

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**TRINI ARMENTA,  
Bar No. 014723**

Respondent.

**PDJ-2016-9043**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 15-1729]

**FILED MAY 18, 2016**

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on May 2, 2016, accepted the parties' proposed agreement pursuant to Rule 57(a), Ariz. R. Sup. Ct.

Accordingly:

**IT IS ORDERED** Respondent, **Trini Armenta**, is reprimanded and placed on probation for a period of six (6) months, subject to early termination, for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

**IT IS FURTHER ORDERED** Mr. Armenta shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this order. Mr. Armenta shall submit to a LOMAP one time consultation. Mr. Armenta shall complete any follow up deemed necessary by LOMAP. Mr. Armenta shall be responsible for any costs associated with LOMAP.

**IT IS FURTHER ORDERED** Mr. Armenta 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 18<sup>th</sup> day of May, 2016.

*William J. O'Neil*

---

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

Copies of the foregoing e-mailed this 18th day of May, 2016, and mailed on May 19, 2016, to:

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

Ralph W. Adams  
Adams & Clark, PC  
520 E. Portland Street  
Phoenix, AZ 85004-1843  
Email: ralph@adamsclark.com  
Respondent's Counsel

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

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**TRINI ARMENTA,**  
**Bar No. 014723**

Respondent.

**No. PDJ-2016-9043**

**DECISION ACCEPTING  
CONSENT FOR DISCIPLINE**

[State Bar File No. 15-1729]

**FILED MAY 18, 2016**

An Agreement for Discipline by Consent (Agreement) was filed on May 2, 2016, and submitted under Rule 57(a)(3), of the Rules of the Arizona Supreme Court. The Agreement was reached before the authorization to file a formal complaint. An Order of Probable Cause issued on March 25, 2016. Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate".

Mr. Armenta was hired to represent a client in divorce proceedings. The client paid a significant retainer. Mr. Armenta acknowledges his fee agreement did not contain language advising the client of the right to discharge Mr. Armenta and be entitled to a refund of all or a part of the fee. Mr. Armenta and the client developed romantic feelings towards each other, he engaged in a one-time sexual relationship with the client, and he continued to act as counsel despite the significant risk that the representation could be materially limited by his personal interest in his client.

Mr. Armenta admitted his conduct violated Rule 42, Ariz. R. Sup. Ct. ER 1.5(d)(3), (Fee Agreement), 1.7(a)(2), (Conflict of Interest), and 1.8(j) (Client

sexual relations). There is no restitution. The parties have stipulated Mr. Armenta has expressed sincere and deep remorse which has also been demonstrated by him significantly discounting the bill of his client. The parties agree *Standard 4.33* and *4.64* apply as they stipulate Mr. Armenta engaged in an isolated instance of negligence in failing to provide his client with accurate information regarding the potential conflict. He acted knowingly in his sexual relationship but acted negligently failing to consider the romantic relationship might have affected his representation. The parties agree suspension is the presumptive sanction but stipulate the mitigating factors warrant reprimand due to his remorse coupled with his full and free disclosure and cooperative attitude towards these proceedings. Mr. Armenta has no prior disciplinary history. The probation is to be a one-time LOMAP fee agreement consultation, effective in thirty (30) days plus costs of \$1,200 to be paid within thirty (30) days.

Under Rule 53(b)(3), the parties initially stated a notice of this Agreement was provided to the complainants by letter on April 26, 2016. On May 5, 2016, a Notice of *Errata* corrected that information. The notice was sent by email on May 4, 2016 and by letter on May 5, 2016. Complainants were notified of the opportunity to file a written objection to the Agreement with the State Bar within five business days of bar counsel's notice. Under the Supreme Court Rules, five days are added to that time period for mail or email. Complainant had through May 17, 2016 to submit an objection to the State Bar. An objection was timely filed.

The objection of complainant is appreciated and exposes the injury caused to her by Mr. Armenta and his damage to the legal profession. This judge appreciates and respects the candid assessment in the objection. That objection raises important

issues and concerns. The concluding observations of complainant are that the actions of Mr. Armenta "should be publicized in the glossy magazine Arizona Attorney for all other attorneys to see..."

The ethical chain between the lawyer and client are built with links of expectation. Mr. Armenta admittedly broke that chain when he failed in his ethical obligations and his reputation is bound to the disregard of his client. However, our Supreme Court has stated attorney discipline is not intended to punish the offending attorney, although the sanctions imposed may have that incidental effect. *In re Swartz*, 141 Ariz. 26 6, 686 P.2d 1236 (1984). Contrary to the assertion of complainant, the proposed reprimand is a formal sanction. That sanction is public, not private. The actions of Mr. Armenta are not excused. While his conduct may be published in the Arizona Attorney magazine, that publication is not a sanctioning body and the information is not designed to harm the attorney but to protect the public.

Accordingly:

**IT IS ORDERED** incorporating the Agreement, its modification and all supporting documents by this reference. The agreed upon sanctions are: reprimand with six months of probation with LOMAP and costs totaling \$1,200.00, plus interest at the statutory rate in full within thirty (30) days from this order.

**IT IS FURTHER ORDERED** the Agreement is accepted. A final judgment and order is signed this date.

**DATED** this 18<sup>th</sup> day of May, 2016.

*William J. O'Neil*

---

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

Copies of the foregoing e-mailed  
this 18th day of May, 2016, and  
mailed on May 19, 2016, to:

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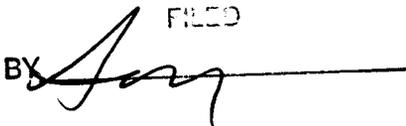
by: AMcQueen

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Respondent's Counsel

OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

MAY 09 2016

FILED  
BY 

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**TRINI ARMENTA,  
Bar No. 014723,**

Respondent.

PDJ 2016 9043

State Bar File No. **15-1729**

**AGREEMENT FOR DISCIPLINE BY  
CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Trini Armenta, who is represented in this matter by counsel, Ralph W. Adams, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on March 25, 2016, but no formal complaint has been filed in this matter. 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 April 26, 2016. 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, ERs 1.5(d)(3), ER 1.7(a)(2), and 1.8(j). Upon acceptance of this Agreement, Respondent agrees to accept imposition of the following discipline: Reprimand with a six-month probation, the sole term of which shall be a one-time LOMAP fee agreement consultation. The period of probation shall be subject to early termination upon completion of the LOMAP consultation. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within thirty (30) days from the date of this order, and if costs are not paid within the thirty (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.

## **FACTS**

### **GENERAL ALLEGATIONS**

1. Respondent was licensed to practice law in Arizona on May, 15, 1993.

#### **COUNT ONE (File No. 15-1729/ Zuniga)**

2. Complainant Heather Zuniga (Ms. Zuniga) hired Respondent on November 18, 2013, to represent her in divorce proceedings.

3. Respondent's fee agreement indicated Ms. Zuniga would pay a \$5,000.00 retainer, \$500.00 of which was non-refundable, and be charged at a rate

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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.

of \$250.00 per hour. Respondent's fee agreement did not contain language advising Ms. Zuniga that she may discharge Respondent at any time and be entitled to a refund of all or part of the fee, including the \$500.00 non-refundable fee, based upon the value of the representation.

4. Respondent represented Ms. Zuniga continuously between November 2013 and February 2015.

5. Between November 2013 and mid-2014, Respondent and Ms. Zuniga developed romantic feelings toward each other. During this time, Respondent continued to act as counsel in Ms. Zuniga's divorce despite the significant risk that the representation could be materially limited by Respondent's personal interest in Ms. Zuniga.

6. In 2014, while still employed as Ms. Zuniga's lawyer, Respondent engaged in a one-time sexual relationship with Ms. Zuniga.

#### **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 ERs 1.5(d)(3), ER 1.7(a)(2), and 1.8(j).

#### **RESTITUTION**

Restitution is not an issue in this matter. Respondent settled Complainant's \$20,000.00 bill for \$10,000.00.

## **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 with a six-month probation, the sole term of which shall be a one-time LOMAP fee agreement consultation. The period of probation shall be subject to early termination upon completion of the LOMAP consultation.

If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

## **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 thirty (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.

## **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* 4.32 applies to Mr. Armenta's violation of ER 1.8(j). *Standard* 4.32 provides that suspension is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury. Here, Respondent knowingly entered into a sexual relationship with Ms. Zuniga without explaining how the personal relationship could conflict with their attorney/client relationship.

The parties agree that *Standard* 4.33 applies to Mr. Armenta's violation of ER 1.7. *Standard* 4.33 provides that Reprimand is generally appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes injury or potential injury to a client. Here, Respondent was negligent in determining that the romantic relationship might have materially affected the representation when he developed personal feelings for Ms. Zuniga. Respondent's personal feelings created the potential for injury to the client's matter. Respondent failed to fully disclose the possible effect of that conflict.

The parties agree *Standard* 4.64 applies to Respondent's violation of ER 1.5(d)(3). *Standard* 4.64 states that an admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in failing to provide a client with accurate information, and causes little or no actual or potential injury to the client. Respondent's fee agreement failed to provide Ms. Zuniga with accurate information regarding her ability to request a refund and caused no actual injury.

After evaluating each of the three applicable standards, the parties agree *Standard* 4.32 is controlling in this matter.

**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 engaged in a sexual relationship with a client, was negligent in determining that the romantic relationship might have materially affected the representation, and that he negligently failed to alert the same client of her right to a potential refund of unearned fees. The parties agree Respondent's 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 harm to the 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 was not dishonest, but his motives should be categorized as selfish because he knew he should not have a personal relationship with his client but nevertheless proceeded.

**In mitigation:**

Standard 9.32(a) Absence of a prior disciplinary record. Respondent has no disciplinary history.

Standard 9.32(e) Full and free disclosure to disciplinary board or cooperative attitude toward proceedings. Respondent was forthright and truthful with the State Bar and provided all requested information in a timely manner.

Standard 9.32(l) Remorse. Mr. Armenta has been extremely remorseful and cooperative since the very onset of this matter. When Mr. Armenta was first contacted by the State Bar in July, 2015, he immediately acknowledged the infraction regarding a relationship with the client. He also expressed his regrets about this occurrence and told the Bar that he had every intention of cooperating with the investigation. In addition, Mr. Armenta has now changed his practice and does not make any communications of a personal nature with clients and meets with clients with his legal assistant present. In general, he is extremely remorseful and making sure there is never any repeat of this kind of relationship with any of his clients.

**Discussion**

The parties have conditionally agreed that in light of the violations, upon application of the aggravating and mitigating factors to the facts of this case, a mitigated sanction is appropriate.

Respondent has practiced law since 1993 with no disciplinary infractions. The evolution of his relationship with Ms. Zuniga was mutual and not the result of pressure, coercion, or leveraging his position as Ms. Zuniga's lawyer. Respondent never engaged in this type of behavior prior to Ms. Zuniga and will never again enter into an inappropriate relationship with a client. Respondent is sincerely remorseful and now fully appreciates how a romantic relationship with a client is an inherent conflict. Since his representation of Ms. Zuniga, Respondent has amended his fee agreement to contain the necessary language regarding a refund of unearned fees.

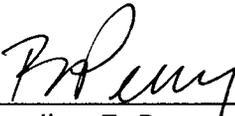
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

### 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 Reprimand with probation and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

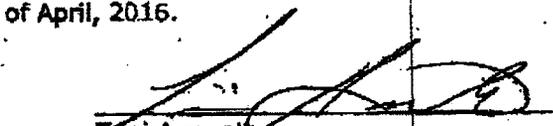
**DATED** this 2<sup>ND</sup> day of <sup>MAY</sup>~~April~~, 2016.

### STATE BAR OF ARIZONA

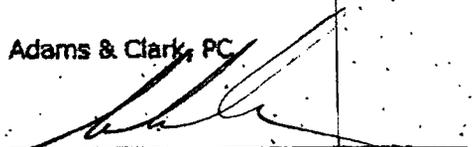
  
\_\_\_\_\_  
Bradley F. Perry  
Staff Bar Counsel

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 28<sup>th</sup> day of April, 2016.

  
Trini Armenta  
Respondent

DATED this 2<sup>nd</sup> day of ~~April~~<sup>May</sup>, 2016.

Adams & Clark, PC  
  
Ralph W. Adams  
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 \_\_\_ day of April, 2016.

Copy of the foregoing emailed this \_\_\_\_ day of April, 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](mailto:officepdj@courts.az.gov)

**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 \_\_\_\_\_ day of April, 2016.

\_\_\_\_\_  
Trini Armenta  
Respondent

**DATED** this \_\_\_\_\_ day of April, 2016.

Adams & Clark, PC

\_\_\_\_\_  
Ralph W. Adams  
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 2<sup>ND</sup> day of ~~April~~ MAY, 2016.

Copy of the foregoing emailed  
this 2<sup>ND</sup> day of ~~April~~ MAY, 2016, to:

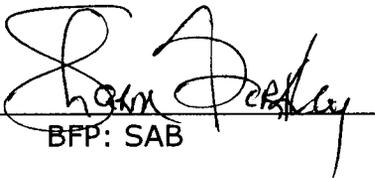
The Honorable William J. O'Neil  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
1501 West Washington Street, Suite 102  
Phoenix, Arizona 85007  
E-mail: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

Copy of the foregoing mailed/mailed  
this 2<sup>nd</sup> day of May, 2016, to:

Ralph W. Adams  
Adams & Clark, PC  
520 E. Portland Street  
Phoenix, Arizona 85004-1843  
Email: ralph@adamsclark.com  
Respondent's Counsel

Copy of the foregoing hand-delivered  
this 2<sup>nd</sup> day of May, 2016, to:

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

by:   
BFP: SAB

# **EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,  
Trini Armenta, Bar No. 014723, Respondent

File No. 15-1729

### **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

# **EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

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

**TRINI ARMENTA,  
Bar No. 014723,**

Respondent.

**PDJ**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 15-1729]

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, **Trini Armenta**, is hereby Reprimanded and placed on probation for a period of six (6) months subject to early termination, the sole term of which shall be a one-time LOMAP fee agreement consultation, for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective thirty (30) days from the date of this order or \_\_\_\_\_.

**IT IS FURTHER ORDERED** that, LOMAP (one time consult): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of service of this Order. Respondent shall submit to a LOMAP one time consultation. Respondent shall complete any follow up deemed necessary by LOMAP. Respondent will be responsible for any costs associated with LOMAP.

**IT IS FURTHER ORDERED** that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,200.00, within thirty (30) days from the date of service of this Order.

**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 thirty (30) days from the date of service of this Order.

**DATED** this \_\_\_\_\_ day of May, 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 May, 2016.

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