

SUPREME COURT OF ARIZONA

In the Matter of a Nonmember of) Arizona Supreme Court
the State Bar of Arizona) No. SB-16-0022-AP
)
MARINA N. ALEXANDROVICH,) Office of the Presiding
) Disciplinary Judge
Respondent.) No. PDJ20159074
) **FILED 09/06/2018**
_____)

DECISION ORDER

Pursuant to Rule 59, Rules of the Supreme Court, Respondent appealed the hearing panel's Decision and Order Imposing Sanctions and the panel's and presiding disciplinary judge's decisions to deny several post-hearing motions. Upon consideration, this Court suspended the appeal and revested jurisdiction to allow the presiding disciplinary judge to reconsider the motion to disqualify panel member Richard L. Brooks.

Upon remand, the disciplinary clerk appointed the Honorable Maurice Portley (retired) as the Acting Presiding Disciplinary Judge to rule on the motion to disqualify. Following briefing by the parties and oral argument, Judge Portley denied the motion. Respondent has also appealed this decision.

The Court has considered the parties' briefs, supplemental briefs, and the entire record in this matter.

The Court affirms Judge Portley's ruling denying the motion to disqualify Mr. Brooks. Denial of a motion to disqualify is reviewed

for an abuse of discretion. *In re Aubuchon*, 233 Ariz. 62, 66 ¶ 16 (2013). Judge Portley properly applied the preponderance of the evidence standard in Rule 52(g) in denying the motion to disqualify. In reaching his decision, Judge Portley properly weighed the evidence presented by both sides and found Mr. Brooks' affidavits more credible. Having failed to establish bias or any other disqualifying fact, Respondent has not demonstrated that Judge Portley abused his discretion in denying the motion.

With respect to the original appeal, the Court accepts the panel's determination that Respondent violated ERs 1.2, 1.3, and 1.16. We reject the panel's determination that Respondent violated ERs 1.5 and 3.1. There was insufficient evidence to support these charged violations. Further, the Court rejects the panel's findings that Respondent submitted false evidence in the form of the warning letter to her client (Exhibit 66) and her look-back fee accounting (Exhibit 57). There was insufficient evidence to support the findings that this was false evidence.

With respect to the sanction, the Court affirms the imposition of a reprimand, probation, and costs and expenses of the discipline proceeding.

IT IS ORDERED affirming the decision and sanction of the hearing panel as set forth in this order.

IT IS FURTHER ORDERED lifting the stay of the decision and
final judgment.

_____/s/_____
SCOTT BALES
Chief Justice

TO:

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Brian K Mosley
Jana Lynn Sutton
Robert B Van Wyck
Nicole Kaseta
Amanda McQueen
Sandra Montoya
Maret Vessella
Beth Stephenson
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