

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**ERIC G. BJOTVEDT,
Bar No. 019679**

Respondent.

PDJ 2016-9086

FINAL JUDGMENT AND ORDER

[State Bar Nos. 15-1212 and 15-2619]

FILED DECEMBER 20, 2016

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on November 21, 2016, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS ORDERED Respondent, **Eric G. Bjotvedt**, is hereby reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective the date of this order.

IT IS FURTHER ORDERED Mr. Bjotvedt shall be placed on probation for a period of two (2) years with the State Bar's Law Office Management Program (LOMAP) effective the date of this order. Mr. Bjotvedt shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this order. Mr. Bjotvedt shall submit to a LOMAP examination of his office procedures. Mr. Bjotvedt shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.

IT IS FURTHER ORDERED Mr. Bjotvedt shall pay restitution of \$1,600.00 to the Complainants in Count Two within thirty (30) days from the date of this order.

IT IS FURTHER ORDERED Mr. Bjotvedt shall 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 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 20th day of December, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 20th day of December, 2016, to:

Eric G. Bjotvedt
Law Office of Eric G. Bjotvedt
3507 N. Central Ave., Ste. 100
Phoenix, AZ 85012-2121
Email: Eric.Bjotvedt@gmail.com
Respondent

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

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**ERIC G. BJOTVEDT,
Bar No. 019679**

Respondent.

PDJ-2016-9086

**DECISION AND ORDER
ACCEPTING DISCIPLINE BY
CONSENT**

[State Bar Nos. 15-1212 & 15-2619]

FILED DECEMBER 20, 2016

Probable cause orders issued on June 16 and July 22, 2016. A complaint was filed on September 8, 2016. An Agreement for Discipline by Consent (Agreement) was filed on November 21, 2016 and submitted pursuant to Rule 57(a)(3) Ariz. R. Sup. Ct.¹ Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject, or recommend the agreement be modified." Rule 57(a)(3)(b).

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.

Under Rule 53(b)(3), notice of this Agreement was provided to the complainants by mail and email on November 21, 2016 and the opportunity to file a written objection within five (5) days. On November 30, 2016, the State Bar filed the objection of the complainants. The objections state Mr. Bjotvedt abandoned

¹ Unless otherwise stated, all rule references are to the Rules of the Supreme Court of Arizona.

them, assuring their defense of a valid California issued ID card would not be investigated. It is admitted Mr. Bjotvedt never appeared for any of the court hearings in the criminal matter in which he was retained by them and caused actual harm.

The Agreement details a factual basis to support the admissions to the charges and is briefly summarized. In Count I, Mr. Bjotvedt represented clients in an immigration matter and was paid \$4,000. They completed the necessary forms and information with money order payable to the USA Department of Homeland Security in 2013. A receipt from the United States Citizenship and Immigration Service dated September 12, 2013, gives confirmation of their payment. His clients followed his directions to work with his secretary Isidra. Mr. Bjotvedt did no further work on their case. When Isidra demanded new money orders payable to DHS in May, 2015, they filed a complaint with the State Bar.

When Mr. Bjotvedt was contacted by the State Bar he argued he had no such clients by that name. He knew nothing of the progress of the case but apparently later acknowledged the initial client intake and the letter he sent directing them to work with his secretary, Isidra. When he found out his secretary was running a side business and steering complainants away from him, he only scolded her and took no other action because of his great dependence on her. Complainants were not refunded their monies.

In Count II, his client was a Mexican national in the U.S. illegally. He was charged with having a false California driver's license. The public defender represented him. Yet when Mr. Bjotvedt was hired to assist the client, he accepted an initial payment of \$1,200 and did nothing beneficial. He filed no notice of appearance in court and did not notify the public defender he had been retained. Mr.

Bjotvedt did not appear for any hearings. His fee agreement excluded any immigration work, yet in accounting for his fees to his client, he listed immigration tasks. There appears to be nothing of benefit that Mr. Bjotvedt did for his client.

Mr. Bjotvedt conditionally admits he violated Rule 42, ER 5.3 in Count One, and Rules 42, ERs 1.2, 1.3, 1.4, 1.5(a) and (b) and 1.16(d) in Count Two.

The parties stipulate to a sanction of reprimand, two years of probation with the State Bar's Law Office Management Assistance Program (LOMAP), restitution, and costs of these proceedings. The parties agree Mr. Bjotvedt was negligent and caused actual and potential serious harm to his clients and the profession. They cite to the applicability of *Standards* 4.43, 4.63 and 7.3, from the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* which each call for reprimand.

The parties agree the aggravating factors include selfish motive, multiple offenses, vulnerable victims and substantial experience in the practice of law. In mitigation they refer to an absence of prior disciplinary record, absence of a dishonest motive, full and free disclosure to disciplinary board or cooperative attitude toward proceedings and his character or reputation from his work with the State Bar and pro bono work. The parties refer to a timely good faith effort to make restitution or to rectify consequences of his misconduct but fail to state those efforts. As a result, it is not considered as a factor.

The PDJ finds that the proposed sanctions of reprimand, probation, restitution, and the payment of costs meet the objectives of attorney discipline and the Agreement is accepted. The reprimand is effective immediately. The Agreement for Discipline by Consent and any attachments are incorporated by this reference. A final judgment and order is signed this date.

IT IS ORDERED Respondent, **Eric G. Bjotvedt, Bar No. 019679**, is reprimanded and placed on two (2) years of probation (LOMAP) for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED Mr. Bjotvedt shall pay full restitution of \$1,600.00 within thirty (30) days from the date of this order.

IT IS FURTHER ORDERED Mr. Bjotvedt 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 20th day of December, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 20th day of December, 2016, to:

Counsel for State Bar
David L. Sandweiss
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: lro@staff.azbar.org

Respondent
Eric G. Bjotvedt
Law Office of Eric G. Bjotvedt
3507 N. Central Ave., Ste. 100
Phoenix, AZ 85012-2121
Email: eric.bjotvedt@gmail.com

by: AMcQueen

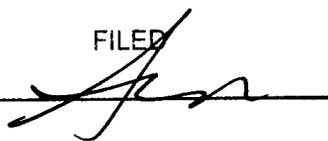
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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

NOV 21 2016

FILED

BY



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Eric.bjotvedt@gmail.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**ERIC G. BJOTVEDT,
Bar No. 019679,**

Respondent.

PDJ 2016-9086

**State Bar File Nos. 15-1212 and
15-2619**

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

The State Bar of Arizona through undersigned Bar Counsel, and Respondent Eric G. Bjotvedt 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. Probable cause orders were entered on June 16, 2016 in 15-1212, and on July 22, 2016 in 15-2619; a two-count formal complaint was filed on September 8, 2016. 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 complainants by mail and email on November 21, 2016. 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. 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, ER 5.3 in Count One (15-1212) and ERs 1.2, 1.3, 1.4, 1.5(a) and (b), and 1.16(d) in Count Two (15-2619). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand; Probation for two years with the State Bar's Law Office Management Assistance Program ("LOMAP"); and Restitution of \$1,600 to the Complainants in Count Two within 30 days from the date of service of entry of the final Judgment and Order. Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of entry of the final Judgment and Order. Respondent shall submit to a LOMAP examination of his office procedures. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.

WARNING RE: 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 impose an appropriate sanction. If the State Bar alleges 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.

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 Arizona on October, 25, 1999.

COUNT ONE (File no. 15-1212/ Hernandez

2. In August 2013, Complainant Ariel Hernandez Zarazua ("Ariel") and his wife Patricia Zarate Rios ("Patricia") (collectively, "Complainants") hired Respondent to handle their immigration matter. Ariel was a legal resident of the United States; Complainants wanted to obtain legal resident status for Patricia. Complainants paid Respondent the contracted fee of \$4,000.

3. Complainants followed Respondent's written instructions to visit with his secretary Isidra to complete the necessary forms and provide the necessary information and money orders payable to the United States Department of Homeland Security ("DHS").

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.

4. On September 12, 2013, the United States Citizenship and Immigration Service ("USCIS") sent to "ARIEL HERNANDEZ C/O ERIC G. BJOTVEDT LAW OFFICE OF ERIC G. BJOTVE" a written "Payment Information" confirming that Ariel paid the \$420.00 application/petition fee. The notice further confirmed that USCIS received Ariel's I-130 Petition for Alien Relative, for beneficiary Patricia.

5. On February 26, 2014, USCIS sent to Respondent a written "Transfer Notice" in the name of "Petitioner Hernandez, Ariel." On March 17, 2014, the USCIS sent an I-130 Petition for Alien Relative "Approval Notice" to Respondent that USCIS issued to "Petitioner Hernandez, Ariel." On June 3, 2014, the U.S. State Department, National Visa Center, sent a letter to Respondent referring expressly to "The petitioner, Hernandez, Ariel"

6. The next step in the representation was for Respondent to file an I-601A Petition for Hardship Waiver. On June 7, 2014, Respondent wrote a letter to Patricia telling her, among other things, to "Provide a copy of Ariel's" income tax documents and for other information pertaining to "Ariel." Ariel provided to Respondent's office copies of tax returns in which he is identified as "Ariel Zarazua Hernandez" and the birth certificates for his children in which the father ("Ariel") was identified as "Ariel Hernandez" or "Ariel Zarazua Hernandez."

7. In July 2014, Complainants filed an Application for Immigrant Visa and Alien Registration for Patricia, in which "Ariel Hernandez" was identified as the holder of the permanent address at which Patricia intended to live. Thereafter, they waited for news from Respondent.

8. Starting in March 2015, Complainants called Respondent's office for updates. Isidra consistently told them there was no news. For three months Isidra

told Complainants variously that Respondent was unavailable (busy, sick, in court, out of town); they were busy relocating or repairing broken phones; if Respondent had any news he would tell her and she would relay it to Complainants; or she could not get answers from Respondent, either.

9. In May 2015 Patricia went to Respondent's office and, to her surprise, Isidra told her that Patricia needed to provide new money orders payable to DHS for the same amounts as the ones Complainants previously provided. This made Complainants believe that Respondent had neglected their legal matter for a year.

10. Complainants brought this charge in May 2015. In May and June 2015, SBA intake counsel tried to reach Respondent by telephone several times and left messages for him that Respondent did not return. Also in May and June 2015, former SBA Unauthorized Practice of Law counsel tried to reach Respondent by telephone and email several times in connection with a different matter, but Respondent did not respond.

11. In July 2015, bar counsel initiated a screening investigation and wrote to Respondent on July 7, 2015, asking that he respond in writing to Complainants' charge. On July 9, 2015, Respondent replied, "I have no client by the name of or any record in the name of Ariel Hernandez at my office." The State Bar's investigator obtained from Complainants additional documents that enabled Respondent to identify his own client.

12. Beyond the initial client intake, and written instructions Respondent sent to Complainants in June 2014, Respondent knew nothing about the progress of Complainants' immigration case. Isidra was running a side business and charged Complainants \$100 to prepare the hardship waiver request. She kept the file in her

desk drawer and steered Complainants from Respondent when they tried to communicate with him. When he confronted Isidra about this she denied any knowledge of the clients but eventually broke down when Respondent showed her the many receipts for payments she'd issued.

13. Respondent scolded Isidra but did not and will not fire her because, with her 20 years of experience, he is dependent on her. Respondent allows Isidra to charge clients for translating documents (*e.g.*, birth certificates, divorce papers). Respondent met with Complainants and explained the situation but did not refund the \$100 Complainants paid Isidra, believing instead that this was a matter they should resolve with her. Respondent arranged a meeting between Complainants and Isidra, and Isidra refunded to Complainants their \$100.00.

14. Respondent did not have an adequate case management system that included Isidra as a member of the case management team. Respondent conditionally admits that he violated the Arizona Rules of Professional Conduct, Rule 42, Ariz. R. Sup. Ct., ER 5.3.

COUNT TWO (File no. 15-2619/Rogelio Delabra)

15. In July 2015, Complainant Rogelio Delabra ("Rogelio") was arrested and jailed for possession of a forged driver's license. He was charged in Maricopa County Superior Court in a case ending in no. 131981. Rogelio also was jailed in connection with a 2013 offense for possession of and false swearing related to a forged California driver's license, in a case ending in no. 003512.

16. Rogelio is a Mexican national who was in the U.S. illegally. The court appointed the public defender to defend Rogelio. Later, Rogelio's girlfriend (and co-Complainant) Mary Lou Terrazas ("Mary Lou") hired Respondent to represent

Rogelio. Were this case to proceed to a hearing, Mary Lou would testify that she told Respondent about both of Rogelio's cases whereas Respondent would testify that he believed at the time that Rogelio had only one case, no. 131981.

17. Respondent agreed to represent Rogelio. On July 20, 2015, Mary Lou gave Respondent all the cash she had on her at the time, \$1,200, with an agreement that Rogelio (through Mary Lou) would pay \$200 per month until the undefined total bill was paid. The only writings that Respondent gave Mary Lou were receipts for \$1,600 in payments.

18. There was a preliminary hearing scheduled for July 21, 2015. Respondent tried to attend court on July 21, 2015, but learned on arrival that the grand jury returned a supervening indictment, thereby canceling the preliminary hearing. Also on July 21, Respondent wrote a letter to Rogelio without an address, and did not send it (Rogelio was in jail) "confirming" an agreed flat fee of \$3,500 to represent Rogelio in 131981.

19. Respondent further confirmed receipt of \$1,200 with the balance payable at the rate of \$300/month on the first of each month starting September 1. The fee was "earned upon receipt" and the scope of representation excluded "immigration related work" and "immigration court." The scope of representation included

jail visits, court appearances, communicating and negotiating with the government for the best results possible for you, and anything else to get the best results for you. To keep your case moving along, nothing else will be needed from you at this time, but I will keep you informed.

20. Respondent took the July 21 letter with him on a jail visit to Rogelio on August 6, 2015. Were this case to proceed to a contested hearing, Respondent

would contend that at this meeting he learned for the first time that Rogelio had two cases; he told Rogelio he could not represent Rogelio in two cases for \$3,500; and that he told Rogelio he would use the money paid by Mary Lou to fund investigation into the two cases, rather than represent Rogelio as counsel of record as stated in the July 21 letter. Complainants would testify that Mary Lou already told Respondent of the two cases, and that following his meeting with Respondent Rogelio believed Respondent would represent him in both cases.

21. Respondent did not communicate to Rogelio in writing any changes in the basis or rate of the fee. Therefore, the July 21 letter remained Respondent's only written communication to Rogelio of the scope of the representation and the basis or rate of the fee for which Rogelio was responsible.

22. Respondent did not file a notice of appearance in court and did not notify the public defender that he'd been retained. From July 21-September 15, 2015, there were several court matters and filings for which Rogelio and Mary Lou paid Respondent but that Respondent did not attend or do. The public defender continued to represent Rogelio in court. The public defender's activities included an arraignment, motion for expeditious disclosure, Rule 15.1 request for disclosure, notice of defenses, request for state's notice of rebuttal, motion for temporary removal of grand jury transcript (granted, and later returned), review of state's allegation of historical priors, review of state's notice of disclosure, request for extension to challenge the indictment (granted), and pretrial conference.

23. Rogelio told his public defender that he retained private counsel. The public defender told Rogelio and Mary Lou to have Respondent contact her to facilitate the substitution of counsel. Rogelio remained in jail throughout the court

proceedings. Mary Lou instructed Respondent to follow up with the public defender but Respondent did not do so. Rogelio and Mary Lou expected to see Respondent at each court appearance and grew anxious when he did not show up.

24. Respondent did not terminate the representation until September 14, 2015, claiming that when he visited Rogelio six weeks earlier, on August 6, 2015, he learned for the first time of Rogelio's 2013 arrest. In an accounting to Rogelio for fees, Respondent claimed that he did some immigration-related tasks (research 245(i) eligibility (adjustment of status), complete Form G-639 (FOIA)) even though "immigration related work" was outside the written scope of representation. Were this matter to be tried, Respondent would contend that certain immigration-related services are necessary when representing a criminal defendant in a case the result of which may have consequences to the client's immigration status.

25. On September 14, 2015, Respondent wrote to Rogelio c/o of Mary Lou and told them, "I have decided to terminate my legal services."

26. Respondent conditionally admits that he violated Rule 42, Ariz. R. Sup. Ct., ERs 1.2, 1.3, 1.4, 1.5(a) and (b), and 1.16(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., ER 5.3 in Count One and ERs 1.2, 1.3, 1.4, 1.5(a) and (b), and 1.16(d) in Count Two.

RESTITUTION

Respondent agrees to pay restitution of \$1,600 to Complainants in Count Two, Mary Lou Terrazas and Rogelio Delabra.

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; Probation for two years with the State Bar's Law Office Management Assistance Program ("LOMAP"); Restitution of \$1,600 to the Complainants in Count Two within 30 days from the date of service of entry of the final Judgment and Order; and costs as stated above. 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 duty violated - As described above, Respondent's conduct violated his duty to his clients (ERs 1.2, 1.3, and 1.5) and as a professional (ERs 1.16 and 5.3).

The lawyer's mental state - For purposes of this agreement the parties agree that Respondent acted with a negligent mental state.

The extent of the actual or potential injury - For purposes of this agreement, the parties agree that there was actual harm and potential serious harm to Respondent's clients and as a professional.

The parties agree that the following *Standards* apply:

Standard 4.43 - 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 4.63 - Reprimand is generally appropriate when a lawyer negligently fails to provide a client with accurate or complete information, and causes injury or potential injury to the client.

Standard 7.3 - 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.

Thus, the presumptive principal sanction is reprimand.

Aggravating and Mitigating Factors - The parties conditionally agree that the following aggravating and mitigating factors should be considered.

Aggravating factors: *Standard* 9.22--

- (b) selfish motive;
- (d) multiple offenses;
- (h) vulnerability of victims; and
- (i) substantial experience in the practice of law (admitted in 1999).

Mitigating factors: Standard 9.32—

(a) absence of a prior disciplinary record;

(b) absence of a dishonest motive;

(d) timely good faith effort to make restitution or to rectify consequences of misconduct;

(e) full and free disclosure to a disciplinary board or cooperative attitude toward proceedings.

(g) character or reputation - see page 15 of http://c.ymcdn.com/sites/www.maricopabar.org/resource/resmgr/ml_archives/mljul12.pdf?hhSearchTerms=%22bjotvedt%22. Respondent was one of three attorneys selected as Immigration Attorneys of the Year in the Clinical Services category; Respondent was a member of the State Bar's UPL Advisory Committee where he wrote at least one opinion; as a routine part of his practice, Respondent helps clients and non-clients *pro bono* to file complaints with the state bars where attorneys have provided ineffective assistance; the state bars of Arizona and Washington have consulted Respondent in immigration-related cases; and

(l) remorse.

Discussion

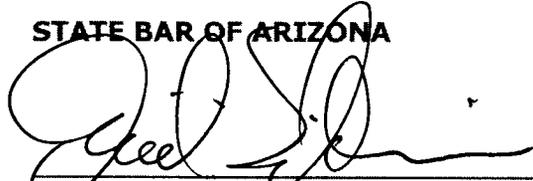
The parties conditionally agree that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction of reprimand, augmented by probation, restitution, and costs, is appropriate. Based on the *Standards* and in light of the facts and circumstances of this 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 Restitution and Reprimand with Probation and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 21st day of November 2016.

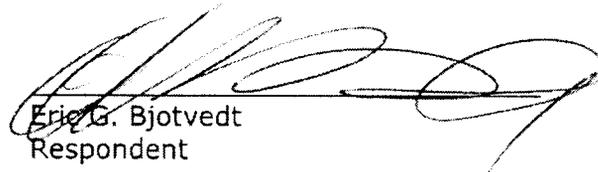
STATE BAR OF ARIZONA



David L. Sandweiss
Senior Bar Counsel

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

DATED this 20th day of November, 2016.



Eric G. Bjotvedt
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 21st day of November, 2016.

Copy of the foregoing emailed
this 21st day of November, 2016, 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 21st day of November, 2016, to:

Eric G. Bjotvedt
Law Office of Eric G. Bjotvedt
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Phoenix, AZ 85012-2121
Email: Eric.Bjotvedt@azbar.org
Eric.bjotvedt@gmail.com
Respondent

Copy of the foregoing hand-delivered
this 21st day of November, 2016, to:

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

by: John Burke
DLS: JLB

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Eric G. Bjotvedt, Bar No. 019679, Respondent

File Nos. 15-1212 & 15-2619

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
<u>TOTAL COSTS AND EXPENSES INCURRED</u>	<u>\$1,200.00</u>

EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**ERIC G. BJOTVEDT,
Bar No. 019679,**

Respondent.

PDJ 2016-9086

FINAL JUDGMENT AND ORDER

State Bar Nos. 15-1212 and 15-2619

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, **Eric G. Bjotvedt**, 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 or _____.

IT IS FURTHER ORDERED that Respondent shall be placed on probation for a period of two years (LOMAP). Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order. Respondent shall submit to a LOMAP examination of his office procedures. Respondent shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Respondent will be responsible for any costs associated with LOMAP.

WARNING RE: NON-COMPLIANCE WITH PROBATION

If Respondent fails to comply with any of the foregoing probation terms, and the State Bar of Arizona receives information thereof, 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 impose an appropriate sanction. If the State Bar of Arizona alleges 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 Respondent pay restitution of \$1,600 to the Complainants in Count Two within 30 days from the date of service of this Order.

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 November, 2016.

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, 2016.

Copies of the foregoing mailed/mailed
this _____ day of November, 2016, to:

Eric G. Bjotvedt
Law Office of Eric G. Bjotvedt
3507 N. Central Ave., Ste. 100
Phoenix, AZ 85012-2121
Email: Eric.Bjotvedt@azbar.org
Eric.Bjotvedt@gmail.com
Respondent

Copy of the foregoing emailed/hand-delivered
this ____ day of November, 2016, to:

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

Copy of the foregoing hand-delivered
this ____ day of November, 2016 to:

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

by: _____