

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**STEPHEN L. DUNCAN,  
Bar No. 014403**

Respondent.

**PDJ-2015-9069**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 14-2708]

**FILED DECEMBER 7, 2015**

The Presiding Disciplinary Judge, having accepted the Agreement for Discipline by Consent as modified and filed under Rule 57(a), Ariz. R. Sup. Ct.,

Accordingly:

**IT IS ORDERED** Respondent, **Stephen L. Duncan, Bar No. 014403**, is suspended for sixty (60) days effective December 1, 2015.

**IT IS FURTHER ORDERED** upon reinstatement, Mr. Duncan shall be placed on probation for a period of one (1) year.

**IT IS FURTHER ORDERED** Mr. Duncan shall complete his stipulated CLE prior to the termination of his probation.

**NON-COMPLIANCE LANGUAGE**

If Mr. Duncan 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, under Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within thirty (30) days to determine whether a term of probation has been breached and, if so, to recommend a sanction. If there is an allegation that Mr. Duncan 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** under Rule 72 Ariz. R. Sup. Ct., Mr. Duncan shall immediately comply with the requirements relating to notification of clients and others.

**IT IS FURTHER ORDERED** Mr. Duncan shall pay the costs and expenses of the State Bar of Arizona for \$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 with these disciplinary proceedings.

**DATED** this 7<sup>TH</sup> day of December, 2015.

*William J. O'Neil*

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

Copies of the foregoing were mailed/emailed  
this 7<sup>th</sup> day of December, 2015 to:

Stephen P. Little  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: lro@staff.azbar.org

Edward F. Novack  
Polsinelli PC  
1 E. Washington Street, Suite 1200  
Phoenix, AZ 85004-2568  
Email: enovak@polsinelli  
Respondent's Counsel

Lawyer Regulation Records Manager  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: [lro@staff.azbar.org](mailto:lro@staff.azbar.org)

by: MSmith

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

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

**STEPHEN L. DUNCAN,  
Bar No. 014403**

Respondent.

**PDJ-2015-9069**

**ORDER ACCEPTING MODIFIED  
AGREEMENT FOR DISCIPLINE BY  
CONSENT**

[State Bar No. 14-2708]

**FILED DECEMBER 7, 2015**

A Probable Cause Order issued on May 21, 2015, and the formal complaint was filed on July 23, 2015. Counsel for Mr. Duncan filed his Answer on August 13, 2015. An Agreement for Discipline by Consent ("Agreement") was filed by the parties on November 12, 2015, and submitted under Rule 57(a)(3), Ariz. R. Sup. Ct.<sup>1</sup> Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate."

On November 25, 2015, the PDJ recommended modification to the agreement. 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.

Under Rule 53(b)(3), notice of this Agreement was provided to the complainant(s) by letter on October 20, 2015. Complainant(s) were notified of the

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<sup>1</sup> Unless stated otherwise, all rules referenced are the Arizona Rules of the Supreme Court.

opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. No objections were received. The conditionally admitted misconduct is summarized.

In 1976 Anthony Randazzo was convicted of Burglary, Grand Theft, Aggravated Assault, and Obstruction in Mohave County Superior Court. In early 2014, the Chief Deputy Prosecutor in Mohave County informed Mr. Randazzo's wife, Carrie Randazzo, there would be no opposition by the State to an application to set aside Mr. Randazzo's conviction. Mrs. Randazzo filed a *pro se* application on her husband's behalf on February 27, 2014.

After filing the *pro se* application, Mr. Randazzo hired Mr. Duncan on or about March 18, 2014, to set aside his criminal conviction. The written agreement called for a non-refundable flat fee of \$10,000.00, which was paid in full on or about April 7, 2014. It was admitted in the answer by Mr. Duncan that the State, on May 5, 2014, filed a Response to that *pro per* application indicating it did not oppose the motion to set aside. Mr. Duncan, on May 13, 2014, filed a Notice of Appearance and Motion to Continue the pending deadline for disposition for 45 days. In his answer to the complaint, he admitted that on May 15, 2014, the Court continued the matter for 45 days stating the application to set aside the conviction would have been granted but for Mr. Duncan's motion to continue.

The parties agree that on at least two separate occasions, Mr. Duncan made partially false statements to his client. On June 23, 2014, he misrepresented he had "met with the judge and the State." This appears to have assured his next statement would be construed to have come from some billable effort on his part. He stated "that the judge has indicated that he is going to grant the requested relief." As he

had not met with the judge or the State regarding this matter, the inference was misleading. Mr. Duncan filed nothing further. On July 7, 2014, the Judge approved the application.

When his client requested an accounting of his work, Mr. Duncan falsely stated he had worked 28.9 hours of work on the case. This included an entry for March 14, 2014, claiming "Travel to and from Kingman, Arizona, preparation for and Meeting with Deputy County Attorney Jack Zack." This was false. Mr. Duncan knew he had not met with the Deputy County Attorney regarding the client's case. There was another false entry for June 20, 2014. There Mr. Duncan falsely claimed he had traveled to and from Kingman, and met with Judge Conn and Prosecutor Jack Zack." This was also intentionally misleading. This misconduct appears to be not just a matter of dishonest billing, but an intentional overstating of the status of the matter to Mr. Duncan's financial benefit.

Mr. Duncan withdrew on July 31, 2014. In his answer to the complaint, he admitted that on September 5, 2014, his client filed a petition for fee arbitration with the State Bar. Mr. Duncan sent his client a letter on September 10, 2014, and provided a partial refund with an accounting. This new accounting differed from the prior billing by removing the language that stated he had met with the prosecutor and the judge. Mr. Duncan then received the request for fee arbitration and refunded the entire balance of the retainer.

Mr. Duncan conditionally admitted his misconduct violated Rule 42, ER 8.4(c) (engage in conduct involving dishonesty, fraud, deceit or misrepresentation). The parties stipulated to a sanction of a sixty (60) day suspension and requested it be effective November 15, 2015, followed by one (1) year of probation upon

reinstatement, the payment of \$1,200.00 in costs to be paid within thirty (30) days and initially three (3) hours continuing legal education in ethical billing and collecting fees besides his annual requirement.

For the reasons stated in the November 25, 2015, request to modify, the PDJ recommended additional CLE to better address the underlying cause for the untruthful statements made. Absent the demonstrable remorse and mitigating actions of Mr. Duncan in this matter, the agreement would likely not have been accepted without a longer suspension. The parties formally accepted that modification by pleading dated November 30, 2015.

Now Therefore,

**IT IS ORDERED** incorporating the Agreement, the stipulation accepting modified agreement for discipline by consent and any supporting documents by this reference. The agreed upon sanctions are: a sixty (60) day suspension effective December 1, 2015, (Mr. Duncan and his counsel certify he has already voluntarily absented himself from the practice of law), followed by one (1) year of probation upon reinstatement, the payment of \$1,200.00 in costs to be paid within thirty (30) days and nine (9) hours continuing legal education in the stipulation accepting modified agreement which shall be besides his annual MCLE requirements. The financial obligations shall bear interest at the statutory rate.

**IT IS FURTHER ORDERED** the Agreement is accepted. All case management conference orders are vacated, including the hearing. Costs as submitted are approved for \$1,200.00, and shall be paid within thirty (30). Now therefore, a final judgment and order is signed this date. Mr. Duncan is suspended for sixty (60) days

effective December 1, 2015.

**DATED** 7<sup>th</sup> day of December, 2015.

*William J. O'Neil*

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

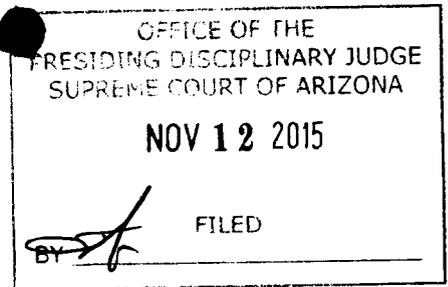
Copies of the foregoing were mailed/emailed  
this 7<sup>th</sup> day of December, 2015 to:

Stephen P. Little  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: lro@staff.azbar.org

Edward F. Novack  
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1 E. Washington Street, Suite 1200  
Phoenix, AZ 85004-2568  
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Respondent's Counsel

Lawyer Regulation Records Manager  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: lro@staff.azbar.org

by: MSmith



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Respondent's Counsel

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**STEPHEN L DUNCAN,**  
**Bar No. 014403,**

Respondent.

**PDJ 2015-9069**

State Bar File Nos. **14-2708**

**AGREEMENT FOR DISCIPLINE BY  
CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Stephen L Duncan, who is represented in this matter by counsel, Edward F Novak, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A formal complaint was filed on July 23, 2015. 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 letter on October 19, 2015. 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.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER 8.4(c). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: A 60 day suspension and one year of probation. The terms of probation shall include, but are not limited to, Respondent taking 3 hours of CLE related to ethically billing and collecting fees. Respondent has requested, and the State Bar has no objection to, a suspension start date of November 15, 2015. Accordingly, the parties hereby waive the 30 day requirement for the ordered suspension to become effective. 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.

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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.

## FACTS

### GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on October, 24, 1992.

#### **COUNT ONE (File no. 14-2708/ Zack)**

2. On or about January 7, 1976, Anthony Randazzo ("Mr. Randazzo") was convicted of Burglary, Grand Theft, Aggravated Assault and Obstruction charges in Mohave County Superior Court Case CR 3370.
3. In or about early 2014, Complainant, the Chief Deputy prosecutor in Mohave County informed Carrie Randazzo ("Ms. Randazzo") that his office would not oppose a motion to set aside the convictions.
4. On February 27, 2014, Ms. Randazzo filed on behalf of her husband a pro per form motion to set aside his conviction, pursuant to ARS § 13-908.
5. On that same day, Ms. Randazzo told an immigration lawyer, Romben Aquino, that she had filed the Motion to Set Aside. Mr. Aquino reiterated his advice to her that she hire a criminal lawyer familiar with immigration law to obtain a review of the conviction because the Arizona set aside statute was rehabilitative in nature and would not be accepted by the USCIS for immigration enforcement purposes.
6. On or about March 18, 2014, Mr. Randazzo retained Respondent to represent him. The written fee agreement defined the scope of representation as being "for the purpose of drafting a Motion to Set Aside Conviction in the above-referenced matter before the Mohave County Superior Court."

7. Despite the language of the fee agreement, Respondent maintains that he understood and planned to attack the constitutionality of the underlying conviction in order to obtain relief that would be acceptable to USCIS and that he had performed research in furtherance of a Petition for Rule 32 relief.
8. The written fee agreement called for a \$10,000 non-refundable, flat-fee. Respondent maintains the amount of the fee would have been reasonable for the preparation and prosecution of a Petition for Rule 32 relief.
9. On or about April 7, 2014, Ms. Randazzo paid the \$10,000 fee in full.
10. On May 13, 2014, Respondent filed a Notice of Appearance in the Set Aside action and a Motion to Continue the pending deadline for ruling on the matter. The Motion to Continue requested an additional 45 days to submit revised pleadings to the Court.
11. On June 23, 2014, Respondent sent Ms. Randazzo an email stating, "Hope all is well. I went to Kingman and obtained the documents you filed, met with the judge and the State. The Judge has indicated that he is going to grant the requested relief. However, he will not make his ruling until after the July 4<sup>th</sup> holiday. I will keep you posted."
12. This statement was partially false. Respondent had traveled to Kingman on that date, but had not met with Judge Conn or Deputy County Attorney Jace Zack regarding Mr. Randazzo's case.
13. On July 7, 2014, the pro per Application to set Aside filed by Ms. Randazzo was granted by the Court without further filings by Respondent.
14. On July 10, 2014, Respondent emailed Ms. Randazzo, and told her that the Application to Set Aside had been granted with the exception of gun rights.

15. On July 11, 2014, Ms. Randazzo emailed Respondent asking whether she would receive a partial refund of the \$10,000 fee since the Motion to Set Aside had gone through with no problems or even having to show up.
16. On July 15, 2014, Respondent emailed Ms. Randazzo indicating that he had not yet done a final tally, but that it looked like his work would exceed the amount of the retainer paid, but that the matter was handled as a flat fee.
17. On July 25, 2014, Ms. Randazzo emailed Respondent requesting an accounting of hours worked.
18. On July 29, 2014, Respondent provided a written accounting to Mr. Randazzo that claimed 28.9 hours of work for \$10,115.00 in fees and \$3.50 in costs, for a total accounting of \$10,118.50.
19. Respondent's accounting included an entry for 3/14/2014 in which he claimed "Travel to and from Kingman, Arizona, preparation for and Meeting with Deputy County Attorney Jace Zack."
20. This entry was false, as Respondent did not meet with Deputy County Attorney Jace Zack regarding Mr. Randazzo's case on that date.
21. Respondent's accounting also included an entry for 6/20/2014 in which he claimed "Travel to and from Kingman; preparation for meeting with Judge Conn and Prosecutor Jace Zack; obtain documents from Clerk. Notes to file."
- 22.
23. This entry was false, as Respondent did not meet with Deputy County Attorney Jace Zack or Judge Conn on that date. On July 31, 2014, Respondent filed a Motion to Withdraw, which was granted by Judge Conn on August 1, 2014.

24. On September 10, 2014, Respondent sent Mr. Randazzo a letter indicating he was closing his file and providing a partial refund.
25. Attached to the letter was a new accounting that differed from the prior accounting provided. This accounting contained additional billing entries that were not present in the prior accounting, and some billing entries had been changed.
26. The 3/14/2014 entry for 6.9 hours (\$2,415) for "Travel to and from Kingman, Arizona, preparation for and Meeting with Deputy County Attorney Jace Zack" was now billed as 6 hours for "Travel to and from Kingman Arizona" and was "NO CHARGE[D]"
27. The 6/20/2014 entry for 7.3 hours (\$2,555) for "Travel to and from Kingman; preparation for meeting with Judge Conn and Prosecutor Jace Zack; obtain documents from Clerk. Notes to file" was split, now being billed as 1.3 hours (\$455) for "Preparation for and meeting with Judge Conn and Prosecutor Jace Zack. Obtain documents from clerk. Notes to file." A separate entry for "Travel to and from Kingman" in the amount of 6 hours was "NO CHARGE[D]"
28. The new accounting claimed 29.8 hours of work, but due to "NO CHARGE" entries, only claimed \$5,985 in fees and \$3.50 in costs for a total of \$5,988.50.
29. Also enclosed was a partial refund check in the amount of \$4,081.50.
30. After sending a refund check to the client, Respondent received a State Bar Fee Arbitration request in the mail. In response to the client's continued complaint about the amount of the fee, Respondent refunded the remaining portion of the \$10,000 retainer to the client. Only after refunding the entire

amount did Respondent receive the bar charge letter from the State Bar. The Bar charge letter was submitted by the Deputy County Attorney, Jace Zack, who had been in contact with with Ms. Randazzo during Mr. Duncan's representation of Mr. Randazzo.

#### **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 8.4(c).

#### **CONDITIONAL DISMISSALS**

The State Bar has conditionally agreed to dismiss ERs 1.5(a) 1.15(d), 1.16(d) and 8.4(d). These conditional dismissals are being made in recognition of and in exchange for the admissions being made in this consent agreement. Such dismissals are made in the interest of justice and in consideration of the factual disputes that may arise should the matter proceed to a contested hearing.

#### **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: A 60 day suspension and one year of probation. The terms of probation shall include, but are not limited to, Respondent taking 3 hours of CLE related to ethically billing and collecting fees.

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 *Standard* 4.62 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 4.62 provides that suspension is

generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to a client. Respondent's conduct in sending a billing statement that contained entries for meetings that did not occur constituted a knowing deception that resulted in potential injury to his clients (the injury would have been actual but for Respondent ultimately refunding the full fee).

**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 knowingly misled his client and failed to timely refund unearned fees, 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 potential injury only to Respondent's client.

**Aggravating and mitigating circumstances**

The presumptive sanction in this matter is suspension. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

**In aggravation:**

*Standard 9.22(b) – Dishonest or selfish motive.* Respondent is admitting to facts that involve dishonesty.

*Standard 9.22(i) – Substantial experience in the practice of law.* Respondent was admitted to practice in Arizona on October 24, 1992.

**In mitigation:**

*Standard 9.32(a) – Absence of prior discipline.* Respondent has no prior discipline. Respondent has a prior diversion from 2010, but this does not constitute discipline.

*Standard 9.32(d) – Timely effort to make restitution.* Respondent refunded all of the clients' funds prior to receiving the bar complaint from the State Bar.

*Standard 9.32(e) – Cooperative attitude with disciplinary proceedings.* Respondent has been compliant with all State Bar requests and has fully participated in the disciplinary process.

*Standard 9.32(g) – Character or Reputation.* Respondent has the support of character reference letters attached to this Agreement as Exhibit C.

**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: While Respondent is admitting to knowing misstatements in his communications to his client, he denies his misstatements were made in connection with his untimely refund or as a scheme to defraud his client, but rather, were due to his failure to accurately and properly keep track of his time. It is also of note that Respondent fully refunded the clients' funds prior to Bar

intervention. Given these facts, the parties agree that a short-term suspension would be more appropriate than either a long term one or a Reprimand.

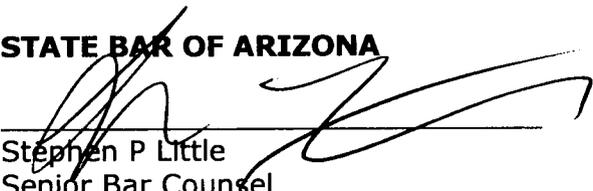
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

### **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 a Short-Term Suspension to begin November 15, 2015, one year of probation, and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

**DATED** this 11 day of November 2015

**STATE BAR OF ARIZONA**

  
\_\_\_\_\_  
Stephen P Little  
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 10<sup>th</sup> day of November, 2015.



Stephen L Duncan  
Respondent

**DATED** this 11 day of November, 2015.



Edward F Novak  
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 12<sup>th</sup> day of November, 2015.

Copy of the foregoing emailed  
this 12<sup>th</sup> day of November, 2015, 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 12<sup>th</sup> day of November, 2015, to:

Edward F Novak  
Polsinelli PC  
1 E Washington St Ste 1200  
Phoenix, AZ 85004-2568  
Email: [enovak@polsinelli.com](mailto:enovak@polsinelli.com)  
Respondent's Counsel

Copy of the foregoing hand-delivered  
this 12<sup>th</sup> day of November, 2015, to:

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

by:   
SPL: SB

**EXHIBIT A**

**Statement of Costs and Expenses**

In the Matter of a Member of the State Bar of Arizona,  
Stephen L. Duncan, Bar No. 014403, Respondent

File No. 14-2708

**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**

  
\_\_\_\_\_  
**Sandra E. Montoya**  
**Lawyer Regulation Records Manager**

\_\_\_\_\_  
*10-16-15*  
**Date**

**EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**STEPHEN L DUNCAN,**  
**Bar No. 014403,**

Respondent.

**PDJ 2015-9069**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 14-2708]

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, **Stephen L Duncan**, is hereby suspended for a term of sixty days for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective November 15, 2015.

**IT IS FURTHER ORDERED** that, upon reinstatement, Respondent shall be placed on probation for a period of 12 months.

**IT IS FURTHER ORDERED** that, in addition to annual MCLE requirements, Respondent shall complete the following Continuing Legal Education ("CLE") program(s): "How to Get Paid Ethically" (3hr Ethics) within 90 days from the date of service of this Order/Agreement. Respondent shall provide the State Bar Compliance Monitor with evidence of completion of the program(s) 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.

**IT IS FURTHER ORDERED** that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of any reinstatement hearings held.

**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, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

**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 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 November, 2015

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**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 November, 2015.

Copies of the foregoing mailed/emailed this \_\_\_\_\_ day of November, 2015, to:

Edward F Novak  
Polsinelli PC  
1 E Washington St Ste 1200  
Phoenix, AZ 85004-2568  
Email: enovak@polsinelli.com  
Respondent's Counsel

Copy of the foregoing emailed/hand-delivered this \_\_\_\_\_ day of November, 2015, to:

Stephen P Little  
Bar Counsel - Litigation  
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)

Copy of the foregoing hand-delivered this \_\_\_\_\_ day of November, 2015 to:

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

by: \_\_\_\_\_

**EXHIBIT C**



THE ATTICUS BUILDING  
650 NORTH 3RD AVENUE  
PHOENIX, AZ 85003

November 3<sup>rd</sup>, 2015

The Honorable William J. O'Neil  
Supreme Court of Arizona  
1501 W. Washington Street  
Phoenix, AZ 85007

Dear Judge O'Neil;

I am writing as a character reference for Stephen Duncan. I have known Steve professionally and socially for over twenty years. I hired him to be an assistant Attorney General and he did an excellent job. I have shared office space with him several times and we have worked together on many cases.

I have always found Steve Duncan to be an outstanding lawyer with the highest ethics. He cares about his clients and works hard for them. He is honest and always tries to do the right thing in any situation.

Sincerely,

A handwritten signature in black ink, appearing to read "Grant Woods".

Grant Woods

GW:seb

**PERSONAL AND UNOFFICIAL**

November 1, 2015

Hon. William O'Neil  
Presiding Disciplinary Judge  
Arizona Supreme Court  
1501 W. Washington  
Phoenix, Arizona 85007

Re: Steven Duncan

Dear Judge O'Neil:

Ed Novak requested that I submit a reference letter for Steven Duncan. I have no specific information about the pending matter which brings Mr. Duncan before you. However, I have known Mr. Duncan for many years and he has appeared in my court on a number of criminal cases, including a capital murder case.

It has been my experience that Mr. Duncan is professional, prepared, knowledgeable, thorough, conscientious, considerate and honest. He appears to have an excellent working relationship with his clients, co-counsel, and opposing counsel. Mr. Duncan is well-regarded by court staff. I have never heard a derogatory comment from anyone about him. In the cases he had in my court, he obtained excellent results for his clients.

If you have any questions regarding my experiences with Mr. Duncan, please do not hesitate to contact me directly. Thank you for your consideration.

Sincerely,

Sherry K. Stephens  
Judge of the Superior Court  
Maricopa County Superior Court  
602-506-4818

November 5, 2015

Judge William O'Neal,

I have heard that you are considering what discipline to impose on Steve Duncan for his conduct on a Mohave County case. While I do not know any of the circumstances of the Mohave County case, and I regret that Steve has put himself before you, I did want to ask you to consider aspects of the Steve Duncan I know.

Steve and I were colleagues at the Attorney General's Criminal Division from 1994 until I left in 2000. He has appeared before me on several cases since then, including a lengthy capital trial in *State v. Delahanty*. I have always known Steve to be polite, prepared, and professional, and a caring advocate whose word you could trust. I was frankly surprised that he has come before you and I have to believe those circumstances to be aberrational.

Respectfully

Warren J. Granville