

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**CHRISTOPHER P. CORSO,
Bar No. 022398**

Respondent.

PDJ-2016-9112

FINAL JUDGMENT AND ORDER

[State Bar No. 16-0395]

FILED NOVEMBER 21, 2016

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on November 10, 2016, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepted the parties' proposed agreement.

Accordingly:

IT IS ORDERED Respondent, **Christopher P. Corso**, is admonished for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED Mr. Corso 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. If costs are not paid by that date, interest will accrue at the legal rate. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office with these disciplinary proceedings.

DATED this 21st day of November, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

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

Hunter F Perlmeter
Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Russell R. Yurk
Jennings Haug & Cunningham
2800 N Central Ave Ste 1800
Phoenix, AZ 85004-1049
Email: rry@jhc-law.com
Respondent's Counsel

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**CHRISTOPHER P. CORSO,
Bar No. 022398**

Respondent.

PDJ 2016-9112

**DECISION AND ORDER
ACCEPTING DISCIPLINE BY
CONSENT**

[State Bar File No. 16-0395]

FILED NOVEMBER 21, 2016

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Christopher P. Corso, who is represented by counsel, Russell R. Yurk, *Jennings, Haug & Cunningham, LLP* filed on November 10, 2016, their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct.

An Order of Admonition with Probation was entered by the Attorney Discipline Probable Cause Committee (ADPCC) on July 22, 2016. On August 8, 2016, Mr. Corso filed a pleading demanding a formal hearing and requesting the order of admonition be vacated. On August 18, 2016, the ADPCC issued an order vacating the order of admonition and issued its probable cause order authorizing the State Bar to file a complaint against Mr. Corso. Because an agreement between the parties has been reached, no formal complaint has been filed.

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. Mr. Corso has voluntarily waived the right to an adjudicatory hearing, and waives all motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant by letter on October 3, 2016, including notification 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. Complainant has not filed an objection to the proposed agreement.

The Agreement details a factual basis to support the admissions to violations of Rule 42, ERs 5.1 (responsibilities of partners/managers/supervisory lawyers), and 5.3 (responsibilities regarding nonlawyer assistants). Upon acceptance of this agreement, Mr. Corso stipulates to the imposition of the sanction of admonition. Complainant hired Mr. Corso's now defunct law firm, *Corso and Rhude*, for a criminal representation related to a DUI, and to pursue post-conviction relief pursuant to Rule 32 related to his shoplifting conviction. Mr. Corso was not involved in any aspect of the client's representation other than as a managing attorney of the law firm. Mr. Corso admits his conduct violated Rule 42, Ariz. R. Sup., ERs 5.1, and 5.3.

For settlement purposes, the State Bar agreed to waive the probation term initially imposed by ADPCC as ongoing LOMAP monitoring in File No. 15-0213, revealed no new law office management issues that would warrant a term probation.

Restitution is not an issue. Complainant and Mr. Corso's former law partner, John Rhude, have already begun the State Bar Fee Arbitration process to determine the reasonability of the fees charged in Complainant's case. If a fee award is entered,

Mr. Corso's dissolution agreement with John Rhude will determine what amount, if any, is the responsibility of Mr. Corso. Because Mr. Corso was not involved in establishing the fee agreement with Complainant, and because Complainant's fee issue is being addressed through fee arbitration with John Rhude, the State Bar, has stipulated to drop the ER 1.5 alleged violation for purposes of settlement. Mr. Corso and the State Bar of Arizona stipulate, based on the facts and circumstances, an admonition is appropriate.

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 parties agree *Standard 4.44* is the appropriate *Standard*. It provides admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client. The parties agree there was potential harm to the client.

The parties stipulate the following aggravating and mitigating factors should be considered. In aggravation: *Standard 9.22(a)* prior disciplinary offenses. In mitigation: *Standard 9.32(b)*: absence of a dishonest or selfish motive.

The PDJ finds that the proposed sanction and payment of State Bar costs within thirty (30) days, meets the objectives of attorney discipline. The Agreement is accepted and including attachments, incorporated by this reference.

IT IS ORDERED Respondent, Christopher P. Corso, is admonished for 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. Corso shall pay the costs and expenses of the State Bar of Arizona of \$1,200.00 within thirty (30) days from the date of this order.

If costs are not paid within thirty (30) days, interest will accrue at the legal rate. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office with these disciplinary proceedings.

DATED this 21st day of November, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing emailed/mailed
this 21st day of November, 2016, to:

Hunter F. Perlmeter, Bar No. 024755
Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

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Respondent's Counsel

by: [AMcQueen](#)

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Respondent's Counsel

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**CHRISTOPHER P. CORSO
Bar No. 022398**

Respondent.

PDJ 2016

State Bar File Nos. **16-0395**

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Christopher P. Corso, who is represented in this matter by counsel, Russell R. Yurk, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. An Order of Admonition, Probation was entered by the Probable Attorney Discipline Probable Cause Committee (ADPCC) on July 22, 2016. On August 8, 2016, Respondent filed a pleading demanding a formal hearing and requesting that the order of admonition be vacated. On August 18, 2016, The ADPCC issued an order vacating the order of admonition and authorizing the State Bar to file a complaint against Respondent. Because an agreement between the parties has been reached, 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 by letter on October 3, 2016, notifying him 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. Complainant has not filed an objection to the proposed agreement.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 5.1, and 5.3. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Admonition. 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, understands that 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 December 16, 2003.

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.

2. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona.

COUNT ONE (File no. 16-0395/Albo)

3. On September 16, 2012, Complainant Scott Albo was sentenced in a shoplifting case. At the time, he was not represented by Respondent.

4. On October 31, 2012, Albo hired Respondent's now defunct law firm, Corso and Rhude, for criminal representation related to a DUI and to pursue post-conviction relief pursuant to Rule 32 related to his shoplifting conviction.

5. Respondent was not involved in any aspect of Albo's representation other than as a managing attorney of the law firm.

6. Respondent's former law partner, John Rhude, handled the initial intake meeting and prepared the fee agreement in the case. The first paragraph of the fee agreement included the following language:

Attorney agrees to defend Client in the Phoenix Municipal Court on the charge of DUI, .08 DUI. Extreme DUI, DOSL, Rule 32 Motion on Shoplifting Case, Investigation and Communication with Law Enforcement Regarding Charges.

7. Albo paid \$4,000 for the representation pursuant to the terms of the fee agreement.

8. After the initial consultation, the matter was assigned to associate attorney Ryan Cummings for representation in the DUI matter. Cummings was admitted to practice law in June of 2011.

9. Cummings (like other firm associates) was not provided a copy of the fee agreement. According to Respondent, the law firm's policy was for the intake

attorney (here, John Rhude) or another experienced attorney with supervisory authority) to explain the scope of representation to the assigned associate.

10. According to Cummings, he did not have any experience in handling Rule 32 matters. According to Respondent, in such instances, the law firm's policy required associates to consult and receive supervision from an experienced lawyer in the office. Respondent did not ensure that the law firm's policy was properly followed regarding Albo's representation.

11. On January 23, 2012, Albo pled guilty to DUI—impaired to the slightest degree, and driving with a suspended license.

12. Albo indicated to the firm that his basis for seeking potential Rule 32 relief was his claim that he had "a prior shoplifting on 11/1/09, but was incarcerated that date for a DUI [and] could not have shoplifted."

13. An internal firm email dated November 8, 2012, between two administrative assistants, states that Albo, "[w]ants an update on his case on Monday. He wasn't in court yesterday and wants to know what happened (said you were supposed to call him). Also wants to find out whats going on with the Rule 32 Motion."

14. On that same date, November 8, 2012, Albo faxed documentation that showed that his 90-day incarceration for DUI had started in October 2008, which meant that Albo had not been incarcerated on November 1, 2009, when he allegedly shoplifted.

15. Respondent submitted a writing to the State Bar from Cummings' former legal assistant, Marice Kunz, stating that she would have provided the information regarding Albo's incarceration to Cummings or Courtney Boyd, another

firm associate. Ms. Kunz stated that she would have then taken direction from Cummings or Ms. Boyd in responding to Albo.

16. As of November 8, 2012, the deadline for filing a Rule 32 petition had not yet passed.

17. In Responding to the Bar's investigation, Respondent (who admittedly had no role in Albo's representation) initially stated that firm records show that when Albo contacted the firm in November of 2012, requesting an update on his Rule 32, the call was forwarded to secretary, Marice Kunz. Respondent further stated:

Based on Mr. Corso's familiarity with Ms. Kunz, she would have quickly understood that Albo's [Complainant's] 2009 shoplifting charge would be ineligible for Rule 32 post-conviction relief. Considering that Ms. Kunz communicated regularly with Mr. Albo throughout the representation and the lack of any subsequent inquiries from Mr. Albo regarding the Rule 32 motion, it is reasonable to assume that Mr. Albo was properly advised that he was not eligible for post-conviction relief. There is simply no evidence to the contrary.

18. Contrary to Respondent's understanding of the facts at the time, Albo still could have filed for Rule 32 post-conviction relief in November of 2012, as the disposition date in the shoplifting matter was September 16, 2012, not some date in 2009.

19. On January 23, 2013, the firm assigned another associate, James Palestini, who had been practicing law for approximately three months, to handle Albo's sentencing hearing.

20. On the same day, Courtney Boyd wrote in the firm's case log for Albo's case, "Closeout."

21. A closeout letter was sent to Albo on January 25, 2013. The letter contained no information concerning the Rule 32 issue.

22. Albo claims that after the conclusion of the DUI matter, he called the firm on several occasions to inquire about his Rule 32 matter, and that on the occasions that he spoke with firm staff, he was advised that his file was unavailable because the firm was converting from physical to paperless files. Firm documentation does not reflect that he made these calls. The law firm employee to whom Albo claims he talked started working at the law firm in November 2015.

23. Prior to filing the subject bar charge, Albo claims that he traveled to the Phoenix Municipal Court on several occasions to determine whether any Rule 32 paperwork has been filed on his behalf and confirmed that no action had been taken by anybody associated with the firm.

24. The law firm of Corso and Rhude was dissolved in April of 2015.

25. In engaging in the above conduct, Respondent's conduct violated ERs 5.1, and 5.3.

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 5.1, and ER 5.3.

RESTITUTION AND CONDITIONAL DISMISSAL OF ER 1.5

Restitution is not an issue in this matter. Complainant Albo and Respondent's former law partner, John Rhude, have already begun the State Bar Fee Arbitration process to determine the reasonability of the fees charged in Mr. Albo's case. To the extent that a fee award is entered, Respondent's dissolution agreement with John Rhude will determine what amount, if any, is the responsibility of Respondent. Because Respondent was not involved in establishing the fee agreement in Mr. Albo's matter, and because Mr. Albo's fee issue is being addressed through fee arbitration with John Rhude, the State Bar has conditionally agreed to drop the ER 1.5 violation for purposes of settlement.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, an admonition is appropriate.

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* 4.44 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 4.44 provides that admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

For purposes of settlement, the State Bar has agreed to waive the probation term initially recommended in this matter, as ongoing LOMAP monitoring as part of Respondent's probation in file no. 15-0213 has not revealed any new law office management issues.

The duty violated

As described above, Respondent's conduct violated his duty to properly supervise all lawyers in the law firm.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent negligently failed to ensure that all lawyers in the law firm were aware of the scope of representation, and followed the law firm's policy to seek assistance from experienced lawyers regarding matters on which they were inexperienced and that his conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was potential harm to the client.

Aggravating and mitigating circumstances

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

In aggravation:

Standard 9.22(a) prior disciplinary offenses

In mitigation:

Standard 9.32(b): absence of a dishonest or selfish motive

Discussion

The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction is appropriate.

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. 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 Admonition and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 10th day of November 2016

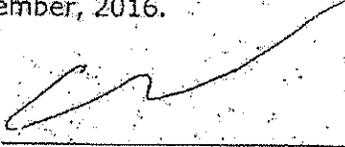
STATE BAR OF ARIZONA



Hunter F. Perimeter
Staff Bar Counsel

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

DATED this 8th day of November, 2016.



Christopher P. Corso
Respondent

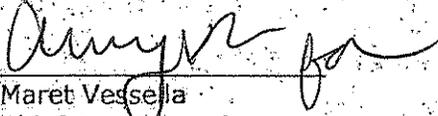
DATED this 9th day of November, 2016.

Jennings Haug & Cunningham



Russel Yurk
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 10th day of November, 2016.

Copy of the foregoing emailed
this 10th 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/emailed
this 10th day of November, 2016, to:

Russell Yurk
Jennings Haug & Cunningham
2800 N. Central Avenue, Suite 1800
Phoenix, Arizona 85004-1049
Email: rry@jhc-law.com
Respondent's Counsel

Copy of the foregoing hand-delivered
this 10th day of November, 2016, to:

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

by: 
HPP:bln

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Christopher P. Corso, Bar No. 022398, Respondent

File No. 16-0395

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
CURRENT MEMBER OF
THE STATE BAR OF ARIZONA,

CHRISTOPHER P CORSO,
Bar No. 022398,

Respondent.

PDJ

FINAL JUDGMENT AND ORDER

[State Bar No. 16-0395]

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, **Christopher P Corso**, is hereby Admonished for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

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:

Russell Yurk
Jennings Haug & Cunningham
2800 N Central Ave Ste 1800
Phoenix, AZ 85004-1049
Email: rry@jhc-law.com
Respondent's Counsel

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Hunter F Perlmeter
Bar Counsel - Litigation
State Bar of Arizona
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by: _____