

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

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

**BRIAN K. STANLEY,**  
**Bar No. 004619**

Respondent.

**PDJ 2015-9092**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 15-0127]

**FILED OCTOBER 7, 2015**

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on September 29, 2015, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepted the parties' proposed agreement. Accordingly:

**IT IS HEREBY ORDERED** Respondent, **Brian K. Stanley**, is admonished for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective the date of this Order.

**IT IS FURTHER ORDERED** Mr. Stanley is placed on probation for a period of two (2) years effective the date of his signing terms of probation.

**IT IS FURTHER ORDERED** Mr. Stanley shall participate in the Law Office Management Assistance Program (LOMAP) for maintenance of his trust account and compliance with the trust account rules. Mr. Stanley shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this Order to schedule a LOMAP assessment and execute an agreement setting forth the terms and conditions of his participation in LOMAP.

**IT IS FURTHER ORDERED** Mr. Stanley shall attend a half-day Trust Account Ethics Enhancement Program (TAEED) and shall provide the State Bar Compliance Monitor with the TAEED notes and worksheets. Mr. Stanley shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this Order to schedule attendance at the next available class. Mr. Stanley shall be responsible for the cost of attending the program.

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

#### **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 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.

**IT IS FURTHER ORDERED** Mr. Stanley shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within 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 7th day of October, 2015.

*William J. O'Neil*

---

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

Copies of the foregoing mailed/emailed  
this 7th day of October, 2015.

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Law Office of Brian K. Stanley, PLLC  
3200 N. Central Avenue, Suite 2500  
Phoenix, Arizona 85012-2445  
Email: [contact@brianstanleylaw.com](mailto:contact@brianstanleylaw.com)  
Respondent

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4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266

by: JAlbright

**BEFORE THE PRESIDING DISCIPLINARY  
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STATE BAR OF ARIZONA,

**BRIAN K. STANLEY,**  
**Bar No. 004619**

Respondent.

**No. PDJ-2015-9092**

**ORDER ACCEPTING  
AGREEMENT FOR DISCIPLINE  
BY CONSENT**

[State Bar File No. 15-0127]

**FILED OCTOBER 7, 2015**

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A Probable Cause Order was issued August 24, 2015, and the formal complaint was filed September 4, 2015. Thereafter, on September 29, 2015, an Agreement for Discipline by Consent (Agreement) was submitted by the parties under Rule 57(a)(3), Ariz. R. Sup. Ct.<sup>1</sup> 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.

The State Bar is the Complainant in this matter; therefore, no notification is required under Rule 53(b)(3). On two separate occasions, Mr. Stanley became the

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

victim of fraudulent activity. A purported new client sought representation to establish Limited Liability Corporation(s) and services involving unspecified real estate transactions. Mr. Stanley received a check from the client for \$57,000 CAN /\$54,000.00 US on August 4, 2014, and deposited the check into his IOLTA account. The client then requested Mr. Stanley wire transfer \$50,000.00 to a third party (Exclusive Auto Line, Inc.). On September 29, 2014, Mr. Stanley's bank credited \$53,997.00 to his IOLTA account. On October 8 2014, Mr. Stanley made the wire transfer. On January 14, 2015, the bank advised Mr. Stanley that the check was a fraudulent negotiable instrument and withdrew \$52,328.69 from the IOLTA leaving a negative balance of \$44,359.64. Mr. Stanley self-reported the incident to the State Bar that same day.

Mr. Stanley, in a separate charge, received a U.S. Treasury note tendered to the *Law Office of Brian Stanley, PPLC*, for \$950,000.00 from the client. Mr. Stanley presented the note to the bank and inquired on the validity of the note and the bank immediately seized the note as a fraudulent negotiable instrument. The bank then filed a civil action *Comercia v. Law Office of Brian K. Stanley, et. al., PLLC*, CV 2015-006987. Mr. Stanley could remedy the brief conversion of client funds; however, a review by the State Bar of Mr. Stanley's IOLTA revealed additional negligent violations of trust account rules and guidelines.

Mr. Stanley conditionally admits he violated Rule 42, 1.15 (safekeeping client property), and Rule 43 (trust accounts). The parties stipulate to a sanction of admonition and two years of probation with the State Bar's Law Office Management Assistance Program (LOMAP), completion of the State Bar's Trust Account Ethics Enhancement Program (TAEEP) and costs. The parties agree *Standard 4.14, Failure*

*to Preserve the Client's Property*, applies to Mr. Stanley's misconduct. *Standard 4.14* provides:

Admonition is generally appropriate when a lawyer is negligent in dealing with client property and causes little or no actual or potential injury to a client.

The parties agree the presumptive sanction is admonition. Mr. Stanley negligently violated his duty to clients by his failure to safeguard the property of clients and his failure to manage his IOLTA as required by trust account rules, causing actual brief harm to clients.

The parties further agree aggravating factors 9.22(a) (prior disciplinary offenses) and 9.22(i) (substantial experience in the practice of law) are present. Mitigating factors include: 9.32(d) (timely good faith effort to make restitution or rectify consequences of misconduct); 9.32(e) (full and free disclosure and cooperative attitude toward proceedings); 9.32(l) (remorse); and 9.32(m) (remoteness of prior offense) are supported by the record as Mr. Stanley was informally reprimanded in 1993 for violating ER 1.15 and 1.16.

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. *In re Peasley*, 208 Ariz. 27, 38, 90 P.3d 764, 775 (2004). Although Mr. Stanley was the victim of fraud, his mismanagement of his trust account warrants the agreed upon sanction and the PDJ agrees the Agreement fulfills the stated purposes of discipline. Accordingly:

**IT IS ORDERED** incorporating the Agreement and any supporting documents by this reference. The agreed upon sanctions are: admonition, two (2) years of probation (LOMAP and TAEEP), and costs and expenses of the disciplinary

proceedings totaling \$1,200.00 within thirty (30) days from this 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, and shall be paid within thirty (30) days of the final order. Now therefore, a final judgment and order is signed this date.

**DATED** this 7th day of October, 2015.

*William J. O'Neil*

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

Copies of the foregoing mailed/mailed  
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Senior Bar Counsel  
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Email: lro@staff.azbar.org

by: JAlbright

Matter Submitted to PDJ  
State Bar Charge No. 15-0127

PDJ-2015-9092

**FORMAL COMPLAINT**

**CURRENT MEMBER RESPONDENT, BRIAN K. STANLEY, #004619**

**FILE DATE:**

**DOCUMENT:**

09/04/2015	SB's COMPLAINT with attached Probable Cause Order
09/09/2015	SB's Notice of Notice of Service of Complaint
09/10/2015	Notice of Assignment of PDJ
09/29/2015	Agreement for Discipline By Consent
10/07/2015	Decision and Order Accepting Agreement for Discipline By Consent
10/07/2015	Final Judgment and Order

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by: JAlbright

SEP 29 2015

BY  FILED

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Respondent

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Respondent.

**PDJ 2015-9092**

**AGREEMENT FOR DISCIPLINE BY  
CONSENT**

[State Bar File No. 15-0127]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Brian K. Stanley, 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. A probable cause order was entered on August 24, 2015, and a complaint filed on September 4, 2015. 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.

The State Bar is the complainant in this matter, therefore no notice of this agreement is required pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, Ariz. R. Sup. Ct., ER 1.15 (Safekeeping Property), Rule 43, Ariz. R. Sup. Ct. (Trust Accounts). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Admonition with Probation. 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.<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 October, 23, 1976.

#### **COUNT ONE (File No. 15-0127/Self-Reported)**

2. Respondent was the victim of fraudulent activity involving a purported new client.

3. On August 4, 2014, Respondent deposited a check in the amount of \$57,000.00 CAN/\$54,000.00 US into his Comerica Bank IOLTA bank account (hereinafter referred to as "IOLTA") purportedly for legal representation related to creating certain LLC(s) and performing services in unspecified real estate transactions.

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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.

4. Shortly thereafter, the client requested that Respondent wire transfer \$50,000.00 out of the \$54,000.00 to Exclusive Auto Line, Inc., a third party purportedly conducting business for the client.

5. On September 29, 2014, the bank credited \$53,997.98 to the IOLTA.

6. On October 8, 2014, Respondent transferred \$50,000.00 to Exclusive Auto Line, Inc.

7. On January 14, 2015, the bank advised Respondent that the deposited funds were being reversed as the Canadian check was a fraudulent negotiable instrument.

8. On January 14, 2015, Respondent self-reported the incident to the State Bar of Arizona.

9. On January 16, 2015, the bank withdrew \$52,328.69 from the IOLTA due to a suspected fraudulent deposit, leaving the account with a negative balance of \$44,359.64.

10. While the withdrawal resulted in a brief conversion of approximately \$8,000.00 of unrelated client funds, Respondent rectified the conversion.

11. On January 16, 2015, the Trust Account Examiner sent Respondent the self-report initial screening letter, and requested an explanation of the overdraft and copies of the related mandatory records.

12. On January 27, 2015, the State Bar of Arizona received the insufficient funds notice for the IOLTA.

13. On February 6, 2015, Respondent provided the requested information with exceptions, and did not provide any further written explanation regarding the occurrence of overdraft.

14. In or around October 2014, Respondent received a U.S. Treasury note in the amount of \$950,000.00 from the client written out to the Law Office of Brian Stanley, PLLC.

15. When Respondent appeared in person at the bank to inquire into the validity of the note, bank personnel seized the note as a fraudulent negotiable instrument.

16. On May 29, 2015, Comerica filed the Maricopa County Superior Court lawsuit of *Comerica v. Law Office of Brian K. Stanley, et. al.*, PLLC, CV 2015-006987 against the law firm and Respondent personally.

17. A subsequent review of Respondent's trust account documents revealed the following trust account violations:

- a) Respondent noted on the T.E. individual client ledger that deposits for \$1,000.00 each on 08/28/2013 and 11/14/2013 were made to the IOLTA in error. Respondent states that these were fixed fees. Respondent wrote-off these receivables since the bank froze the account, and used these funds to offset any losses the bank sustained due to the 09/29/2014 fraudulent deposit. Respondent commingled earned funds in the IOLTA for approximately 17 months. There may be other instances during the period of review in which Respondent commingled earned funds; however, this could not be determined conclusively with the records submitted for review. Respondent should take the necessary precautions to disburse all earned fees from the IOLTA in a timely manner.
- b) Respondent's administrative funds ledger indicates that as of 06/05/2013, the balance held on deposit was negative \$34.86. The records indicate that the balance remained negative until the account was closed by the bank on 02/13/2015. Respondent potentially converted other client funds for approximately 20 months.
- c) Respondent's administrative funds ledger for the new IOLTA indicates that as of 03/05/2015, the balance held on deposit was negative \$7.27. Respondent remedied the negative balance through a deposit of personal funds on 06/02/2015 for \$37.98. Respondent converted other client funds for approximately three months.

- d) The memo portion of Respondent's deposit record dated 08/07/2014 in the amount of \$1,200.00 for client M.Z. indicates that these funds were originally deposited to the operating account in error due to a problem with the credit card machine. Respondent commingled client funds in his operating account for an indeterminate period of time. Respondent should take the necessary precautions to ensure that client funds are deposited to the appropriate account at all times.
- e) Respondent received and deposited a fraudulent negotiable instrument during the period of review, causing the overdraft in the IOLTA. Respondent received a second fraudulent instrument from the same purported client; however, on this occasion, when he took the instrument to the bank, personnel determined immediately that this instrument was fraudulent. Respondent exposes his clients, his bank, and himself to risk and loss when he continues to deposit fraudulent instruments even after having been a target of a similar fraud scheme in 2010.
- f) Respondent's individual ledger for A.E. indicates that the balance in the IOLTA for this client was \$500.00 as of 12/31/2014. The bank froze these funds on 01/14/2015, but Respondent did not restore this client balance in his new IOLTA until 06/03/2015.
- g) Respondent's individual ledger for H. RMC indicates that the balance in the IOLTA for this client was \$360.00 as of 12/31/2014. The bank froze these funds on 01/14/2015, but Respondent did not restore this client balance in his new IOLTA until 06/03/2015.
- h) Respondent's individual ledger for I.C. indicates that check #2118 in the amount of \$65.00 cleared the IOLTA on 12/09/2014 when there were no funds held on deposit in the IOLTA for this client at the time. Respondent remedied the overdraft through a deposit of client funds on 12/11/2014. Respondent potentially converted other client funds for approximately two days.
- i) Respondent's individual ledger for N.S. indicates that the balance in the IOLTA for this client was \$514.00 as of 12/31/2014. The bank froze these funds on 01/14/2015, but Respondent did not restore this client balance in his new IOLTA until 06/03/2015.
- j) Respondent's individual ledger for N.S. indicates that check #2119 in the amount of \$486.00 cleared the IOLTA on 12/18/2014 when there were no funds held on deposit in the IOLTA for this client at the time. Respondent remedied the overdraft through a deposit of client funds on 12/23/2014. Respondent potentially converted other client funds for approximately five days.

- k) Respondent's individual ledger for E.U. indicates that the balance in the IOLTA for this client was \$21.00 as of 12/31/2014. The bank froze these funds on 01/14/2015, but Respondent did not restore this client balance in his new IOLTA until 06/03/2015.
- l) Respondent's IOLTA reconciliations for August 2014 through January 2015 indicate ending balances held on deposit for client K.O. are \$.15 more than the ending balances on Respondent's actual individual client ledgers for K.O.
- m) Respondent's IOLTA reconciliations for August 2014 through January 2015 indicate ending balances held on deposit for client M.P. are \$148.31 less than the ending balances on Respondent's actual individual client ledgers for M.P.
- n) Respondent did not maintain contemporaneous, complete and accurate individual client ledgers or conduct proper monthly three-way reconciliation cannot be conducted.
- o) Respondent's IOLTA reconciliations for January through April 2015 reflect the years as 2012.

#### **CONDITIONAL ADMISSIONS**

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that his conduct violated Rule 42, Ariz. R. Sup. Ct., ER 1.15 (Safekeeping Property) and Rule 43, Ariz. R. Sup. Ct. (Trust Accounts).

#### **CONDITIONAL DISMISSALS**

The State Bar has conditionally agreed to dismiss nothing as a result of this agreement.

#### **RESTITUTION**

Restitution is not an issue in this matter.

## **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: Admonition with two years of Probation.

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 parties agree that *Standard* 4.14 is the appropriate *Standard* to be used in this case:

Admonition is generally appropriate when a lawyer is negligent in dealing with client property and causes little or no injury or potential injury to a client.

Even though Respondent rectified the brief conversion of client funds, Respondent failed to hold property of clients in his possession in connection with a representation and failed to comply with the ethical rules regarding Trust Accounts.

**The duty violated**

As described above, Respondent's conduct violated his duty to his clients.

**The lawyer's mental state**

For purposes of this agreement the parties agree that Respondent negligently failed to hold property of clients in his possession in connection with a representation and failed to comply with the ethical rules regarding Trust Accounts 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 actual brief harm to the clients.

**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:

- SB 11-3585 (2012) [Admonition – Respondent had several inappropriate discussions with Court services officials over the TurboCourt program in violation of Rule 41(g)]
- SB 98-1781 (2001) [Censure – While administratively suspended, Respondent continued to practice law and failed to cooperate with the State Bar investigation in violation of Rule 42, Ariz. R. Sup. Ct., ERs 5.5, 8.1(b), 8.4(a) and Rule 51(e), (h), (i) and (k)]

- SB 92-2001 (1993) [Informal Reprimand – Respondent violated Rule 42, Ariz. R. Sup. Ct., ERs 1.15 and 1.16]

*Standard 9.22(i)* substantial experience in the practice of law [39 years].

**In mitigation:**

*Standard 9.32(d)* timely good faith effort to make restitution or to rectify consequences of misconduct;

*Standard 9.32(e)* full and free disclosure and cooperative attitude toward proceedings;

*Standard 9.32(l)* remorse;

*Standard 9.32(m)* remoteness of unrelated prior offenses.

**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. This agreement was based on the following:

While Respondent was the victim of fraudulent activity and the conversion of client funds was brief, Respondent's ongoing mismanagement of his trust account and prior disciplinary record for violations of Rule 42, Ariz. R. Sup. Ct., ERs 1.15 justify the agreed upon sanction.

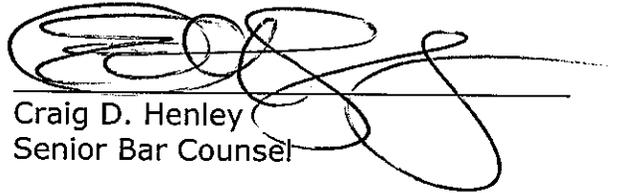
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

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

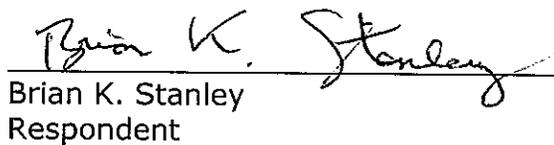
**DATED** this 29<sup>th</sup> day of September 2015.

**STATE BAR OF ARIZONA**

  
\_\_\_\_\_  
Craig D. Henley  
Senior Bar Counsel

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

**DATED** this 25<sup>th</sup> day of September, 2015.

  
\_\_\_\_\_  
Brian K. Stanley  
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 29<sup>TH</sup> day of September 2015.

Copies of the foregoing mailed/emailed  
this 29<sup>TH</sup> day of September 2015 to:

Brian K. Stanley  
Law Office of Brian K. Stanley, PLLC  
3200 N. Central Avenue, Suite 2500  
Phoenix, Arizona 85012-2445  
Email: [contact@brianstanleylaw.com](mailto:contact@brianstanleylaw.com)  
Respondent

Copy of the foregoing emailed  
this 29<sup>TH</sup> day of September, 2015, to:

William J. O'Neil  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
Email: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

Copy of the foregoing hand-delivered  
this 29<sup>TH</sup> day of September, 2015, to:

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

by: Jalise Stone  
CDH/ts

**EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,  
Brian K. Stanley, Bar No. 004619, Respondent

File No. 15-0127

### **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***

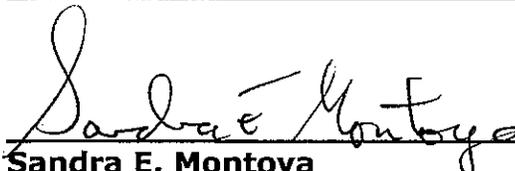
**\$1,200.00**

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

  
Sandra E. Montoya  
Sandra E. Montoya  
Lawyer Regulation Records Manager

9-29-15  
Date

**EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

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

**BRIAN K. STANLEY,**  
**Bar No. 004619,**

Respondent.

**PDJ 2015-9092**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 15-0127]

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, **Brian K. Stanley**, is hereby Admonished with Probation for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective as of the date of this order.

**IT IS FURTHER ORDERED** that Respondent shall be placed on probation for a period of two years.

**IT IS FURTHER ORDERED** that Respondent shall participate in the Law Office Management Assistance Program (LOMAP) for maintenance of a trust account and compliance with the trust account rules. Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order/Agreement, to schedule a LOMAP assessment and execute an agreement setting forth the terms and conditions of Respondent's participation in LOMAP.

**IT IS FURTHER ORDERED** that Respondent shall attend a half-day Trust Account Ethics Enhancement Program (TAEEP) and shall provide the State Bar Compliance Monitor with the TAEEP notes and worksheets. Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within 10 days from the date of service of this Order/Agreement, to schedule attendance at the next available class. Respondent will be responsible for the cost of attending the program.

**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.

**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 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.

**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 September, 2015.

---

**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 September, 2015.

Copies of the foregoing mailed/emailed this \_\_\_\_\_ day of September, 2015.

Brian K. Stanley  
Law Office of Brian K. Stanley, PLLC  
3200 N. Central Avenue, Suite 2500  
Phoenix, Arizona 85012-2445  
Email: [contact@brianstanleylaw.com](mailto:contact@brianstanleylaw.com)  
Respondent

Copy of the foregoing emailed/hand-delivered this \_\_\_\_\_ day of September, 2015, to:

Craig D. Henley  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

Copy of the foregoing hand-delivered  
this \_\_\_\_ day of September, 2015 to:

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

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

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

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

**BRIAN K. STANLEY,**  
**Bar No. 004619**

Respondent.

**No. PDJ-2015-9092**

**NOTICE OF ASSIGNMENT OF PDJ**

[State Bar No. 15-0127]

**FILED SEPTEMBER 10, 2015**

Pursuant to Rule 58(a)(2)(b), Ariz. R. Sup. Ct.,

Having received notice from the State Bar that the Complaint in the above-captioned matter has been served on Respondent.

NOTICE IS HEREBY GIVEN that the above-captioned matter has been assigned to the Presiding Disciplinary Judge, William J. O'Neil for the purpose of further proceedings.

Pursuant to Rule 58(a)(2), Respondent is entitled to be represented by a lawyer, to cross-examine witnesses and to present evidence on his own behalf.

Pursuant to Rule 58(a)(2)(b), Respondent shall file an answer with the Disciplinary Clerk and serve copies upon Bar Counsel of Record within twenty days after the service of the Complaint. In the event Respondent fails to answer within the prescribed time, a default shall be entered. Respondent shall provide a current address in his or her answer, and confirm that the address given is the address reported to the State Bar pursuant to Rule 32(c)(3). Respondent's Answer must comply with Rule 8(b), Ariz. R. Civ. P.

Originals of all documents must be filed with the Disciplinary Clerk of the Office of Presiding Disciplinary Judge, State Courts Building, 1501 W. Washington, Suite 102, Phoenix, Arizona 85007-3231. The party filing shall serve a copy of every document filed on Bar Counsel, Respondent or Respondent's Counsel.

DATED this 10th day of September, 2015.

*Jennifer R. Albright*

---

Jennifer R. Albright, Disciplinary Clerk  
Office of the Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed  
this 10th day of September, 2015, to:

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

Brian K. Stanley  
3200 N. Central Ave., Suite 2500  
Phoenix, AZ 85012-2445  
Email: contact@brianstanleylaw.com  
Respondent

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

by: JAlbright

OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA  
SEP 09 2015  
BY  FILED

Craig D. Henley, Bar No. 018801  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Telephone (602) 340-7272  
Email: LRO@staff.azbar.org

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**BRIAN K. STANLEY,  
Bar No. 004619**

Respondent.

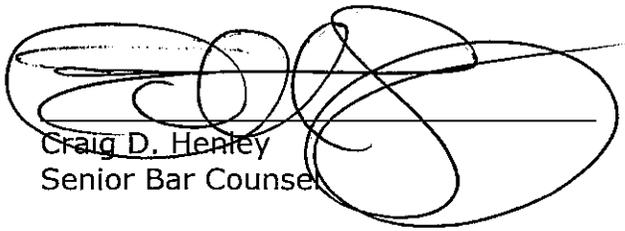
**PDJ 2015-9092**

**NOTICE OF SERVICE OF  
COMPLAINT**

[State Bar No. 15-0127]

**PLEASE TAKE NOTICE** that, pursuant to Rules 47(c), Ariz. R. Sup. Ct., and as avowed in the attached affidavit of mailing incorporated herein, the State Bar's complaint was served on Respondent on September 9, 2015 by mailing the complaint by certified, delivery restricted and regular first class mail to Respondent to the address of record as provided by Respondent to the Membership Records Department of the State Bar of Arizona.

**RESPECTFULLY SUBMITTED** this 9<sup>th</sup> day of September, 2015.

  
Craig D. Henley  
Senior Bar Counsel

**AFFIDAVIT OF MAILING**

**STATE OF ARIZONA** )  
 ) ss.  
County of Maricopa )

I, Talese Stone, secretary in the Lawyer Regulation Division of the State Bar of Arizona, do solemnly swear that a copy of the State Bar's Complaint was mailed by regular first class and by certified, delivery restricted mail, receipt number 7012 0470 0001 6706 4432 to Respondent, Brian K. Stanley, at Law Office of Brian K. Stanley, PLLC, 3200 N. Central Avenue, Suite 2500, Phoenix, AZ 85012-2445, on September 9, 2015.

**DATED** this 9<sup>th</sup> day of September, 2015.

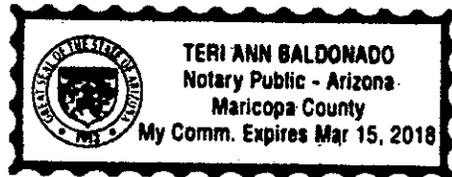
Talese Stone  
Affiant

**SUBSCRIBED AND SWORN TO** before me this 9<sup>th</sup> day of September 2015.

Teri Ann Baldonado  
Notary Public

My Commission Expires:

March 15, 2018



Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 9<sup>TH</sup> day of September, 2015.

Copy of the foregoing emailed  
this 9<sup>TH</sup> day of September, 2015.

Hon. William J. O'Neil  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
Email: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

Copies of the foregoing mailed/emailed  
this 9<sup>TH</sup> day of September, 2015.

7012 0470 0001 6706 4432

Brian K. Stanley  
Law Office of Brian K. Stanley, PLLC  
3200 N. Central Avenue, Suite 2500  
Phoenix, Arizona 85012-2445  
Email: [contact@brianstanleylaw.com](mailto:contact@brianstanleylaw.com)  
Respondent

Copy of the foregoing hand-delivered  
this 9<sup>TH</sup> day of September, 2015, to:

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

by: Jalene Stone

OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA  
SEP 04 2015  
BY    *JS*    FILED

Craig D. Henley, Bar No. 018801  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Telephone (602) 340-7272  
Email: LRO@staff.azbar.org

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**BRIAN K. STANLEY,  
Bar No. 004619,**

Respondent.

PDJ 2015-9092

**COMPLAINT**

[State Bar No. 15-0127]

Complaint is made against Respondent as follows:

**GENERAL ALLEGATIONS**

1. At all times relevant, Respondent was licensed to practice law in the State of Arizona on October 23, 1976.

**COUNT ONE (File No. 15-0127/Stanley)**

2. On August 4, 2014, Respondent deposited a check in the amount of \$57,000.00 CAN/\$54,000.00 US into his Comerica Bank IOLTA bank account (hereinafter referred to as "IOLTA") purportedly for legal representation related to creating certain LLC(s) and performing services in unspecified real estate transactions.

3. Shortly thereafter, the client requested that Respondent wire transfer \$50,000.00 out of the \$54,000.00 to a third party purportedly conducting business for the client.

4. On September 29, 2014, the bank credited \$53,997.98 to the IOLTA.

5. On October 8, 2014, Respondent transferred \$50,000.00 to a company named Exclusive Auto Line, Inc.

6. On January 14, 2015, the bank advised Respondent that the deposited funds were being reversed as the Canadian check was a fraudulent negotiable instrument.

7. On January 14, 2015, Respondent self-reported the incident to the State Bar of Arizona.

8. On January 16, 2015, the bank withdrew \$52,328.69 from the IOLTA due to a suspected fraudulent deposit, leaving the account with a negative balance of \$44,359.64.

9. The withdrawal resulted in the conversion of approximately \$8,000.00 of unrelated client funds.

10. On January 16, 2015, the Trust Account Examiner sent Respondent the self-report initial screening letter, and requested an explanation of the overdraft and copies of the related mandatory records.

11. On January 27, 2015, the State Bar of Arizona received the insufficient funds notice for the IOLTA.

12. On February 6, 2015, Respondent provided the requested information with exceptions, and did not provide any further written explanation regarding the occurrence of overdraft.

13. On March 9, 2015, the State Bar received an e-mail from Kathleen Weber, Folks & O'Connor, PLLC, (602) 515-0129, [weber@folksoconnor.com](mailto:weber@folksoconnor.com) indicating that she represents Comerica Bank ("Comerica") regarding Respondent's overdrawn IOLTA account as a result of two incidents involving tampered checks/notes.

14. In or around October 2014, Respondent received a U.S. Treasury note in the amount of \$950,000.00 from the client written out to the Law Office of Brian Stanley, PLLC.

15. When Respondent attempted to deposit the note in person at the bank, bank personnel made inquiries and seized the note identifying it as a fraudulent negotiable instrument.

16. On May 29, 2015, Comerica filed the Maricopa County Superior Court lawsuit of *Comerica v. Law Office of Brian K. Stanley, et. al.*, PLLC, CV 2015-006987 against the law firm and Respondent personally.

17. A review of the trust account documents provided by Respondent revealed the following:

- a) Respondent noted on the T.E. individual client ledger that deposits for \$1,000.00 each on 08/28/2013 and 11/14/2013 were made to the IOLTA in error. Respondent states that these were fixed fees. Respondent wrote-off these receivables since the bank froze the account, and used these funds to offset any losses the bank sustained due to the 09/29/2014 fraudulent deposit. Respondent commingled earned funds in the IOLTA for approximately 17 months. There may be other instances during the period of review in which Respondent commingled earned

funds; however, this could not be determined conclusively with the records submitted for review. Respondent should take the necessary precautions to disburse all earned fees from the IOLTA in a timely manner.

- b) Respondent's administrative funds ledger indicates that as of 06/05/2013, the balance held on deposit was negative \$34.86. The records indicate that the balance remained negative until the account was closed by the bank on 02/13/2015. Respondent potentially converted other client funds for approximately 20 months.
- c) Respondent's administrative funds ledger for the new IOLTA indicates that as of 03/05/2015, the balance held on deposit was negative \$7.27. Respondent remedied the negative balance through a deposit of personal funds on 06/02/2015 for \$37.98. Respondent converted other client funds for approximately three months.
- d) The memo portion of Respondent's deposit record dated 08/07/2014 in the amount of \$1,200.00 for client M.Z. indicates that these funds were originally deposited to the operating account in error due to a problem with the credit card machine. Respondent commingled client funds in his operating account for an indeterminate period of time. Respondent should take the necessary precautions to ensure that client funds are deposited to the appropriate account at all times.
- e) Respondent received and deposited a fraudulent negotiable instrument during the period of review, causing the overdraft in the IOLTA. Respondent received a second fraudulent instrument from the same purported client; however, on this occasion, when he took the instrument to the bank, personnel determined immediately that this instrument was fraudulent. Respondent exposes his clients, his bank, and himself to risk and loss when he continues to deposit fraudulent instruments even after having been a target of a similar fraud scheme in 2010.
- f) Respondent's individual ledger for A.E. indicates that the balance in the IOLTA for this client was \$500.00 as of 12/31/2014. The bank froze these funds on 01/14/2015, but Respondent did not restore this client balance in his new IOLTA until 06/03/2015.
- g) Respondent's individual ledger for H. RMC indicates that the balance in the IOLTA for this client was \$360.00 as of 12/31/2014. The bank froze these funds on 01/14/2015, but Respondent did not restore this client balance in his new IOLTA until 06/03/2015.
- h) Respondent's individual ledger for I.C. indicates that check #2118 in the amount of \$65.00 cleared the IOLTA on 12/09/2014 when there were no funds held on deposit in the

IOLTA for this client at the time. Respondent remedied the overdraft through a deposit of client funds on 12/11/2014. Respondent potentially converted other client funds for approximately two days.

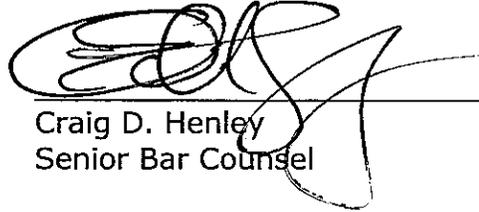
- i) Respondent's individual ledger for N.S. indicates that the balance in the IOLTA for this client was \$514.00 as of 12/31/2014. The bank froze these funds on 01/14/2015, but Respondent did not restore this client balance in his new IOLTA until 06/03/2015.
- j) Respondent's individual ledger for N.S. indicates that check #2119 in the amount of \$486.00 cleared the IOLTA on 12/18/2014 when there were no funds held on deposit in the IOLTA for this client at the time. Respondent remedied the overdraft through a deposit of client funds on 12/23/2014. Respondent potentially converted other client funds for approximately five days.
- k) Respondent's individual ledger for E.U. indicates that the balance in the IOLTA for this client was \$21.00 as of 12/31/2014. The bank froze these funds on 01/14/2015, but Respondent did not restore this client balance in his new IOLTA until 06/03/2015.
- l) Respondent's IOLTA reconciliations for August 2014 through January 2015 indicate ending balances held on deposit for client K.O. are \$.15 more than the ending balances on Respondent's actual individual client ledgers for K.O.
- m) Respondent's IOLTA reconciliations for August 2014 through January 2015 indicate ending balances held on deposit for client M.P. are \$148.31 less than the ending balances on Respondent's actual individual client ledgers for M.P.
- n) Respondent did not maintain contemporaneous, complete and accurate individual client ledgers or conduct proper monthly three-way reconciliation cannot be conducted.
- o) Respondent's IOLTA reconciliations for January through April 2015 reflect the years as 2012.

18. By engaging in the above-described conduct, Respondent violated ethical rules including, but not limited to:

- a. Rule 42, Ariz. R. Sup. Ct., ER 1.15(a) by failing to safeguard client property and commingling the client funds with the lawyer's property;
- b. Rule 42, Ariz. R. Sup. Ct., ER 1.15(b)(1) by failing to deposit lawyer's own funds in a client trust account only in an amount reasonably estimated to be necessary to pay service or other charges or fees imposed by the financial institution that are related to the operation of the trust account;
- c. Rule 42, Ariz. R. Sup. Ct., ER 1.15(b)(3) by failing to withdraw from the trust account within a reasonable time after deposit earned fees and funds for reimbursement of costs or expenses.
- d. Rule 43(a), Ariz. R. Sup. Ct. by failing to keep funds belonging in whole or in part to a client/third person in connection with a representation separate and apart from the lawyer's personal and business accounts.
- e. Rule 43(b)(4), Ariz. R. Sup. Ct. by using, endangering, or encumbering money held in trust for a client/third person without the permission of the owner.
- f. Rule 43(b)(1)(A), Ariz. R. Sup. Ct. Failed to exercise due professional care in the performance of the lawyer's duties.
- g. Rule 43(b)(1)(C), Ariz. R. Sup. Ct. Failed to maintain adequate internal controls under the circumstances to safeguard funds or other property held in trust.
- h. Rule 43(b)(2)(A), Ariz. R. Sup. Ct. by failing to maintain on a current basis, complete records of the handling, maintenance, and disposition of all funds, securities, and other property belonging in whole or in part to a client/third person in connection with a representation. These records shall include the records required by ER 1.15 and cover the entire time from receipt to the time of final disposition by the lawyer of all such funds, securities, and other property.
- i. Rule 43(b)(2)(C), Ariz. R. Sup. Ct. by failing to make or cause to be made a monthly three-way reconciliation of the client ledgers, trust account general ledger or register, and the trust account bank statement.
- j. Rule 43(d)(3), Ariz. R. Sup. Ct. Rebuttable Presumption: If a lawyer fails to maintain trust account records required by this rule and ER 1.15, or fails to provide trust account records to the state bar upon request or as ordered by a panelist, a hearing officer, the commission or the court, there is a rebuttable presumption that the lawyer failed to properly safeguard client/third person's funds or property, as required by this rule and ER 1.15.

**DATED** this 4<sup>TH</sup> day of September, 2015.

**STATE BAR OF ARIZONA**

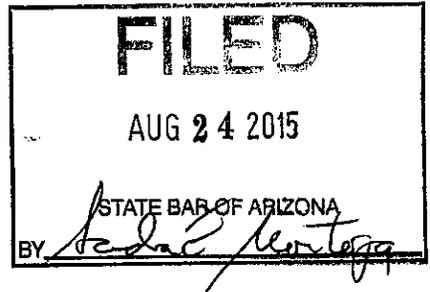


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Craig D. Henley  
Senior Bar Counsel

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 4<sup>TH</sup> day of September, 2015.

by: Jalene Stone  
CDH/ts



**BEFORE THE ATTORNEY DISCIPLINE  
PROBABLE CAUSE COMMITTEE  
OF THE SUPREME COURT OF ARIZONA**

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

No. 15-0127

**BRIAN K. STANLEY,  
Bar No. 004619**

**PROBABLE CAUSE ORDER**

Respondent.

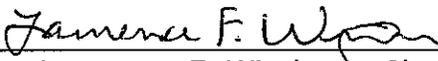
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on August 14, 2015, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Respondent's Response.

By a vote of 8-0-1<sup>1</sup>, the Committee finds probable cause exists to file a complaint against Respondent in File No. 15-0127.

**IT IS THEREFORE ORDERED** pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

**DATED** this 24 day of August, 2015.

  
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Judge Lawrence F. Winthrop, Chair  
Attorney Discipline Probable Cause Committee  
of the Supreme Court of Arizona

<sup>1</sup> Committee member Ben Harrison did not participate in this matter.

Original filed this 24<sup>th</sup> day  
of August, 2015, with:

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

Copy mailed this 25<sup>th</sup> day  
of August, 2015, to:

Brian K. Stanley  
Law Office of Brian K. Stanley, PLLC  
3200 N. Central Avenue, Suite 2500  
Phoenix, Arizona 85012-2445  
Respondent

Copy emailed this 25<sup>th</sup> day  
of August, 2015, to:

Attorney Discipline Probable Cause Committee  
of the Supreme Court of Arizona  
1501 W. Washington Street, Suite 104  
Phoenix, Arizona 85007  
E-mail: [ProbableCauseComm@courts.az.gov](mailto:ProbableCauseComm@courts.az.gov)

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by: Jalbi Stone