conduct in violation of the Arizona Rules of the Supreme Court, as further outlined in the consent documents.

IT IS FURTHER ORDERED Mr. Lawler shall be placed on probation for a period of two (2) years effective the date of this order.

IT IS FURTHER ORDERED Mr. Lawler shall participate and successfully complete the following programs:

1. Trust Account Ethics Enhancement Program (TAEPP): Respondent shall attend a half-day TAEPP. Respondent 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 class. Respondent shall be responsible for the cost of attending the program.

2. Law Office Management Assistance Program (LOMAP): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this order. Respondent shall submit to a LOMAP examination of their office procedures. Respondent shall sign terms and conditions of participation within ten (10) days or receipt of same, including reporting requirements, which shall be incorporated herein. Respondent shall be responsible for any costs associated with LOMAP.

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

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 Respondent shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200 within thirty (30) days from the date of this order. There are no costs or expenses incurred by the Presiding Disciplinary Judge's Office in these disciplinary proceedings.

DATED this 14th day of August, 2019

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 14th day of August, 2019, to:

Brian Holohan
Broening Oberg Woods & Wilson PC
2800 North Central Ave, Suite 1600
Phoenix, AZ 85004
Email: bh@bowwlaw.com
Respondent's Counsel

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

by: **MSmith**

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**WILLIAM S. LAWLER,
Bar No. 028434**

Respondent.

PDJ 2019-9050

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar Nos. 14-3053, 17-0816]

FILED AUGUST 14, 2019

Under Rule 57(a), Ariz. R. Sup. Ct.,¹ an Agreement for Discipline by Consent (“Agreement”), was filed August 22, 2019. A probable cause order was entered on June 5, 2019, but no formal complaint has been filed. The State Bar of Arizona is represented by Senior Bar Counsel, Shauna R. Miller. Mr. Lawler is represented by Brian Holohan, Broening, Oberg, Woods & Wilson, PC.

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. Lawler has voluntarily waived the right to an adjudicatory hearing, and waived all

¹ 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. The complainant was notified by letter of the Agreement on June 21, 2019 and given five days to object under Rule 53(b)(3). No objection has been received.

The Agreement details a factual basis to support Mr. Lawler's conditional admissions. It is incorporated by reference. Mr. Lawler conditionally admits he violated Rule 42, ER 1.7(a) (conflict of interest), 1.15(a) (safekeeping property), and Rules 43(a), 43(b)(1)(A),(B), (C), 43(b)(2)(A),(B),(C), (D) (trust account), and 54(d) (failure to furnish information).² The misconduct is briefly summarized.

Mr. Lawler, who is a securities lawyer, was retained in both counts to assist in the acquisition of publicly traded shell companies for a reverse merger. In both counts, Mr. Lawler failed to manage his client trust account and safeguard client property in accordance with rules and minimum standards governing client trust accounts. Specifically, he failed to safeguard client and third-party property, failed to maintain the required trust account records, and failed to conduct mandatory three-way reconciliations.

In Count Two, he engaged in a conflict of interest by representing a company and then entering into a fiduciary relationship (escrow agent) with the company's

² The parties inadvertently included a violation of ER 8.4(d) (conduct prejudicial to the administration of justice).

investors. This created a significant risk that this representation of the company would be materially limited by his responsibilities to the third-party investors. Respondent also failed to promptly furnish information to the State Bar's investigation.

The agreed upon sanction includes reprimand with two (2) years of probation to include participation in the Law Office Management Assistance Program (LOMAP) and completion of the Trust Account Ethics Enhancement Program (TAEEP).

Rule 58(k) provides sanction shall be determined under the *American Bar Association Standards for Imposing Lawyer Sanctions*, ("*Standards*"). The parties stipulate that the following *Standards* apply:

Standard 4.13, Failure to Preserve the Client's Property is applicable to Mr. Lawler's violation of ER 1.15 and 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.

Standard 4.33, Failure to Avoid Conflicts of Interest is applicable to Mr. Lawler's violation of ER 1.7 and provides 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 7.3, Violations of Duties Owed as a Professional is applicable to Mr. Lawler's violation of Rule 43 and provides 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.

The presumptive sanction is reprimand and his negligent misconduct caused actual harm to a 3rd party investors and potential harm to clients and the legal profession. The parties stipulate in aggravation are factors 9.22(c) pattern of misconduct, 9.22 (d) multiple offenses, and (e) failing to comply with the rules or orders of the disciplinary agency. In mitigation are factors 9.32(a) absence of a prior disciplinary record, 9.32(b) absence of a dishonest or selfish motive, and 9.32(j) delay in disciplinary proceedings.

Upon application of the aggravating and mitigating factors, the PDJ determined the presumptive sanction of reprimand is appropriate and will fulfill the purposes of discipline. Respondent no longer allows the deposit of non-client funds into his trust account and his firm made changes to its trust account practices to comply with Rule 43.

Accordingly:

IT IS ORDERED accepting and incorporating the Agreement and any supporting documents by this reference. The agreed upon sanctions are reprimand with two (2) years of probation, attendance of a half-day Trust Account Ethics Enhancement Program (TAEPP) and participation in the Law Office Management Assistance

Program (LOMAP). A final judgment and order is signed this date.

DATED this 14th day of August 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 14th day of August 2019, to:

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

Brian Holohan
Broening Oberg Woods & Wilson, PC
2800 North Central Ave., Suite 1600
Phoenix, AZ 85004
Email: bh@bowwlaw.com
Respondent's Counsel

by: MSmith

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

AUG 2 2019

FILED

BY

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

Brian Holohan, Bar No. 009124
Broening Oberg Woods & Wilson PC
2800 North Central Ave, Suite 1600
Phoenix, AZ 85004
Telephone 602-271-7713
Email: bh@bowwlaw.com
Respondent's Counsel

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

WILLIAM S. LAWLER
Bar No. 028434

Respondent.

PDJ 2019- 9050

[State Bar File Nos. 14-3053 and 17-0816]

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

The State Bar of Arizona, through undersigned bar counsel, and Respondent, William S. Lawler, who is represented in this matter by counsel, Brian Holohan, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on June 5, 2019, 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.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct. notice of this agreement was provided to Complainants by letter on June 21, 2019. Complainants 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. The State Bar has not received any objections from Complainants.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.7, 1.15, 8.4(d), Rule 54(d) Ariz. R. Sup. Ct. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand and two years' probation¹. 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

¹ This will include TAEPP and a LOMAP evaluation to determine the terms of probation.

rate.² The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit

A.

FACTS

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was licensed to practice law in Arizona having been admitted on March 4, 2011.

COUNT ONE (File no. 14-3053/Paulson)

2. Respondent is a securities lawyer. He was engaged by a company called Peak Marine Holdings, LLC ("PMH"). PMH sought to acquire a publicly traded shell company for a reverse merger, which involves folding the non-public, acquiring company into the existing publicly traded shell which converts the acquiring company into a publicly-traded, SEC-reporting company without going through the public registration process.

3. Respondent was not involved in the business dealings between PMH and its investors.

² 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.

4. Tyler Paulson, ("Paulson") was part of a group who invested with PMH.

5. Paulson filed a bar charge with the State Bar alleging that Respondent represented an investment group and as part of that investment group Paulson had deposited funds into Respondent's trust account to become an investor. Paulson alleged that Respondent disbursed the money without his permission. Paulson also alleged that Respondent caused him to lose money and failed to return the funds deposited into Respondent's trust account.

6. The shares PMH investors received in the acquired public company were initially restricted, i.e. they could not be traded on open markets. Brokerage houses will not accept "deposits" of restricted stock.

7. Respondent issued an opinion letter based upon facts that came from Paulson that indicated the re-sale of the stock met the requirements of an exemption from registration under SEC regulations and therefore the restriction could be removed. The removal of the restriction meant Paulson could sell the stock in an open market. The opinion letters were issued at the request of Respondent's client PMH as an accommodation for the benefit of non-client investors such as Paulson.

8. After the letters were issued, Respondent learned that Paulson had misrepresented certain facts. So, Respondent withdrew his opinion letter as he was obligated to under federal and state securities laws.

9. Prior to the withdrawal of the opinion letters, Paulson wired his own, non-client funds into Respondent's trust account along with instructions as to the disbursement of the investment funds. The first wire for \$80,400 was received on July 12, 2016. On July 13, 2016, Respondent received written instructions from Paulson to disburse those funds, which was done.

10. The first monies deposited on July 12, 2016, were part of Paulson's investment with PMH. The funds were used, as directed by Paulson, as part of the expenses of a contemplated acquisition. Because Paulson was not investing in PMH, he did not want to give the money directly to PMH.

11. Paulson's second wire for \$130,000 was received on or about August 11, 2016. The day before, Paulson had informed Respondent the wire was coming and directing where to transfer the investment funds. The monies were used in connection with another investment transaction Paulson was pursuing with PMH. Unlike the original tranche, these monies were disbursed to a second PMH entity

that Respondent formed for his client, PMH. Respondent disbursed the monies on August 12, 2016, as directed by Paulsen.

12. Paulson's third wire for \$8,350 was received on August 15, 2016. On September 1, 2016, Paulson emailed Respondent requesting that those investment funds be wired to a third party, which was done. The third party was a consultant involved in one of the investment transactions involving PMH.

13. After the opinion letters were withdrawn, Paulson was no longer able to trade the stocks he had purchased because they were once again "restricted." After Respondent withdrew his opinion letter, Paulson's brokers would no longer permit Paulson to hold his shares in his investment account as a deposit.

14. Because the monies were being disbursed in connection with Respondent's client's business transaction, he considered it appropriate to be a depository even though the money belonged to a non-client. Nevertheless, Respondent has ended the practice of accepting non-client monies in connection with his clients' securities transactions.

15. Respondent was asked to provide copies of all the trust account records relating to the activity transacted on behalf of Paulson; the examination covered the period of June to September of 2016 ("the period of review").

16. At the time of the Bar's request, the lawyer at Respondent's firm most knowledgeable about the law firm's trust account software was unavailable. Respondent endeavored to provide information as best as he could.

17. After receiving three extensions to respond, Respondent was asked to provide a response no later than June 16, 2017. Respondent provided some, but not all, of the requested information.

- a. Respondent failed to provide rule compliant monthly three-way reconciliations.
- b. Respondent provided copies of a general ledger and individual ledgers for client PMH, but they did not comply with the minimum standards set forth in Rule 43, Ariz. R. Sup.Ct.; not all entries identify the actual name of the payor for funds deposited nor the name of the payee for funds disbursed.
- c. Transactions on the bank statement and general ledger identified the corresponding client as PMH but were not always reflected on the client ledgers.

d. Respondent failed to provide a copy of a ledger reflecting the activity transacted on behalf of Paulson, despite indicating on May 19, 2017, that one existed.

18. The examination also revealed that at least 11 client accounts held negative client balances at the onset of the period of review that totaled <\$17,715.93>. By June 30, 2016, 26 client accounts had negative balances that totaled <\$56,662.38>.³ Not all “clients” whose accounts held negative balances were Respondent’s clients. And, unbeknownst to Respondent and his firm, the trust accounting software inadvertently moved funds to another account where they remained unused.

19. The examination revealed practice management issues that resulted in funds being inadvertently moved to another account where they remained unused; some of the accounting errors could have been prevented, or at least addressed sooner, if proper three-way reconciliations had been conducted.

20. On August 7, 2017, after the Bar raised questions about the sufficiency of the law firm’s accounting records provided by Respondent, the lawyer at

³ Since the period of review was restricted to a finite time period, there is no conclusion that any funds were knowingly misappropriated.

Respondent's law firm most knowledgeable about the law firm's trust account software supplied the Bar both with the requested records and an explanation of the firm's accounting methods.

21. Respondent's law firm has since centralized responsibility for the maintenance of the trust account in a single member of the firm, who is assisted by a bookkeeper, both of whom Respondent believes to be competent. Moreover, the accounting software issue has been identified and corrected.

22. Based on the forgoing, Respondent conditionally admits violating ER 1.15(a), Rule 43(a), Rule 43(b)(1)(A)(B) and (C), 43(b)(2)(A)(B)(C) and (D), and Rule 54 (d).

COUNT TWO (File no. 17-0816/Lantin)

23. Respondent, a securities lawyer, was hired by a company called Green Rush Brand, LTD ("GRB") to assist in the acquisition of a publicly traded shell company ("the company") for a reverse merger. The GRB fee agreement is dated March 16, 2016 and calls for GRB to pay Respondent a \$13,000 fee, and "upon receipt of such payment [Respondent] will start working on this matter for [GRB]."

24. GRB retained Zero404 in connection with GRB's efforts to acquire the company. Zero404 operated as a management company.

25. Throughout the representation, Respondent worked primarily with Eric Liboiron (Liboiron), the principal of Zero404.

26. Liboiron recruited at least seven investors to provide funds for the acquisition, including David Lantin (“Lantin”) and his two partners. Respondent played no role in Lantin’s efforts to find investors.

27. Liboiron provided the investors with an escrow agreement drafted by Respondent, which states that the investors were engaging Respondent to act as the escrow agent.

28. Respondent and the investors each signed the escrow agreements. Liboiron then provided the investors, including Lantin, with Respondent’s trust account wire transfer information to deposit their investment funds into the GRB account.

29. Lantin and his partners deposited a total of \$41,200 into Respondent’s client trust account between April and August of 2016; however, the shares were never acquired.

30. On October 10, 2016, Complainant sent an email to Respondent asking how to get their funds out of the escrow account.

31. On October 12, 2016, Respondent told Lantin that all he needed was “a signed letter of instruction of the funds provided, the amount they want returned and how they would like to receive the funds.”

32. Respondent did not give any indication that funds were not available or that deductions would be made for legal fees and expenses. The escrow agreements do not address the issue of legal fees or expenses, but charges for legal fees and expenses were being deducted and continued to be deducted from the trust account funds held for GRB.

33. On November 7, 2016, Lantin emailed Respondent a signed letter requesting his funds; Lantin’s partners did the same on unspecified dates.

34. Despite receiving the requests for reimbursements, Respondent did not hold the remaining GRB balance in the trust account pending a resolution.

35. On November 17, 2016, Respondent emailed Lantin stating that Respondent needed him “to sign the attached waiver and release prior to the release of funds.” Respondent drafted the waiver, which states that the signer acknowledges that Respondent was provided funds to purchase the company, however, “such acquisition has not occurred due to circumstances beyond the control of [GRB] and Booth Udall.” The waiver instructs Respondent to release “the balance of the

Escrow Funds, less any fees and expenses incurred as a result of the investigation and attempt [sic] purchase of [the company]”

36. Between April 6, 2017 and May 16, 2017, Respondent sent the waivers to Lantin and his partners. Respondent obtained signed copies of the waivers from Lantin’s partners. Respondent provided these to the State Bar with his May 19, 2017 response. Lantin later provided a copy of his signed waiver to the State Bar.

37. Respondent's fee agreement expressly authorized his fee, but the fee agreement is with GRB, not Lantin and his partners. Respondent, however, believed that the investors had authorized GRB and Zero404 to use the escrowed funds to pay expenses in connection with the acquisition. When Respondent disbursed funds from the trust account as directed by Zero404's principal (including funds to pay his fees), Respondent believed he was authorized to do so.

38. Although Respondent did not have Lantin's and other investors' prior permission at the time to distribute funds, all investors (including Lantin) signed documents ratifying the disbursements. However, by entering into a fiduciary relationship with the investors who were then requested to sign waivers to receive their funds back, Respondent engaged in a conflict of interest.

39. During the investigation in file no. 14-3053, the State Bar obtained trust account records that included the GRB/Zero404 transactions. The examination revealed numerous other disbursements that were not directly related to the legal representation of the client, and the same trust account deficiencies as noted in Count One. As noted in Count One, Respondent has ended the practice of accepting deposits of non-client funds into his trust account, and his firm has made changes to its trust account practices to bring it into compliance with Rule 43.

40. Based on the foregoing, Respondent conditionally admits that his conduct violated Based on the forgoing, Respondent conditionally admits violating ER 1.7(a), 1.15(a), Rule 43(a), Rule 43(b)(1)(A)(B) and (C), 43(b)(2)(A)(B)(C) and (D), and Rule 54 (d).

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 ERs 1.7(a), 1.15(a) and (d), Rule 43(a), Rule 43(b)(1)(A)(B) and (C), 43(b)(2)(A)(B)(C) and (D), and Rule 54 (d).

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss ERs 8.1(b) and 8.4(c). Respondent did not intentionally fail to provide the requested trust account documents, it appears he was not overly familiar with the firm's trust account procedures (ER 8.1). Respondent left out information about his fees and costs, which the investors would be responsible for, when he drafted the escrow agreements; however, it is uncertain that the State Bar could prove that he did so knowingly (ER 8.4(c)).

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 two years' probation. Terms of probation will be created by the State Bar. The probation is not subject to early termination. Furthermore:

(1) The probation period will begin at the time the Final Judgment and Order (“the Order”) is entered by the Presiding Disciplinary Judge and will conclude two years from that date.

(2) Respondent shall participate in and successfully complete the following programs:

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 the Order, 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 service of the Order. Respondent shall submit to a LOMAP examination of their office procedures. Respondent shall sign terms and conditions of participation within ten (10) days or receipt of same, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.

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

Non-Compliance

If 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.

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 4.1, 4.3 and 7.0* are the appropriate *Standards* 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. *Standard 4.33* 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 7.3* provides that a Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed to the profession, and causes injury or potential injury to a client, the public, or the legal system.

Respondent's management of his trust account was not complaint with ER 1.15 and Rule 43, Ariz. R. Sup. Court. Respondent failed to safeguard client and third-party property, failed to keep rule compliant trust account records, and failed to perform mandatory monthly three-way reconciliations.

Respondent had a conflict of interest in violation of ER 1.7(a) when he represented GRB while Respondent acted in a fiduciary capacity with GRB's investors. A conflict of interest existed because there was a significant risk that Respondent's representation of GRB would be materially limited by his responsibilities to the third-party investors.

Respondent violated Rule 54(d) by failing to promptly furnish information requested by the State Bar.

The duty violated

By violating ERs 1.7, 1.15 and Rule 43, Respondent violated his duty to his client, and members of the public. By violated Rule 54(d), Respondent violated his duty to the legal profession.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent negligently managed his client trust account, negligently failed to determine that he had a

conflict of interest by representing GRB while acting as the escrow agent for the investors, and negligently failed to promptly furnish information requested by the State Bar.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was actual harm to the third-party investors (which was ameliorated when the investors ratified the disbursements), potential harm to Respondent's clients by failing to properly manage his trust account, and there was potential harm to the legal profession because it is self-regulated.

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.

Aggravating factors include:

Standard 9.22

- (c) a pattern of misconduct;
- (d) multiple offenses;
- (e) failing to comply with the rules or orders of the disciplinary agency.

Mitigating factors include:

Standard 9.32

- (a) absence of a prior disciplinary record;
- (b) absence of a dishonest or selfish motive;
- (j) delay in disciplinary proceedings.

The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction of Reprimand is appropriate. Based on the *Standards* and considering 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, probation, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 24 day of August 2019

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. [I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.]

DATED this 31st day of July, 2019.



William S. Lawler
Respondent

DATED this 31st day of July, 2019.

Broening Oberg Woods & Wilson PC



Brian Holohan
Respondent's Counsel

Approved as to form and content

Maret Vessella
Chief Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. [I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.]

DATED this _____ day of July, 2019.

William S. Lawler
Respondent

DATED this _____ day of July, 2019.

Broening Oberg Woods & Wilson PC

Brian Holohan
Respondent's Counsel

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 2nd day of August, 2019.

Copy of the foregoing emailed
this 2nd day of August, 2019, 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

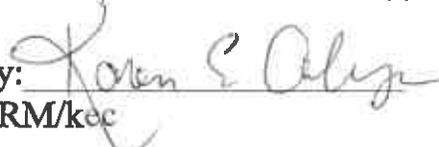
Copy of the foregoing mailed/emailed
this 2nd day of August, 2019, to:

Brian Holohan
Broening Oberg Woods & Wilson PC
2800 North Central Ave, Suite 1600
Phoenix, AZ 85004
Email: bh@bowwlaw.com
Respondent's Counsel

Copy of the foregoing hand-delivered
this 2nd day of August, 2019, to:

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

by:


SRM/koc