

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**SUSAN M. SCHAUF,
Bar No. 005610**

Respondent.

PDJ-2015-9039

**DECISION ACCEPTING CONSENT
FOR DISCIPLINE**

[State Bar Nos. 14-3473 15-0876,
15-1569]

FILED SEPTEMBER 14, 2015

An Agreement for Discipline by Consent ("Agreement") was filed on August 31, 2015, and submitted under Rule 57(a)(3), Ariz. R. Sup. Ct¹. A Probable Cause Order was filed April 20, 2015, and the formal complaint was filed May 4, 2015. 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 If the agreement is not accepted those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding.

Under Rule 53(b)(3), notice of this Agreement was provided to the complainant(s) as follows: File Nos. 14-3473 and 15-1569 by telephone and e-mail

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

on August 6, 2015; and File No. 15-0876 by letter on August 6, 2015. Complainant(s) were notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) days of bar counsel's notice. No objection was received.

In September 2014, Ms. Schauf was retained to handle a family law matter. Thereafter, she failed to act diligently and reasonably communicate with the client. On October 13, 2014, the client requested Ms. Schauf cease working on the matter. On October 14, 2014, complainant wrote to Ms. Schauf and requested a full accounting of fees of the pre-paid fees, return of unearned fees, and a copy of the client file. Ms. Schauf provided a full refund to the client and original filed on May 29, 2015.

Ms. Schauf conditionally admits to violating of Rule 42, ERs 1.4 (communication), 1.15 (safekeeping property), 1.16 (terminating representation) and Rule 54(d) (failure to respond to disciplinary authority). The parties stipulate to a sanction of admonition and two (2) years of probation with the State Bar's Law Office Management Assistance Program (LOMAP), effective the date of this order, and six (6) hours of continuing legal education in addition to her annual requirements. Ms. Schauf further agrees to pay \$1,200.00 in costs and expenses related to this disciplinary proceeding within thirty (30) days from this order.

Presumptive Sanctions

The parties agree *Standards* 4.43, 4.13 and 7.3 of the American Bar Association's *Standards for Imposing Lawyer Sanctions* ("ABA Standards") apply to these circumstances. The PDJ agrees the presumptive sanction in this matter is reprimand. The conditional admissions support Ms. Schauf violated her duties to her client and to the legal system by negligently failing to reasonably communicate with

clients and by failing to respond to the State Bar's inquiry. Her misconduct caused potential harm to clients and the legal system.

Aggravation and Mitigation

Aggravating or mitigating circumstances are considerations that may justify a reduction in the degree of discipline to be imposed. *Standard 9.21, 9.31.*

The sole aggravating factor in this matter is 9.22(i) (substantial experience in the practice of law). Mitigating factors include: 9.32(a) (absence of prior disciplinary offenses) and 9.32(b) (absence of a dishonest or selfish motive). The parties agree Ms. Schauf's misconduct was isolated acts of negligence which did not result in actual harm to the client or the legal profession. Consideration is also given to mitigating factor 9.32(a) (absence of prior disciplinary offenses) as Ms. Schauf has never been disciplined in her 37 years of practice.

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

IT IS ORDERED incorporating by this reference the Agreement and any supporting documents by this reference. The agreed upon sanctions are: admonition, two (2) probation (LOMAP), six (6) hours of CLE as set forth in the Agreement, and the payment of costs and expenses of the disciplinary proceeding totaling \$1,200.00

within thirty (30) days of the final order. These financial obligations shall bear interest at the statutory rate of ten per cent per annum.

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

DATED 14th day of September, 2015.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed this 14th day of September, 2015.

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by: JAlbright

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

SUSAN M. SCHAUF,
Bar No. 005610

Respondent.

PDJ-2015-9039

FINAL JUDGMENT AND ORDER

[State Bar Nos. 14-3473, 15-0876 and
15-1569]

FILED SEPTEMBER 14, 2015

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on August 31, 2015, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED Respondent, **Susan M. Schauf**, is hereby Admonished for her 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 Ms. Schauf shall be placed on probation for a period of two (2) years.

IT IS FURTHER ORDERED Ms. Schauf shall participate in the Law Office Management Assistance Program (LOMAP): Respondent shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this Order. Ms. Schauf shall submit to a LOMAP examination of their fee agreements and office procedures. Ms. Schauf shall sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein. The probation

period is effective the date of this order and shall conclude two (2) years from that date, subject to early termination if recommended by the State Bar. Ms. Schauf shall be responsible for any costs associated with LOMAP.

IT IS FURTHER ORDERED Ms. Schauf shall complete no less than six (6) hours of Continuing Legal Education (CLE) in addition to her annual requirement [e.g. - Practicing with Porcupines, The Heart of a Firm: Working Effectively and Ethically with Non-lawyer Professional Staff, Avoiding Ethical Pitfalls, Practical Tips for Everyday Lawyering or other comparable CLEs addressing these issues].

IT IS FURTHER ORDERED Ms. Schauf shall be subject to any additional terms imposed by the Presiding Disciplinary Judge.

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 Ms. Schauf shall pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,200.00, within thirty (30) days from the date of this order. There are no costs or expenses incurred by the disciplinary clerk and/or

Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 14th day of September, 2015.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 14th day of September, 2015.

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Respondent's Counsel

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