BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **JASON CHANDLER FARRINGTON, Bar No. 023639** Respondent.	**PDJ-2016-9063** **FINAL JUDGMENT AND ORDER OF DISBARMENT** [State Bar No. 15-2090] **FILED OCTOBER 4, 2016**

This matter came for hearing before the Hearing Panel, which rendered its decision on September 12, 2016. No appeal has been filed and the time for appeal has passed.

Now Therefore,

IT IS ORDERED Respondent, **JASON CHANDLER FARRINGTON, Bar No. 023639,** is disbarred from the State Bar of Arizona and his name is stricken from the roll of lawyers effective September 12, 2016, as set forth in the Decision and Order Imposing Sanctions filed September 12, 2016. Mr. Farrington is no longer entitled to the rights and privileges of a lawyer but remains subject to the jurisdiction of the Court.

IT IS FURTHER ORDERED Mr. Farrington shall immediately comply with the requirements relating to notification of clients and others, and provide and/or file all notices and affidavits required by Rule 72, Ariz. R. Sup. Ct.

IT IS FURTHER ORDERED Mr. Farrington shall immediately pay $17,500.00 in restitution to Complainants, Jack Aleff and Reena Slominski.

IT IS FURTHER ORDERED granting Judgment to the State Bar of Arizona for costs in the amount of $2,000.00 with interest as provided by law. 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 4th day of October 2016.

William J. O'Neil

William J. O'Neil
Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
on October 4, 2016, to:

Jason Chandler Farrington, Respondent
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David L. Sandweiss
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by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **JASON CHANDLER FARRINGTON, Bar No. 023639** Respondent.	**PDJ-2016-9063** **DECISION AND ORDER IMPOSING SANCTIONS** [State Bar No. 15-2090] **FILED SEPTEMBER 12, 2016**

On September 6, 2016, the Hearing Panel, comprised of the PDJ, Harlan J. Crossman, attorney member, and Thomas C. Schleifer, public member conducted a hearing pursuant to Rule 58 Ariz. R. Sup. Ct.[1] Mr. Farrington filed no answer and pursuant to Rule 58(d) the allegations were deemed admitted upon the effective entry of default. Notwithstanding, at the hearing, Mr. Farrington disputed none of the alleged facts and they are accepted as true.

PROCEDURAL HISTORY

The Attorney Discipline Probable Cause Committee issued its probable cause order on April 26, 2016. The State Bar of Arizona ("SBA") filed its complaint on June 20, 2016. On June 23, 2016, the complaint was served on Mr. Farrington by certified, delivery restricted mail, and by regular first class mail, pursuant to Rules 47(c) and 58(a)(2), The Presiding Disciplinary Judge ("PDJ") was assigned to the matter. A notice of default issued on July 19, 2016, as Mr. Farrington failed to file an answer or

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

otherwise defend. Mr. Farrington filed no answer or otherwise defend and default was effective on August 9, 2016, at which time a notice of aggravation and mitigation hearing was sent to all parties notifying them the aggravation / mitigation hearing was scheduled for September 6, 2016, at 1:30 p.m., at the State Courts Building, 1501 West Washington, Room 109, Phoenix, Arizona 85007-3231.

A respondent against whom a default has been entered may no longer litigate the merits of the factual allegations, but retains the right to appear and participate in the hearing that will determine the sanctions. Included with that right to appear is the right to testify and the right to cross-examine witnesses, in each instance only to establish facts related to aggravation and mitigation. Mr. Farrington appeared for the hearing unrepresented and was exercised those rights. All exhibits were admitted without objection.

FINDINGS OF FACT

Many of the facts listed below were set forth in the SBA's complaint and were admitted by Mr. Farrington. Although the allegations are deemed admitted by default, there has also been an independent determination by the Panel that the State Bar has proven by clear and convincing evidence that Mr. Farrington violated the ethical rules.

1. Mr. Farrington was a lawyer licensed to practice law in Arizona having been first admitted to practice in Arizona on March 16, 2006.

2. Mr. Farrington was suspended from practicing law in Arizona on February 27, 2015 for failure to comply with Rule 45, mandatory continuing legal education requirements, and remains suspended.

3. In December 2010 Complainants, Jack Aleff and Reena Slominski, hired Arizona attorney Robert Cook to represent them in various federal and bankruptcy cases.

4. In November 2013 Mr. Cook was disbarred.

5. Mr. Farrington succeeded Mr. Cook as Complainants' attorney.

6. Complainants paid Mr. Farrington $25,000 to represent them in *Re: Aleff and Slominski, debtors*, Petition #: 13-10065, U.S. Bankruptcy Court, District of South Dakota (Aberdeen), *U.S. v. Aleff; Slominski; and L & J Wool & Fur*, Civil Docket #: 1:12-cv-01020-CBK, U.S. District Court, District of South Dakota (Northern Division); and *U.S. v. Aleff; Slominski; and L & J Wool & Fur*, 772 F.3d 508 (8th Cir. 2014) (the appeal of the district court case). He was paid $10,000 to handle the bankruptcy cases and $15,000 to handle an appeal of a summary judgment entered against them. [Exhibit 4.]

7. Mr. Farrington testified he did substantial work in the bankruptcy cases. The court record shows in Bankruptcy Petition: 13-10065, Mr. Robert L. Meadors did virtually all the work beginning with filing the petition for bankruptcy on April 30, 2013. In that bankruptcy case, Mr. Farrington moved to appear *pro hac vice* and an application on Complainants' behalf to employ him on June 20, 2013. The court denied the application of Mr. Farrington to be employed as counsel. Mr. Meadors filed the petition for bankruptcy to be dismissed. [Exhibit 10.]

8. Mr. Farrington refiled the application but the court vacated a hearing on the application when Complainants dismissed their bankruptcy petition. The dismissal was done shortly after filing the petition. [Exhibit 4.]

9. In District Court, a motion for summary judgment was filed against the clients on August 15, 2013. [Exhibit 11, SBA0044.] An order issued on October 17, 2013, permitting Mr. Farrington to appear *pro hac vice*. [*Supra*, SBA0046.] Summary judgment was granted against the clients of Mr. Farrington on 12/30/2013. Judgment was entered on February 3, 2014. [*Supra*, SBA0047.]

10. Mr. Farrington did not inform his clients that the U.S. District Court entered summary judgment against them in February 2014.

11. His clients learned the trial court entered judgment against them through media reports. A notice of appeal was filed on March 5, 2014. [*Supra*, SBA0047.]

12. The clients of Mr. Farrington repeatedly attempted to contact him and finally tried to obtain their files from him. He did not respond as he had abandoned his law practice. Mr. Farrington testified it had become too painful for him to think about practicing law. [Exhibits 2-3.]

13. In the 8th Circuit appellate case Mr. Farrington moved for and was granted an extension of time by which to file his opening brief.

14. Mr. Farrington missed the deadline so the court set an Order to Show Cause hearing on why the appeal should not be dismissed. Mr. Farrington did not inform his clients of this.

15. Mr. Farrington filed the brief and an addendum two weeks later. The court issued a deficiency notice related to violation of electronic filing requirements. The court ultimately accepted the brief and addendum. [Exhibit 9.]

16. The 8th Circuit Court issued its opinion and order in November 2014. [Exhibit 1.] The mandate issued January 14, 2015. [Exhibit 9 and 11, SBA0048.]

17. The decision upheld the district court's summary judgment against Complainants for approximately $1,400,000.00.

18. Mr. Farrington at the hearing acknowledged he never informed his clients of that outcome although he knew the opinion had only been served upon him. He testified he was no longer checking his emails as he was no longer practicing law.

19. On August 18, 2015, his clients filed a charge with the State Bar of Arizona. [Exhibit 4.]

20. Bar counsel sent standard screening investigation letters and emails to Mr. Farrington on September 3 and October 6, 2015, but he did not respond. [Exhibit 5 and 6.]

21. In a letter dated November 18, 2015, bar counsel told Mr. Farrington that the State Bar would seek a $25,000 restitution order against him. [Exhibit 7.]

22. On December 9, 2015, Mr. Farrington replied by email:

> I just read the attached letter and noticed that you are planning to seek a restitution order against me for $25,000. I did receive a payment of $25,000 from Mr. Aleff and Ms. Slominski, but I earned every penny of that fee. I spent well over 100 hours representing them through a Chapter 12 bankruptcy, defending them in a lawsuit filed by the US Attorney's office, and filing an appeal and brief to the 8th Circuit Court of Appeals. I also incurred numerous costs, including flying out to South Dakota for their bankruptcy meeting of creditors and for a deposition by the US Attorney's office.
>
> I understand that Mr. Aleff and Ms. Slominski have had difficulty reaching me now that their final appeal has ended and I am no longer practicing law, and for that I am sorry. I will reach out to them and make sure that they receive the files that they are asking for. I also understand that the time that you have given me to respond to your letter has passed, but I hope you will give me the opportunity to show you that, while I have been difficult to reach in the year and a half since I became a teacher, when I was representing Mr. Aleff and Ms. Slominski, I did everything that I could do to represent their interests.

Bar Counsel responded,

> "I'll hold off writing up your case for ten days. I want to see a comprehensive response to the clients' charge, including all steps you have taken to "reach out to them." [Exhibit 8.]

23. Mr. Farrington never replied.

24. When Mr. Farrington was administratively suspended in February 2015 for violating MCLE obligations he did not comply with any of the notice or return of property requirements of Rule 72. Mr. Farrington acknowledged he had still not returned their files and knew of their multiple requests for the return of the files which included multiple tax returns and financial documents of his clients.

25. The effect of an administrative suspension is the same as an order of interim suspension under Rule 61(d). See Rule 62(d).

26. Rule 61(d) provides that Rule 72 applies in interim suspension cases.

27. The State Bar on February 25, 2016, notified Mr. Farrington of his ability to submit a statement responding to the bar charge not later March 15, 2016, to the Attorney Discipline Probable Cause Committee [Exhibit 12.] On April 27, 2016, the State Bar informed Mr. Farrington of the probable cause order entered regarding the bar charge filed against him by his clients. [Exhibit 14.]

28. By engaging in the above-described misconduct, Mr. Farrington violated Rule 42, ERs 1.4, 1.16, 8.1, and 8.4; 54; and Rule 72.

CONCLUSIONS OF LAW

Mr. Farrington failed to file an answer or otherwise defend against the allegations in the SBA's complaint. Default was properly entered and the allegations deemed admitted pursuant to Rule 58(d) and admitted by him at the hearing. Based

upon the facts deemed admitted, the Hearing Panel finds by clear and convincing evidence that Respondent violated: Rule 42, ERs 1.4 (communication), 1.16(d) (duties on termination of representation), 8.1(b) (duty to respond to a State Bar investigation), and 8.4(d) (conduct prejudicial to administration of justice); Rule 54(c), (d)(1) and (2) (duty to comply with court rules and to cooperate in a State Bar investigation); and Rule 72 (duty to give notice of suspension).

ABA STANDARDS ANALYSIS

In lawyer discipline cases, "Sanctions imposed shall be determined in accordance with the American Bar Association *Standards for Imposing Lawyer Sanctions* ["*Standards*"] *. . . .*" Rule 58(k). In imposing a sanction, the following factors should be considered: (1) the duty violated (to a client, the public, the legal system, and/or the legal profession); (2) the lawyer's mental state (negligent, knowing, or intentional; (3) the actual or potential injury or serious injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating factors. *Standard* 3.0.

Duties violated: Mr. Farrington violated his duties to his clients by violating ERs 1.4 and 1.16(d), and Rule 72. "[T]he *Standards* assume that the most important ethical duties are those obligations which a lawyer owes to clients." *Standards*, "II. Theoretical Framework." Respondent also violated his duties to the legal system (ER 8.4(d)) and as a professional (ERs 1.16(d) and 8.1(b), and Rules 54 and 72).

Mental State: Mr. Farrington acted knowingly.

Injury: Mr. Farrington caused actual injury and serious injury to his clients, the legal system, and as a professional.

Based on the foregoing the following *Standards* apply:

> *Standard* 4.41
> Disbarment is generally appropriate when:
> (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client;
> (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
> (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.
>
> *Standard* 7.1
> Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

After losing the appeal, Mr. Farrington abandoned his clients, knowingly failed to perform services for them, engaged in a pattern of neglect of their legal matters, and failed to "reach out" to them after promising to do so, all of which caused serious or potentially serious injury to them. Also, Mr. Farrington failed to provide required notices of suspension, and abdicated his duties intending to obtain a personal benefit. Mr. Farrington acknowledges they have consistently requested a return of their financial records and file and has failed to return the files, despite acknowledging at the hearing he still has possession of those files. Mr. Farrington failed to substantively respond to the SBA's investigation. This caused injury to the legal profession and undermined the self-regulatory process of the bar association. The Panel determined the presumptive sanction is disbarment.

Restitution for the $25,000 paid to Mr. Farrington was requested by his clients and Bar Counsel. We reviewed the record before us and note some work was done by Mr. Farrington. We do not evaluate the merit of the work, but recognize the work

demonstrated by the records and find restitution of $17,500 should be paid by Mr. Farrington.

AGGRAVATING AND MITIGATING FACTORS

The Panel finds the following aggravating factors are present in this matter:

Standard 9.22--

(a) prior disciplinary offenses—

- July 2015, reprimand and probation (report quarterly that he remains on inactive status, and LOMAP and MAP assessments if he returns to practice), SBA nos. 14-0601, 14-2656, and 14-2835, for violating ERs 1.3, 1.4, 1.16(d), 3.2, 8.1, and 8.4(d); and Rule 54(d); [Exhibits 15-17.]

(b) selfish motive;

(c) a pattern of misconduct;

(d) multiple offenses;

(e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency;

(g) refusal to acknowledge wrongful nature of conduct;

(i) substantial experience in the practice of law; and

(j) indifference to making restitution.

The Panel finds there is no evidence to support any mitigating factors.

CONCLUSION

The Supreme Court "has long held that 'the objective of disciplinary proceedings is to protect the public, the profession and the administration of justice and not to punish the offender.'" In re *Alcorn*, 202 Ariz. 62, 74, 41 P.3d 600, 612 (2002) (quoting *In re Kastensmith*, 101 Ariz. 291, 294, 419 P.2d 75, 78 (1966). Other purposes and goals of lawyer discipline include to deter future misconduct, *In re Fioramonti*, 176 Ariz. 182, 859 P.2d 1315 (1993), and to protect and instill public

confidence in the integrity of individual members of the SBA, *Matter of Horwitz*, 180 Ariz. 20, 881 P.2d 352 (1994).

An additional goal of lawyer is to foster confidence in the self-regulatory process. *In re Hoover*, 161 Ariz. 529, 779 P.2d 1268 (1989); *Matter of Hoover*, 155 Ariz. 192, 745 P.2d 939 (1987); *In re Stout*, 122 Ariz. 503, 596 P.2d 29 (1979). Lawyers are an integral part in the self-regulatory process and they must respond and cooperate in State Bar inquiries. *See* ER 8.1(b) and Rule 54(d). When a lawyer fails to meet this obligation, self-regulation breaks down.

Given the facts and upon application of the *Standards*, the aggravating factors, and the goals of the attorney discipline system, the Panel orders:

IT IS ORDERED Mr. Jason Chandler Farrington, Bar No. 023639, is disbarred from the practice of law effective the date of this order.

IT IS FURTHER ORDERED Mr. Farrington shall immediately pay $17,500 in restitution to Complainants.

IT IS FURTHER ORDERED Mr. Farrington shall immediately send Complainants their case files and financial records.

IT IS FURTHER ORDERED Mr. Farrington shall comply with the requirements relating to notification of clients and others, and provide and/or file all notices and affidavits required by Rule 72.

IT IS FURTHER ORDERED Mr. Farrington shall pay all costs and expenses incurred by the SBA in this proceeding. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office with these disciplinary proceedings.

A final judgment and order will follow.

DATED this 12th day of September, 2016.

William J. O'Neil
Presiding Disciplinary Judge

CONCURRING:

Harlan J. Crossman
Harlan J. Crossman, Volunteer Attorney Member

Thomas C. Schleifer
Thomas C. Schleifer, Volunteer Public Member

Copy of the foregoing emailed/mailed
this 12th day of September, 2016, to:

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BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **JASON CHANDLER FARRINGTON, Bar No. 023639,** Respondent.	**PDJ 2016-_____** **COMPLAINT** State Bar No. 15-2090

For its complaint against Respondent the State Bar of Arizona alleges:

COUNT ONE (File no. 15-2090/Aleff)

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on March 16, 2006.

2. Respondent was suspended from practicing law in Arizona on February 27, 2015.

3. In December 2010 Complainants, Jack Aleff and Reena Slominski, hired Arizona attorney Robert Cook to represent them in various federal and bankruptcy cases.

4. In November 2013 Mr. Cook was disbarred.

5. Respondent succeeded Mr. Cook as Complainants' attorney.

6. Complainants paid Respondent $25,000 to represent them in *Re: Aleff and Slominski, debtors*, Petition #: 13-10065, U.S. Bankruptcy Court, District of South Dakota (Aberdeen); *U.S. v. Aleff; Slominski; and L & J Wool & Fur*, Civil Docket #: 1:12-cv-01020-CBK, U.S. District Court, District of South Dakota (Northern Division); and *U.S. v. Aleff; Slominski; and L & J Wool & Fur*, 772 F.3d 508 (8th Cir. 2014) (the appeal of the district court case).

7. Complainants also were convicted of conspiracy to defraud the United States by submitting false applications for loan deficiency payments (18 U.S.C. §286). Respondent did not represent them in connection with the criminal case.

8. In the bankruptcy case Respondent filed a motion to appear *pro hac vice* and an application on Complainants' behalf to employ him.

9. The court denied the application to employ counsel.

10. Respondent refiled the application but the court vacated a hearing on the application when Complainants dismissed their bankruptcy petition.

11. In the 8th Circuit case Respondent moved for and was granted an extension of time by which to file his opening brief.

12. Respondent missed the deadline so the court set an Order to Show Cause hearing on why the appeal should not be dismissed.

13. Respondent filed the brief and an addendum two weeks later.

14. The court issued a deficiency notice related to violation of electronic filing requirements.

15. The court ultimately accepted the brief and addendum.

16. Respondent did not inform Complainants that the U.S. District Court in 1:12-cv-01020-CBK entered summary judgment against them in February 2014.

17. Complainants learned that the trial court entered judgment against them through media reports.

18. Complainants and Respondent lost the appeal.

19. The 8th Circuit Court issued its opinion and order in November 2014.

20. The decision upheld the district court's summary judgment against Complainants for approximately $1,400,000.00.

21. Respondent did not inform Complainants of that outcome by August 2015, the date they submitted this bar charge.

22. Bar counsel sent standard screening investigation letters and emails to Respondent on September 3 and October 6, 2015, but Respondent did not respond.

23. In a letter dated November 18, 2015, bar counsel told Respondent that the State Bar would seek a $25,000 restitution order against him.

24. On December 9, 2015, Respondent replied by email:

> I just read the attached letter and noticed that you are planning to seek a restitution order against me for $25,000. I did receive a payment of $25,000 from Mr. Aleff and Ms. Slominski, but I earned every penny of that fee. I spent well over 100 hours representing them through a Chapter 12 bankruptcy, defending them in a lawsuit filed by the US Attorney's office, and filing an appeal and brief to the 8th Circuit Court of Appeals. I also incurred numerous costs, including flying out to South Dakota for their bankruptcy meeting of creditors and for a deposition by the US Attorney's office.
>
> I understand that Mr. Aleff and Ms. Slominski have had difficulty reaching me now that their final appeal has ended and I am no longer practicing law, and for that I am sorry. I will reach out to them and make sure that they receive the files that they are asking for. I also understand that the time that you have given me to respond to your letter has passed, but I hope you will give me the opportunity to show

you that, while I have been difficult to reach in the year and a half since I became a teacher, when I was representing Mr. Aleff and Ms. Slominski, I did everything that I could do to represent their interests.

25. Bar counsel responded:

Now is not a good time, for the first time, to tell me this. You should have responded to your clients, and the State Bar, long before today. The cynic in me says that you never intended to professionally, courteously, selflessly, and maturely, respond to your clients, or the bar, and did finally respond to us only because you faced a monetary sanction that affected you personally.

I'll hold off writing up your case for ten days. I want to see a comprehensive response to the clients' charge, including all steps you have taken to "reach out to them."

26. Respondent has not replied.

27. When Respondent was administratively suspended in February 2015 for violating MCLE obligations he did not comply with any of the notice or return of property requirements of Rule 72, Ariz. R. Sup. Ct.[1]

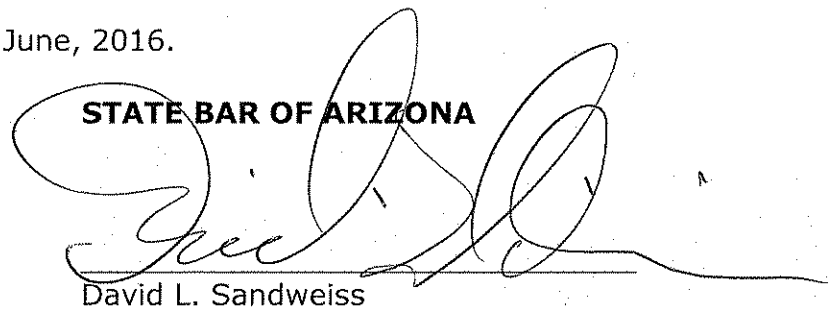
28. The effect of an administrative suspension is the same as an order of interim suspension under Rule 61(d). See Rule 62(d).

29. Rule 61(d) provides that Rule 72 applies in interim suspension cases.

30. By engaging in the above-described misconduct, Respondent violated Rules 42, ERs 1.4, 1.16, 8.1, and 8.4; 54; and 72.

DATED this 20th day of June, 2016.

STATE BAR OF ARIZONA



David L. Sandweiss
Senior Bar Counsel

[1] All references to rules are to the Arizona Rules of the Supreme Court.

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 20th day of June, 2016.

by: Jackie Brown
DLS:jlb

FILED

APR 26 2016

STATE BAR OF ARIZONA

BY

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

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **JASON CHANDLER FARRINGTON** **Bar No. 023639** Respondent.	No. 15-2090 **PROBABLE CAUSE ORDER**

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on April 8, 2016, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 9-0-0, the Committee finds probable cause exists to file a complaint against Respondent in File No. 15-2090.

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 26 day of April, 2016.

Lawrence F. Winthrop

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

Original filed this 26th day
of April, 2016, with:

Lawyer Regulation Records Manager
State Bar of Arizona
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Copy mailed this 27th day
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Respondent

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