

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**JACK B. SCHIFFMAN,
Bar No. 007131,**

Respondent.

PDJ 2019-9037

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 19-1755-N]

FILED JULY 30, 2019

The State Bar filed a notice of non-compliance of Mr. Schiffman with his terms of probation entered in PDJ 2018-9057. After hearing for reasons stated in a separate order, it was found Mr. Schiffman failed to adhere to any of his terms of probation and that the additional sanction of suspension was warranted. Accordingly:

IT IS ORDERED Respondent, **JACK B. SCHIFFMAN, Bar No. 007131** is suspended for is suspended for six (6) months and one (1) day for his conduct in violation of the Arizona Rules of Professional Conduct, and his terms of probation in PDJ 2017-9108 as outlined in the consent documents, effective immediately.

IT IS FURTHER ORDERED pursuant to Rule 72 Ariz. R. Sup. Ct., Mr. Schiffman shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED Mr. Schiffman shall pay any costs of this proceeding awarded to the State Bar of Arizona by the Presiding Disciplinary Judge.

DATED this 30th day of July 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed on this 30th day of July 2019, to:

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BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**JACK B. SCHIFFMAN,
Bar No. 007131**

Respondent.

PDJ 2019-9037

**ORDER IMPOSING
ADDITIONAL SANCTION OF
SIX MONTHS AND ONE DAY
SUSPENSION**

[State Bar No. 19-1755-N]

FILED JULY 30, 2019

On June 25, 2019, the State Bar filed notice pursuant to Rule 60(a)(5)(C), Ariz. R. Sup. Ct., of the alleged material non-compliance with probation by Mr. Schiffman. He filed no response. After time for response had passed, the PDJ order that a hearing on the notice take place on July 30, 2019. On that date, Senior Bar Counsel, David L. Sandweiss appeared for the State Bar. Despite notice, Mr. Schiffman did not appear. Compliance Monitor Yvette Penar was present and available to testify, but in the absence of Mr. Schiffman an offer of proof was accepted.

Findings of Fact

Under an Agreement for Discipline by Consent (Agreement) filed in PDJ 2018-9057, Mr. Schiffman was ordered reprimanded and placed on probation for

two (2) years. The Agreement and resulting decision and judgement that followed required he successfully complete the Arizona State Bar's Trust Account Enhancement Program (TAEHP), Law Office Management Assistance Program Member Assistance Program (LOMAP), Member Assistance Program (MAP), obtain continuing legal education (CLE), and the payment of the State Bar's costs of \$1,200.00 within thirty (30) days.

The judgment of reprimand required he:

1. attend the State Bar's TAEHP, a half-day program. Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of the Order, to schedule attendance at the next available class. Respondent was responsible for the cost of attending the program.
2. contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from that order. He was to submit to a LOMAP examination of his office procedures. Respondent shall sign terms and conditions of participation, including reporting requirements. He was responsible for any costs associated with LOMAP.

3. contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from that order, to schedule a MAP assessment.
4. complete all annual MCLE requirements and specified Continuing Legal Education ("CLE") program(s): within ninety (90) days from that order.
5. contact the Compliance Monitor at 602-340-7258 to arrange to submit this evidence. Respondent shall be responsible for the cost of the CLE.

Mr. Schiffman did none of these.

The judgment also cautioned Mr. Schiffman that if he failed to comply with those terms that the “Presiding Disciplinary Judge may conduct a hearing within thirty (30) days to determine whether Respondent breached a term of probation and, if so, whether to assess an appropriate sanction.”

Legal Analysis

In the underlying case, Mr. Schiffman admitted he failed to competently and diligently represent his client by not researching the issues, failing to serve a disclosure statement, failing to respond to motions for summary judgment, and conduct discovery. Mr. Schiffman agreed he failed to adequately communicate with the client and failed to inform that client of a significant judgment entered against

that client, and failed to inform the client of any post judgment rights. He failed to respond to the arbitrator, failed to adhere to the scope of services, failed to safekeep client funds, and failed to respond to the State Bar inquiries and requests for information. In 2015, the client sued Mr. Schiffman for malpractice and obtained a settlement.

Through the Agreement, the parties stipulated that Mr. Schiffman knowingly violated his duty to his clients and to the legal profession regarding management of his trust account (ER 1.15 and Rule 43) and bar cooperation violations (ER 8.1(b) and Rule 54(d)). His misconduct caused actual harm to clients, the legal profession, and his liability insurer. He negligently violated ERs 1.1, 1.2, 1.3, and 1.4. The presumptive sanction was suspension.

The Agreement was a measured approach by the State Bar to grant Mr. Schiffman an opportunity to prove his resolve to overcome the multiple weaknesses that led to his ethical collapse. He is suspended administratively because he has failed to take his mandatory CLE. He has done nothing to alleviate the concerns that he will continue to injure members of the public. Under Rule 60(a)(5)(B), Ariz. R. Sup. Ct., "Probation may be imposed only in those cases in which there is little likelihood that the respondent will harm the public during the period of probation." Absent Mr. Schiffman receiving the ordered counseling with a behavioral health provider, the public will be at risk.

Conclusion and Order

The State Bar has proven by a preponderance of the evidence that Mr. Schiffman violated his terms of probation by failing to adhere to any of his terms of probation. All of these were material violations and warrant an additional sanction. He is a risk to the public and the profession.

Now Therefore,

IT IS ORDERED finding Mr. Schiffman has continuously violated his terms of probation and is a risk to the public and the profession.

IT IS ORDERED suspending Jack B. Schiffman, Bar No. 007131 for six (6) months and one (1) day effective immediately.

IT IS ORDERED as a precondition for readmission, Mr. Schiffman shall comply with the terms previously agreed to by successfully completing the Arizona State Bar's Trust Account Enhancement Program (TAEHP), Law Office Management Assistance Program Member Assistance Program (LOMAP), Member Assistance Program (MAP), obtaining his mandatory and agreed upon continuing legal education (CLE), and the payment of all costs.

DATED this 30th day of July 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

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by: MSmith