

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**ANDREA ELIZABETH MOUSER,
Bar No. 023967**

Respondent.

PDJ-2015-9075

FINAL JUDGMENT AND ORDER

[State Bar Nos. 14-2355, 14-2765]

FILED SEPTEMBER 3, 2015

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent (Agreement) filed on August 20, 2015, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED Respondent, **Andrea Elizabeth Mouser**, is hereby suspended for a period of six (6) months and one (1) day for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the Agreement, effective the date of this Final Judgment and Order.

IT IS FURTHER ORDERED upon reinstatement, Ms. Mouser shall be placed on probation with the terms and conditions of probation, including the length of probation, to be determined upon reinstatement.

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

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

IT IS FURTHER ORDERED Ms. Mouser 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 service of this Order. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 3rd day of September, 2015.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 3rd day of September, 2015.

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Respondent

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by: JAlbright

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**ANDREA ELIZABETH MOUSER,
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Respondent.

PDJ-2015-9075

**DECISION ACCEPTING CONSENT
FOR DISCIPLINE**

[State Bar Nos. 14-2355, 14-2765]

FILED SEPTEMBER 3, 2015

An Agreement for Discipline by Consent ("Agreement") was filed on August 20, 2015, and submitted under Rule 57(a)(3), Ariz. R. Sup. Ct¹. Probable Cause Orders were filed on April 20, 2015 and July 27, 2015. The Agreement was reached before a formal complaint was filed. Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate."

Rule 57(a)(2) requires admissions be tendered solely "...in exchange for the stated form of discipline...." Under that rule, the right to an adjudicatory hearing is waived only if the "...conditional admission and proposed form of discipline is approved...." If the agreement is not accepted those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding.

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

Under Rule 53(b)(3), notice of this Agreement was provided to the complainants by letter dated August 10, 2015. Complainants were notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) days of bar counsel's notice. No objection was received. The admitted misconduct is summarized.

On January 9, 2012, an agreement for discipline by consent was accepted and a final judgment and order issued reprimanding Ms. Mouser. Under the agreement Ms. Mouser consented to placement on probation for two years, which included MAP, LOMAP, TAEPP and fee arbitration. This subjected her firm to random bar audits and a trust account audit as her law firm was new.

In Count One, Ms. Mouser did not inform her law partners of the discipline imposed upon her. Instead, Ms. Mouser knowingly misrepresented to her law partners that the firm's audit performed by the State Bar was a random audit and occurred because the firm was a newly established firm. The partners first learned of the audit from a document that listed the audit as a firm expense. When Ms. Mouser was directly asked by a partner about this audit, Ms. Mouser was untruthful and emailed to the partner, the audit was not due to her actions but was a random firm audit and the firm would "have to pay the bar to be audited. We get a discount if we pay them up front for all costs." When later confronted by this partner she admitted she had been disciplined and the audit and corresponding expenses resulted from her actions.

In Count Two, Ms. Mouser represented a client in a family law matter. Ms. Mouser made misrepresentations to the court when she filed a Notice of Lodging and Stipulated Order (Notice) knowing the parties had not agreed to a parenting plan.

Instead she was untruthful in writing to the court, "Mother and Father agree to all terms of the attached order via e-mail confirmation of the state...." The parties stipulate this caused actual injury to the opposing party and to the legal proceedings by causing the court to expend time reviewing Ms. Mouser's Notice and responding to the opposing party's responses.

Ms. Mouser conditionally admits her misconduct violated Rule 42, ERs 3.3, 8.4(c), and 8.4(d). The parties stipulate to a sanction of a six (6) month and (1) one day suspension, probation upon reinstatement, and the payment of costs and expenses for \$1,200.00 to be paid within 30 days from this order.

Presumptive Sanction

The parties agree suspension is the presumptive sanction and *Standard 6.12* of the American Bar Association's *Standards for Imposing Lawyer Sanctions* ("*Standards*") apply to these conditional admissions. *Standard 6.12* provides:

Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

Ms. Mouser knowingly violated her duties to the public and the legal system and her misconduct caused actual harm to the public and legal system.

Aggravation and Mitigation

The agreed upon aggravating factors include: 9.22(a) prior disciplinary offenses, 9.22(b) dishonest or selfish motive, 9.22(c) pattern of misconduct, and 9.22(d) multiple offenses. The parties agree there are no mitigating factors present.

The object of lawyer discipline is to protect the public, the legal profession, the administration of justice, and to deter other attorneys from engaging in unprofessional conduct. *Peasley*, 208 Ariz. 27, 38, 90 P.3d 764, 775 (2004). Attorney discipline is not intended to punish the offending attorney, although the sanctions imposed may have that incidental effect. *Id.* In that context, the PDJ finds the proposed sanction meets the objectives of discipline.

IT IS ORDERED incorporating the Agreement and any supporting documents by this reference. The agreed upon sanctions are: a six (6) month and one (1) day suspension, probation upon reinstatement with the length and terms and conditions to be determined during reinstatement, and the payment of costs and expenses for \$1,200.00, which shall be paid within thirty (30) days of the final order. These financial obligations shall bear interest at the statutory rate.

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

DATED 3rd day of September, 2015.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

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this 3rd day of September, 2015.

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