

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

IN THE MATTER OF A RESIGNED RULE 38
MEMBER OF THE STATE BAR OF
ARIZONA,

**GINA M. TORRES-VANASSE,
Bar No. 029166,**

Respondent.

No. PDJ-2015-9046

FINAL JUDGMENT AND ORDER

[State Bar No. 14-0745]

FILED AUGUST 4, 2015

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on July 28, 2015, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Gina M. Torres-Vanasse**, is hereby Reprimanded 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 that, if re-admitted to practice law in the State of Arizona, under Rule 38, Ariz. R. Sup. Ct., or otherwise, Respondent shall be placed on probation for a period of two years.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge if Respondent is licensed to practice law in the State of Arizona.

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 \$ 1,200.00 within 30 days from the date of service of this Order. There are no costs or expenses incurred by the disciplinary clerk/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 4th day of August, 2015.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 4th day of August, 2015.

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MEMBER OF THE STATE BAR OF ARIZONA,

GINA M. TORRES-VANASSE,
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Respondent.

No. PDJ-2015-9046

**DECISION ACCEPTING
CONSENT FOR DISCIPLINE**

[State Bar File No. 14-0745]

FILED AUGUST 4, 2015

An Agreement for Discipline by Consent ("Agreement") was filed on July 28, 2015, and submitted under Rule 57(a)(3), Ariz. R. Sup. Ct.¹ 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 complainants by phone call dated July 13, 2015. Complainants were notified of the

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

opportunity to file a written objection to the Agreement with the State Bar within five (5) days of bar counsel's notice. No objection was received.

The Agreement details a factual basis for the admissions to the one charge arising out of a failure to meet the filing requirements of a petition relating to the legal immigration of a client's spouse. Ms. Torres-Vanasse conditionally admits violations of ERs 1.3, 1.4, 1.16, 3.2 and 8.4(d). The parties stipulate to a sanction of Reprimand with two (2) years of probation, if re-admitted to practice law in the State of Arizona. Ms. Torres-Vanasse is a licensed lawyer in Puerto Rico and could practice law in the State of Arizona beginning February 3, 2012 under Rule 38. She could practice law in Arizona at the time she represented the client, but has since resigned from her active status.

A Probable Cause Order was issued May 21, 2015, giving authorization to the State Bar to prepare and file a complaint against Ms. Torres-Vanasse under Rules 55(c) and 58(a). The State Bar filed its Complaint on June 2, 2015. Notice of assignment to Presiding Disciplinary Judge, William J. O'Neil ("PDJ") was given on June 5, 2015. On July 17, 2015, Notice of Settlement was given to the PDJ. On July 20, 2015, the PDJ issued an Order Re: Case Management Deadlines setting a deadline for an agreement to be filed with the PDJ before August 17, 2015. The Agreement for Discipline by Consent was filed with the PDJ on July 28, 2015.

As conditionally admitted in the Agreement, Ms. Torres-Vanasse represented a client and his wife regarding certain immigration issues. Ms. Torres-Vanasse first met with the client and his wife on or about March 30, 2012. On April 24, 2012, the parties executed an attorney-client agreement and the client paid Ms. Torres-Vanasse

\$2,500 toward the agreed upon fees. As conditionally admitted, Ms. Torres-Vanasse received \$6,220 during her representation.

On June 22, 2012, Ms. Torres-Vanasse filed a Petition for Alien Relative Form I-130, on behalf of the client's wife. Over the following months, the client and his wife met with Ms. Torres-Vanasse frequently to discuss the progress of the documents filed with the United States Citizenship and Immigration Services ("Immigration Services").² On June 27, 2013, Immigration Services sent a request to Ms. Torres-Vanasse and the client to obtain specific information and documents, including photographs of the client's wife. The request provided notice that if there was no response filed within 84 days, then the petition would be summarily denied as abandoned by statute.

The client delivered all the requested documents to Ms. Torres-Vanasse and was assured by her the documents would be filed within the statutory time period. However, on October 25, 2013, a Notice of Decision summarily denying the petition as abandoned was mailed to Ms. Torres-Vanasse and the client. Ms. Torres-Vanasse was "unable to produce any evidence" she submitted the required information which the parties stipulate she had in her possession. Under these conditionally admitted facts, in abandoning the petition, Ms. Torres-Vanasse abandoned her client. If Ms. Torres-Vanasse did anything to make her client whole from her negligence, or if her actions somehow ultimately benefited her client, the agreement is silent regarding those efforts or benefits. The agreement states the denial of petition was not appealable, but stipulates there was no motion filed by Ms. Torres-Vanasse to re-open the petition before her representation was terminated in November 2013. There

² Immigration Services is a component of the United States Department of Homeland Security.

is no record in the Agreement of the status of the petition after Ms. Torres-Vanasse was terminated from her representation.

The parties also stipulate Ms. Torres-Vanasse violated E.R. 1.16 as she “failed to promptly return the client file and related documents to the client.” It is presumed this further injured the client, but the extent of that injury, from mere irritation to actual prejudice of the Petition for Alien Relative Form I-130, is left unstated.

The agreement states, “Restitution is not an issue in this matter as Respondent performed certain legal services during the representation.” However, without more, those services may have been entirely worthless due to the agreed negligent inaction and delaying actions of Ms. Torres-Vanasse. This conclusory statement regarding restitution is unsupported but instead suggests the aggravating factor of ABA Standard, 9.22(j), indifference to restitution. Restitution is not about the reasonableness of an attorney fee, nor the outcome of the effort. It is about restoring a person when one’s negligence negates the prior work the attorney has done. Without an explanation of these issues, this matter has far more in common with an abandonment case.

The parties agree the following American Bar Association’s *Standards for Imposing Lawyer Sanctions (Standards)* are most applicable under the circumstances of this matter: Standard 4.43 for a violation of ERs 1.3 and 1.4; Standard 6.23 for a violation of ERs 3.2 and 8.4(d); and Standard 7.3 for a violation of ER 1.16. As conditionally agreed, there are no aggravating or mitigating factors but this agreement of no aggravating factors has no stated support.

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). Without further explanation, this reprimand gives little appearance of serving these. Attorney discipline is not intended to punish the offending attorney, although the sanctions imposed may have that incidental effect. *Id.* Ms. Torres-Vanasse may no longer practice law in Arizona. If Ms. Torres-Vanasse could still practice law in Arizona, the agreement would likely be rejected in favor of an undetermined suspension unless a satisfactory explanation of her failure to timely deliver the client file and resolve restitution. Notwithstanding, as Ms. Torres-Vanasse has resigned as an active member, her return will require terms of probation which shall include an understanding of those issues.

IT IS ORDERED incorporating by this reference the agreement of the parties.

IT IS FURTHER ORDERED a period of probation for two (2) years upon being re-admitted should Ms. Torres-Vanasse reapply to the practice of law in the State of Arizona under Rule 38, Ariz. R. Sup Ct., or otherwise.

IT IS FURTHER ORDERED the Agreement is accepted. Costs as submitted are approved for \$1,200 and shall be paid within thirty (30) days of the final order. Now therefore, a final judgment and order is signed this date. Ms. Torres-Vanasse is reprimanded and subject to terms of probation issued by the PDJ should she seek reapplication to the practice of law in the State of Arizona.

DATED 4th day of August, 2015.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 4th day of August, 2015.

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