

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

BORNMANN, PARKER EVAN
Bar No. 024909

Respondent.

PDJ-2016-9018

FINAL JUDGMENT AND ORDER

[State Bar File Nos. 14-3532, 14-3601, 15-0108, 15-0187, 15-0475, 15-0810, 15-1227, 15-1389]

FILED JUNE 27, 2016

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on June 1, 2016, accepted the parties' proposed agreement under Rule 57(a), Ariz. R. Sup. Ct.

Accordingly:

IT IS ORDERED Respondent, **Parker Evan Bornmann, Bar No. 024909** is suspended for three (3) years for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective July 27, 2016.

IT IS FURTHER ORDERED Mr. Bornmann shall pay within three years of this date, plus interest at the statutory rate:

- a) \$1,500 to Randy Maust, [Count Two/ File No. 14-3601];
- b) \$1,000 to Ryan Hardy, or to Jennifer Chow if evidence proves that Ms. Chow paid \$1,000 to Mr. Hardy, [Count Five/ File No. 15-0475];
- c) All amounts in controversy resolved through fee arbitration or for any count for which he does not timely file, act or participate in the fee arbitration

process as stated within the agreement for discipline by consent, incorporated by this reference. Time is of the essence in the requirements imposed upon him by the agreement.

IT IS FURTHER ORDERED upon reinstatement, Mr. Bornmann shall be placed on probation for two (2) years, under terms and conditions to be determined during reinstatement.

IT IS FURTHER ORDERED Mr. Bornmann shall be subject to any additional terms imposed by the Presiding Disciplinary Judge because of reinstatement hearings held.

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

IT IS FURTHER ORDERED Mr. Bornmann shall pay the costs and expenses of the State Bar of Arizona for \$1,920.30, within thirty (30) days from 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 27th day of June, 2016

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

///

Copies of the foregoing emailed
this 27th day of June, 2016, and
mailed June 28, 2016, to:

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Respondent

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by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

BORNMANN, PARKER EVAN
Bar No. 024909

Respondent.

No. PDJ-2016-9018

**DECISION AND ORDER
ACCEPTING DISCIPLINE BY
CONSENT**

[State Bar File Nos. 14-3532, 14-
3601, 15-0108, 15-0187, 15-0475,
15-0810, 15-1227, 15-1389]

FILED JUNE 27, 2016

An Agreement for Discipline by Consent (Agreement) was filed on June 1, 2016, and submitted under Rule 57(a)(3), of the Rules of the Arizona Supreme Court. Probable Cause Orders issued on January 27, 2016 and the formal complaint was filed on February 17, 2016. Upon filing such Agreement, the presiding disciplinary judge (PDJ), "shall accept, reject or recommend modification of the agreement as appropriate".

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), Ariz. R. Sup. Ct., notice of this Agreement and the opportunity file a written objection within five days was provided to the complainant(s) by letter and e-mail on May 27, 2016. One objection was received

from the Complainant in Count Three. The Complainant believes the agreed upon sanction is too lenient given the degree injury that occurred. She is also opposed to the payment plan regarding her proposed restitution award.

A three year suspension is a significant formal sanction which requires Mr. Bornmann to submit to formal reinstatement proceedings, should he seek reinstatement. While we are reminded that attorney discipline is not intended to punish the offending attorney, although the sanctions imposed may have that incidental effect, we also recognize a primary purpose of attorney regulation is to protect the public. *In re Swartz*, 141 Ariz. 26 6, 686 P.2d 1236 (1984). The public is best protected by the lengthy suspension agreed to by the parties. Disbarment is likely warranted under the agreed upon facts. However, the agreement resolves the issues with certainty. Hearings are also uncertain given the clear and convincing standard of proof required to find ethical violations. In addition, many of these violations occurred prior to the certainty of the prior suspension of Mr. Bornmann.

The Agreement details a factual basis for the admissions to the charge in the Agreement. Mr. Bornmann's misconduct is briefly summarized. In multiple counts, Mr. Bornmann accepted retainers from clients and performed little or no legal services. He also failed to adequately communicate and diligently represent his clients. Mr. Bornmann failed to initially respond to the State Bar's investigation and failed to provide notice of his one year suspension effective January 1, 2015 in PDJ-2014-9067 to clients, the courts and others. He further failed to appear for scheduled court appearances and failed to obey court orders. These failings are each serious.

Mr. Bornmann conditionally admits he violated Supreme Court Rule 42, ER 1.2 (scope of representation) ER 1.3 (diligence), ER 1.4 (communication), ER 1.5(a)

(fees), ER 1.15(d) (safekeeping property) and ER 1.16(d) (termination of representation), ER 3.2 (expediting litigation), 3.4(c) (knowingly disobey obligation under ruled of tribunal), ER 5.3 (responsibilities of a subordinate lawyer), 8.1(b) (failure to respond to disciplinary authority), ER 8.4(d) (conduct prejudicial to the administration of justice), and Rules 54(c) (knowing violation of any rule or order of the court), (d) (violation of obligation in discipline investigation or proceeding), and Rule 72 (notice to clients and others). The parties stipulate to a sanction of a three (3) year suspension, restitution, probation including fee arbitration, and the payment of costs and expenses of the disciplinary proceeding for \$1,920.30 within thirty (30) days from the final judgment and order. If costs are not paid within thirty (30) days, interest will accrue at the legal rate.

The parties agree that disbarment is the presumptive sanction and apply numerous *American Bar Association Standards for Imposing lawyer Sanctions (Standards)*. The parties further agree that a reduction in the presumptive sanction is appropriate upon consideration of the aggravating and mitigating factors. A detailed discussion of the *Standards* on a count-by-count basis is unnecessary given the fact numerous *Standards* apply to Mr. Bornmann's misconduct and a violation-by-violation analysis would be superfluous. *In re Woltman*, 181 Ariz. 525, 892 P.2d 861 (1995).

Mr. Bornmann admits he knowingly violated his duty to his clients, the profession, the legal system, and the public. His admitted misconduct caused actual harm to clients, the profession, the legal system, and the public.

The parties further agree aggravating factors 9.22(a) (prior disciplinary offenses), 9.22(b) (selfish motive), 9.22(d) (multiple offenses), 9.22(e) (bad faith obstruction the disciplinary proceeding by intentionally failing to comply with rules of

disciplinary agency), (h) vulnerability of victim, and 9.22(i) (substantial experience in the practice of law) are present. In mitigation, the parties agree mitigating factors 9.32(b) (absence of dishonest motive) and 9.32(d) (timely good faith effort to make restitution or to rectify consequences of misconduct), 9.22(k) (imposition of other penalties or sanctions) and 9.32(l) (remorse) are supported by the record.

Mr. Bornmann is currently suspended for similar misconduct. The Presiding Disciplinary Judge finds the proposed sanction comprising a lengthy suspension requiring formal reinstatement proceedings, the payment of restitution, and a term of probation which includes fee arbitration, meets the objectives of attorney discipline. The PDJ agrees the proposed sanction is well within the range of an appropriate sanction. The Agreement is therefore accepted.

IT IS ORDERED incorporating by this reference the Agreement and any supporting documents by this reference. The agreed upon sanctions are: three (3) year suspension, restitution, probation including fee arbitration, and the payment of costs and expenses of the disciplinary proceeding for \$1,920.30 to be paid within thirty (30) days from this order.

IT IS FURTHER ORDERED the Agreement is accepted. Costs as submitted are approved for \$1,920.30. Now therefore, a final judgment and order is signed this date. Mr. Bornmann is suspended for three (3) years effective thirty days from this order.

DATED this 27th day of June, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing emailed
this 27th day of June, 2016, and
mailed June 28, 2016, to:

David L. Sandweiss
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CLERK OF THE SUPREME COURT
PRESIDING DISCIPLINARY JUDGE
STATE BAR OF ARIZONA
JUN 2 2016

Parker Evan Bornmann, Bar No. 024909
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Email: evan.bornmann@gmail.com
Respondent

FILED
BY 

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

PARKER EVAN BORNMANN,
Bar No. 024909,

Respondent.

PDJ 2016-9018

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

State Bar Nos. 14-3532, 14-3601,
15-0108, 15-0187, 15-0475, 15-0810,
15-1227, and 15-1389

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Parker Evan Bornmann, 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.¹ Eight probable cause orders were entered on January 27, 2016, and a formal complaint was filed in this matter on February 17, 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

¹ All references herein to rules are to the Arizona Rules of the Supreme Court unless expressly stated otherwise.

be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), notice of this agreement was provided to the complainants by letter and email on May 27, 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.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs **1.2** (Scope of Representation, Counts Seven, Eight), **1.3** (Diligence, Counts One, Two, Three, Five, Six, Seven, Eight), **1.4** (Communication, Counts One, Two, Three, Four, Five, Six, Seven), **1.5(a)** (Fees, Counts One, Two, Three, Four), **1.15(d)** (Safekeeping Property, Counts One, Two, Three, Four, Seven, Eight), **1.16(d)** (Declining or Terminating Representation, Counts One, Two, Three, Four, Seven, Eight), **3.2** (Expediting Litigation, Counts One, Two, Three, Five, Six, Seven), **3.4(c)** (Violation of Court Orders, Counts Five, Six, Seven), **5.3** (Responsibilities of a Subordinate Lawyer, Count Three, Six), **8.1(b)** (Bar Admissions and Disciplinary Matters, Counts One, Two, Three, Four, Five, Six, Seven, Eight), **8.4(d)** (Counts One, Two, Three, Seven) (Conduct Prejudicial to the Administration of Justice), **Rule 54(c)** (Counts Five, Six, Seven) and **(d)** (Counts One, Two, Three, Four, Five, Six, Seven, Eight) (Grounds for Discipline), and **Rule 72** (Notice to Clients, Adverse Parties and Other Counsel, Counts Four, Six, Seven). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline:

- A. Suspension for three (3) years, effective on the date the presiding disciplinary judge approves this consent;
- B. Restitution (as a distinct sanction and not as a probationary term), as follows:

1. Respondent will pay \$1,500 to Randy Maust (Count Two/File No. 14-3601) by the end of the three-year period of suspension consented to herein;
2. Respondent will pay \$1,000 to Ryan Hardy, or to Jennifer Chow if evidence is shown that Ms. Chow paid \$1,000 to Mr. Hardy (Count Five/File No. 15-0475), by the end of the three-year period of suspension consented to herein;
3. Respondent will pay the amounts in controversy itemized in the fee arbitration discussion that follows, by the end of the three-year period of suspension consented to herein, for any count for which he chooses not to file for fee arbitration.

C. Probation – State Bar of Arizona-sponsored Fee arbitration, as follows:

1. Respondent agrees that within 90 days of the effective date of the suspension consented to herein, at his option he may file petitions for State Bar-sponsored fee arbitration (and abide by the procedures and outcomes) with the following former clients:

- a. Jami Day (Count One/File No. 14-3532), amount in controversy \$1,500;
- b. Jennifer Schneider (Count Three/File No. 15-0108), amount in controversy \$2,000;
- c. Kenzey Peralta (Count Four/File No. 15-0187), amount in controversy \$2,500;
- d. Ronald Kent (Count Seven/File No. 15-1227), amount in controversy \$2,000; and
- e. Julija Guyer (Count Eight/File No. 15-1389), amount in controversy \$2,500.

2. For any of the foregoing counts in which Respondent chooses not to exercise the option to file for fee arbitration, Respondent agrees to pay restitution by the end of the three-year period of suspension consented to herein. The amount of restitution will be the "amount in controversy" for each respective former client.

3. It will not be deemed a probation violation if Respondent opts not to file a petition for fee arbitration as to any of the above-named former clients within 90 days of the effective date of the suspension consented to herein. As to any such former client, Respondent's ensuing obligation to pay restitution of the "amount in controversy" for each respective former client is and will be deemed a distinct sanction and not a probationary term.

4. None of the foregoing terms relating to restitution or fee arbitration defeats any of the complainants' or debtors' rights to take collection action of their own against Respondent.

WARNING RE FAILURE TO COMPLY 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). The presiding disciplinary judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation 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.

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

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on November, 30, 2006.
2. Respondent was suspended from the practice of law in Arizona effective January 1, 2015.

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.

COUNT ONE (File No. 14-3532/Day)

3. In October 2014, Jami Day retained Respondent to represent her in a divorce matter.

4. Ms. Day paid Respondent \$1,500.00 in advance.

5. Respondent filed a Notice of Representation on October 23, 2014, and sent an associate to court to attend a 45 minute hearing.

6. Over the ensuing two months, Ms. Day was unable to get Respondent's attention.

7. Respondent failed to respond to her phone messages or emails.

8. On December 17, 2014, opposing counsel filed a motion for temporary orders and likewise alleged that Respondent failed to respond to him to discuss matters important to resolving the case.

9. Respondent billed 1.4 hours for the associate to attend the 45 minute hearing (in addition to other charges for preparation), and 2.0 hours to read and summarize a brief minute entry.

10. Ms. Day terminated Respondent's services in December 2014.

11. Ms. Day alleges that Respondent filed a motion to withdraw but he delayed giving Ms. Day her case file after she requested it, delayed providing an accounting, and refused to issue a refund.

12. Respondent billed Ms. Day an additional \$375.00.

13. Ms. Day alleges that she did not benefit from any actions or services Respondent or his associates took or provided.

14. Respondent failed to respond to the State Bar's requests dated February 5 and March 4, 2015, for information as part of its screening investigation.

15. On February 20, 2015, Respondent promised bar counsel's secretary by email that he would respond within three days, but failed to do so.

COUNT TWO (File No. 14-3601/Randy Maust)

16. In June 2014, Randy Maust retained Respondent to represent him in a child support case.

17. Mr. Maust paid Respondent \$1,500.00 in advance.

18. By October 2014 Mr. Maust had not heard anything from Respondent about the case, and Respondent did not reply to his requests for information.

19. Mr. Maust fired Respondent in November and asked for a refund.

20. Mr. Maust was able to reach an associate who said she would refer his request to Respondent, but Respondent did not respond.

21. Mr. Maust did not benefit from any actions or services Respondent or his associates took or provided.

22. Respondent failed to respond to the State Bar's requests dated January 22 and March 4, 2015, for information as part of its screening investigation.

23. On February 20, 2015, Respondent promised bar counsel's secretary by email that he would respond within three days, but failed to do so.

COUNT THREE (File No. 15-0108/Jennifer K. Schneider)

24. In February 2014, Jennifer K. Schneider retained Respondent to represent her in a family court case.

25. Ms. Schneider paid Respondent \$2,000.00 in advance and agreed to make monthly payments if fees exceeded that sum.

26. Ms. Schneider alleges that after two months Respondent had taken no action so she prodded him to act.

27. Ms. Schneider alleges that Respondent's firm prepared documents that were incorrect and charged her for correcting the errors.

28. Ms. Schneider alleges that on July 2, 2014, Respondent sent an unprepared associate to a court hearing.

29. On December 16, 2014, Respondent called court from his cell phone explaining that he was late due to heavy traffic. Ms. Schneider, who was in court awaiting Respondent's arrival, alleges that she could tell from the background noise that Respondent was not in traffic.

30. Ms. Schneider alleges that Respondent failed to appear in court as scheduled, respond to Ms. Schneider's phone calls and emails, or provide a requested accounting of fees and activities.

31. The representation ended when Respondent was suspended from the practice of law effective January 1, 2015.

32. Ms. Schneider called Respondent's office and asked for her file and a refund.

33. Ms. Schneider alleges that an office worker refused to comply with either request, and then turned on a recorder and recited false "facts" about the representation.

34. Respondent failed to respond to the State Bar's requests dated February 5 and March 4, 2015, for information as part of its screening investigation.

35. On February 20, 2015, Respondent promised bar counsel's secretary by email that he would respond within three days, but failed to do so.

COUNT FOUR (File No. 15-0187/Kenzey M. Peralta)

36. In May 2014, Kenzey M. Peralta retained Respondent to represent her in a family court case.

37. Ms. Peralta paid Respondent \$2,500.00 in advance.

38. The written fee agreement with Respondent stated that Respondent would send Ms. Peralta monthly invoices.

39. Throughout the representation Ms. Peralta called or emailed Respondent's firm asking for monthly invoices but received none.

40. The representation ended when Respondent was suspended from the practice of law effective January 1, 2015.

41. Ms. Peralta alleges that Respondent did not tell Ms. Peralta that he was suspended; rather, on December 31, 2014, he filed a notice of substitution of counsel within the firm. Respondent alleges that notice was sent to Ms. Peralta, however no such notices has been provided to the State Bar.

42. Ms. Peralta called Respondent's office and asked for a complete refund. Respondent ultimately provided a partial refund, but not a complete refund.

43. Ms. Peralta terminated Respondent's firm's services and retained new counsel for the duration of the case.

44. Respondent failed to respond to the State Bar's requests dated February 17 and April 6, 2015, for information as part of its screening investigation.

COUNT FIVE (File No. 15-0475/Bobby Chow)

45. Respondent represented Bobby Chow in a dissolution case with children, against Jennifer Chow.

46. Ms. Chow was represented by attorney Ryan Hardy.

47. The case was filed in Superior Court for Pinal County, case no. S-1100-DO-2013-00874.

48. On March 21, 2014, Judge Washburn ordered Respondent to prepare a consent decree for the parties to sign; Respondent failed to comply.

49. Judge Washburn set a hearing for May 28, 2014, on Respondent's failure to abide by the court's order.

50. Neither Respondent nor Mr. Chow appeared.

51. On May 28, 2014, Judge Washburn tasked Mr. Hardy with preparing the consent decree and ordered Respondent to pay Mr. Hardy \$1,000.00.

52. Respondent has failed and refused to obey Judge Washburn's order to pay Mr. Hardy \$1,000.00.

53. Respondent failed to respond to the State Bar's requests dated July 29 and September 10, 2015, for information as part of its screening investigation.

COUNT SIX (File No. 15-0810/State Bar of Arizona)

54. Respondent represented the defendant in Maricopa County Superior Court CV2012-001665.

55. After Respondent repeatedly failed to respond to Plaintiff's counsel's communications and discovery requests, on October 9, 2014, Judge Dawn Bergin sanctioned Respondent and ordered him to pay \$600.00.

56. Respondent failed to comply and when Plaintiff's counsel filed a motion for an Order to Show Cause ("OSC"), Respondent did not file a response.

57. Judge Bergin held an OSC hearing on January 20, 2015.

58. By that point, Respondent was suspended from the practice of law, effective January 1, 2015.

59. Respondent emailed a member of the court's staff an hour before the hearing to advise that he'd been suspended.

60. Respondent appeared at the hearing and Judge Bergin ordered him to pay an additional \$200.00 associated with the OSC.

61. Respondent paid \$800.00 that day.

62. Respondent's client was not present in court with him and Respondent did not bring her address to enable the court to send her the minute entry.

63. Judge Bergin ordered Respondent to supply court staff with the client's contact information by the end of the day.

64. Respondent disobeyed that order.

65. Judge Bergin personally called the firm where Respondent worked as a paralegal and asked for the client's contact information, but a firm employee declined to provide it without client permission.

66. Judge Bergin told the employee to tell Respondent to contact court staff with the information or he could be subject to another contempt hearing.

67. Respondent's office employee assured Judge Bergin that they would do so, but Respondent did not comply.

68. The client, however, contacted opposing counsel to facilitate communications.

69. Respondent failed to furnish timely notice to the court of his suspension and other associated information, required by Supreme Court Rule 72.

70. Respondent failed to respond to the State Bar's requests dated April 22 and May 14, 2015, for information as part of its screening investigation.

COUNT SEVEN (File No. 15-1227/Ronald Kent)

71. Ronald Kent hired Respondent in May 2011 to sue a commercial real estate management company.

72. Mr. Kent paid Respondent \$2,000.00.

73. Respondent did not file the original suit; it was filed *pro per*. Respondent later filed a Notice of Appearance in that suit on October 24, 2012. In May 2013 the court placed the case on the inactive calendar, and dismissed it in August 2013. Respondent waited for the initial suit to be dismissed without prejudice but did not refile the suit until November 2013.

74. Respondent successfully fended off defense motions to dismiss and for summary judgment, but did not otherwise diligently prosecute or expedite the litigation.

75. In April 2015, Respondent wrote a letter to the court advising of his suspension that was effective January 1, 2015.

76. Respondent failed to furnish timely notice to the court, Mr. Kent, and opposing counsel, of his suspension and other associated information, required by Supreme Court Rule 72.

77. In May 2015, Mr. Kent asked Respondent for an accounting of fees and services, a refund, and for his file.

78. Respondent failed to provide the requested information or refund to Mr. Kent.

79. Respondent failed to respond to the State Bar's requests dated July 1 and August 5, 2015, for information, including a complete copy of his client case file, as part of its screening investigation.

COUNT EIGHT (File No. 15-1389/Julija B. Guyer)

80. In June 2014, Julija B. Guyer retained Respondent to represent her in a divorce case.

81. Ms. Guyer paid Respondent \$2,500.00 in advance.

82. Ms. Guyer and Respondent or others in Respondent's office exchanged several emails, but by August 2014 Respondent had not filed the case.

83. Ms. Guyer fired Respondent in August 2014 and asked for her file and a refund.

84. Respondent failed to respond to the State Bar's requests dated July 7 and August 5, 2015, for information, including a complete copy of his client case file, as part of its screening investigation.

85. However, in July 2015, he sent Complainant a check for \$630.00 and an invoice that itemized services and charges.

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, specifically ERs 1.2, 1.3, 1.4, 1.5(a), 1.15(d), 1.16(d), 3.2, 3.4(c), 5.3, 8.1(b), 8.4(d), Rule 54(c) and (d), and Rule 72, as more fully described above.

CONDITIONAL DISMISSALS

The State Bar conditionally agrees to dismiss the ER 3.3 and 8.4(c) charges based on evidentiary concerns.

RESTITUTION

Respondent agrees to pay restitution as more fully described above.

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: Suspension for three (3) years effective on the date the presiding disciplinary judge approves this consent, and restitution, probation, and payment of costs, as more fully described 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 duties to his clients, the profession, the legal system, and the public.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent knowingly conducted himself in a manner that violated the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was actual harm to clients, the legal profession, the legal system, and the public.

Based on the foregoing, the following *Standards* are relevant:

ER 1.2

Standard 4.42(a)

Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

ERs 1.3 and 1.4

Standard 4.41(b) and (c)

Disbarment is generally appropriate when:

- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

ER 1.5(a)

Standards 4.61 and 7.1

Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to a client.

Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

ER 1.15(d)

Standard 4.11

Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.

ER 1.16(d)

Standard 7.1

Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

ER 3.2

Standard 6.23

Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

ER 3.4(c)

Standard 6.21

Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party, or causes serious or potentially serious interference with a legal proceeding.

ER 5.3

Standard 7.2

Suspension is generally appropriate when a lawyer knowingly 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.

ER 8.1(b)

Standard 7.1

Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

ER 8.4(d), and Rules 54(c), Rule 54(d), and 72 – *Standards 7.1 or 7.2, above.*

The presumptive sanction (the one applicable to the most serious misconduct; see *Standards, "I. Theoretical Framework"*) is disbarment. The parties conditionally agree that the following aggravating and mitigating factors should be considered:

Aggravating and mitigating circumstances

In aggravation:

Standard 9.22 -- Aggravating factors include:

(a) prior disciplinary offenses—

- 2012, 11-2462, Diversion

- 2014, 14-2567, Interim Probation

- 2014, 12-3006, etc. – this was a 35-count case. Respondent consented to a one-year suspension with probation, effective January 1, 2015.

- 2016, 12-3006-N – probation violation in the immediately preceding case. Respondent appealed one aspect of the enhanced discipline (the appeal is pending as of the composition of this consent).

(b) selfish motive;

(c) a pattern of misconduct;

(d) multiple offenses;

(e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency (Respondent failed to respond to any of the State Bar's screening investigation requests for information).

(h) vulnerability of victim;

(i) substantial experience in the practice of law.

In mitigation:

Standard 9.32 -- Mitigating factors include:

(b) absence of a dishonest motive;

(d) timely good faith effort to make restitution or to rectify consequences of misconduct (Respondent paid one of two court-ordered sanctions—see (k), below).

(e) cooperative attitude toward proceedings (although Respondent failed to respond to the State Bar's requests for information during its screening investigation, he has participated in the formal proceedings, filed an answer,

appeared at the settlement conference, and engaged with bar counsel to reach and sign this consent).

(k) imposition of other penalties or sanctions (two court-ordered sanctions).

(l) remorse (Respondent regrets "biting off more than he could chew" when he tried to manage a high volume law practice, a role for which he now realizes he was ill-suited).

Discussion

The parties conditionally agree that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction should be mitigated to a three-year suspension with restitution and probation as described above. Combined with Respondent's suspension in 12-3006, the public will be adequately protected from Respondent while he does not practice law. The probation and restitution terms, combined with the suspension and probation in 12-3006, and the restitution terms imposed in 12-3006-N, have Respondent on a schedule in due course to reimburse his many clients in full for unearned fees. 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 adequately serves the purposes of lawyer discipline.

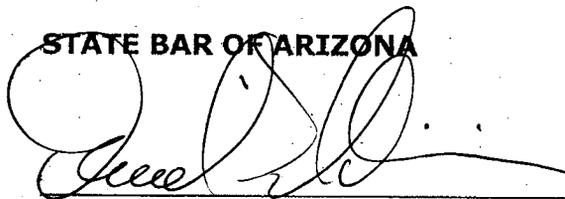
CONCLUSION

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 three-year suspension with restitution and probation as described above, and the

imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 1st day of June, 2016.

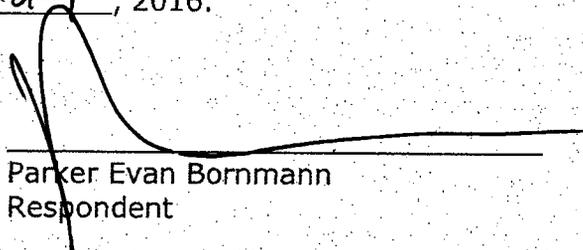
STATE BAR OF ARIZONA



David L. Sandweiss
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. 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 27 day of May, 2016.



Parker Evan Bornmann
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 14 day of June, 2016.

Copy of the foregoing emailed
this 1st day of June, 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/emailed
this 1st day of June, 2016; to:

Parker Evan Bornmann
1731 W. Baseline Rd., Ste. 101
Mesa, AZ 85202-5730
Email: evan.bornmann@gmail.com
Respondent

Copy of the foregoing hand-delivered
this 1st day of June, 2016, to:

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

by: Justin Bruska
DLS: jlb

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Suspended Member of the State Bar of Arizona,
Parker Evan Bornmann, Bar No. 024909, Respondent

File Nos. 14-3532, 14-3601, 15-0108, 15-1227,
15-0187, 15-0475, 15-0810, 15-1389

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

04/15/15	PACER Invoice	\$.10
04/15/15	PACER Invoice	\$.20

Total for staff investigator charges	\$.30
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Total Costs and Expenses for each matter over 5 cases where a violation is admitted or proven:	\$	720.00
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<u>TOTAL COSTS AND EXPENSES INCURRED</u>	\$1,920.30
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EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

PARKER EVAN BORNMANN,
Bar No. 024909,

Respondent.

PDJ 2016-9018

FINAL JUDGMENT AND ORDER

State Bar Nos. 14-3532, 14-3601,
15-0108, 15-0187, 15-0475, 15-0810,
15-1227, and 15-1389

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, **Parker Evan Bornmann**, is hereby suspended for three (3) years for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

IT IS FURTHER ORDERED that Respondent shall pay Restitution (as a distinct sanction and not as a probationary term), as follows:

1. Respondent will pay \$1,500 to Randy Maust (Count Two/File No. 14-3601) by the end of the three-year period of suspension consented to herein;
2. Respondent will pay \$1,000 to Ryan Hardy, or to Jennifer Chow if evidence is shown that Ms. Chow paid \$1,000 to Mr. Hardy (Count Five/ File No. 15-0475), by the end of the three-year period of suspension consented to herein;
3. Respondent will pay the amounts in controversy itemized in the fee arbitration discussion that follows, by the end of the three-year period of suspension consented to herein, for any count for which he chooses not to file for fee arbitration.

IT IS FURTHER ORDERED placing Respondent on probation on the following terms: Fee arbitration. Within 90 days of the effective date of the suspension consented to herein, Respondent, at his option, may file petitions for State Bar-sponsored fee arbitration (and abide by the procedures and outcomes) with the following former clients:

- i. Jami Day (Count One/File No. 14-3532), amount in controversy \$1,500;
- ii. Jennifer Schneider (Count Three/File No. 15-0108), amount in controversy \$2,000;
- iii. Kenzey Peralta (Count Four/File No. 15-0187), amount in controversy \$2,500;
- iv. Ronald Kent (Count Seven/File No. 15-1227), amount in controversy \$2,000; and
- v. Julija Guyer (Count Eight/File No. 15-1389), amount in controversy \$2,500.

For any of the foregoing counts in which Respondent chooses not to exercise the option to file for fee arbitration, Respondent shall pay restitution by the end of the three-year period of suspension consented to herein. The amount of restitution shall be the "amount in controversy" for each respective former client.

It will not be deemed a probation violation if Respondent opts not to file a petition for fee arbitration as to any of the above-named former clients within 90 days of the effective date of the suspension consented to herein. As to any such former client, Respondent's ensuing obligation to pay restitution of the "amount in controversy" for each respective former client is and will be deemed a distinct sanction and not a probationary term.

None of the foregoing terms relating to restitution or fee arbitration defeats any of the complainants' or debtors' rights to take collection action of their own against Respondent.

IT IS FURTHER ORDERED that, as to those former clients that Respondent opts to petition for fee arbitration, Respondent shall contact the State Bar of Arizona Fee Arbitration Coordinator at 602-340-7379 within 90 days from the date of service of this Order/Agreement to obtain the forms necessary to participate in Fee Arbitration. Respondent shall file the necessary forms no later than 30 days from the date of receipt of the forms. Respondent shall have 30 days following the date of the letter from the Fee Arbitration Coordinator to comply with the award entered in the Fee Arbitration proceeding.

WARNING RE FAILURE TO COMPLY 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). The presiding disciplinary judge may conduct a hearing within 30 days to determine whether Respondent breached a term of probation 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 Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

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 \$ _____, 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 June, 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 June, 2016.

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

Parker Evan Bornmann
1731 W. Baseline Rd., Ste. 101
Mesa, AZ 85202-5730
Email: evan.bornmann@gmail.com
Respondent

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

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

by: _____