

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**BRENDAN M. BURNS,**  
**Bar No. 022833**

Respondent.

**No. PDJ-2015-9038**

**DECISION ACCEPTING  
CONSENT FOR DISCIPLINE**

[State Bar File No. 14-2541]

**FILED AUGUST 25, 2015**

An Agreement for Discipline by Consent ("Agreement") was filed on August 17, 2015, and submitted under Rule 57(a)(3), of the Rules of the Arizona Supreme Court. The Agreement was reached after the authorization to file a formal complaint. A probable cause order was issued on April 20, 2015 and the formal complaint was filed on April 30, 2015. Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate."

Rule 57(a)(2) 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 If the agreement is not accepted those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding.

The State Bar is the complainant in this matter, therefore, notification to complainants under Rule 53(b)(3), is not necessary. The Agreement details a factual basis for the admissions which is briefly summarized as follows:

During the period of time his divorce was pending, Mr. Burns, on multiple occasions, violated an order of protection obtained by his wife by making repeated calls to her and by entering the family residence in violation of the parties stipulated Rule 47 Temporary Orders. Mr. Burns pled guilty to misdemeanor Criminal Trespass (First Degree) in Pima County Consolidated Justice Court (CR14-404683) and was placed on one (1) year of probation requiring him to attend an offender treatment program. Mr. Burns further pled guilty in Pima County Superior Court case no. CR 20142758-001 to misdemeanor Criminal Trespass and was placed on two (2) years of probation effective December 17, 2014.

Mr. Burns conditionally admits violations of ERs 3.4(c) (knowingly disobey an obligation under rules of tribunal) and 8.4(b) (commit criminal act). The parties stipulate to a sanction of reprimand and two (2) years' probation with the State Bar's Membership Assistance Program ("MAP").

The parties agree that *Standard 5.1* of the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* is most applicable under the circumstances of this matter. *Standard 5.12* provides:

Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.

The presumptive sanction in this matter is suspension and Mr. Burn's knowing transgressions adversely reflected his fitness to practice law. The PDJ now looks to

aggravating and mitigation circumstances supported by the record, which may serve to justify a reduction in the presumptive sanction of suspension. *Standard* 9.21. In aggravation are factors 9.22(d), a pattern of misconduct, and 9.22(k) illegal conduct. In mitigation are factors 9.32(a), absence of prior disciplinary record and 9.32(c) personal or emotional problems. Mr. Burns has provided evidence to support the medical issues he was experiencing at the time of the misconduct. That evidence establishes that Mr. Burns has been receiving treatment since April 2013 for his medical condition. That treatment is consistent and ongoing. Additionally, Mr. Burns' medication having been adjusted, he has been stabilized since July/August 2014 and a recurrence of the misconduct is unlikely. Given this sustained period of recovery, the PDJ finds reprimand and probation meets the objectives of discipline and is satisfied the proposed sanction protects the public. Accordingly:

**IT IS ORDERED** incorporating by this reference the Agreement and any supporting documents. The agreed upon sanctions are: formal reprimand and two years of probation (MAP) and the payment of costs and expenses of the disciplinary proceeding in the amount of \$1,200.00 to be paid within thirty (30) days of the final order. These financial obligations shall bear interest at the statutory rate of ten per cent per annum until paid.

**IT IS FURTHER ORDERED** the Agreement is accepted. Costs as submitted are approved for \$1,200.00 and shall be paid within thirty (30) days of the final judgment and order. Now therefore, a final judgment and order is signed this date. Mr. Burns is reprimanded.

**IT IS FURTHER ORDERED** sealing Exhibit B of the Agreement pursuant to

the Protective Order filed on July 17, 2015 pursuant to Rule 70(g), Ariz. R. Sup. Ct.

**DATED** 25th day of August, 2015.

*William J. O'Neil*

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

Copies of the foregoing mailed/emailed  
this 25th day of August, 2015.

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**BRENDAN M. BURNS,**  
**Bar No. 022833**

Respondent.

**No. PDJ-2015-9038**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 14-2541]

**FILED AUGUST 25, 2015**

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on August 17, 2015, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

**IT IS ORDERED** Respondent, **Brendan M. Burns**, is hereby reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective 30 days from the date of this order.

**IT IS FURTHER ORDERED** Mr. Burns shall be placed on probation for a period of two (2) years with the State Bar's Member Assistance Program ("MAP").

**IT IS FURTHER ORDERED** Mr. Burns shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order, to schedule a MAP assessment. The Compliance Monitor shall develop terms and conditions of participation if the results of the assessment so indicate and the terms, including reporting requirements, shall be incorporated herein. Mr. Burns shall be responsible for any costs associated with participation with compliance. Probation is

effective thirty (30) days from the date of this order and will conclude two (2) years from that date.

**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 service of this order. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

**DATED** this 25th day of August, 2015.

*William J. O'Neil*

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

Copies of the foregoing mailed/emailed  
this 25th day of August, 2015.

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