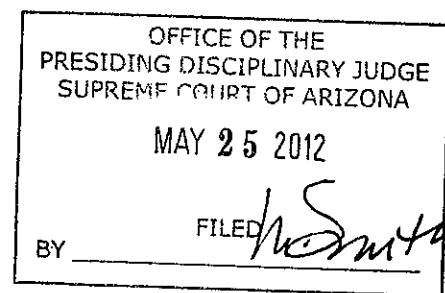


Hunter F. Perlmeter, Bar No. 024755
Staff Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone: (602) 340-7247
Email: LRO@staff.azbar.org



Randall M. Sammons, Bar No. 005811
205 Springdale Drive North East
Atlanta, Georgia 30305
Telephone: (520) 240-2577
Email: RandallSammons46@gmail.com
Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

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

**Randall M. Sammons
Bar No. 005811**

Respondent.

PDJ-2012- 9050

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

Nos. 11-1359, 11-3185, 11-3355,
12-0889 and 12-1172

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Randall M Sammons, who has chosen not to seek the assistance of counsel, hereby submits their Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. 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.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, Ariz. R. Sup. Ct. ER(s) 1.2, 1.3, 1.4, 1.5, 1.15 and 1.16. Upon acceptance

of this agreement, Respondent agrees to accept imposition of the following discipline: Suspension of one year, restitution and fee arbitration. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "A." Upon reinstatement Respondent may be placed on probation, the terms and conditions of which will be decided at the time of Reinstatement.

FACTS

GENERAL ALLEGATIONS

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 April 28, 1979.

COUNT ONE (Dewey - State Bar File No. 11-1359)

2. In 2009 Respondent was placed on diversion in file number 08-2247 for a lack of diligence during his representation of Complainant. At the time the Order of Diversion was entered, Complainant Bruce Dewey ("Dewey") indicated to the Bar that Respondent had brought all matters up to date and was being attentive.
3. Respondent completed diversion for that matter in April of 2011.
4. Dewey contacted the Bar in May of 2011 and reported that the four matters for which Respondent had been placed on diversion had not yet been completed.

¹ 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.

5. Around the same time, Respondent was in the process of closing his practice and moving to Georgia to be with his ex-wife who had been diagnosed with cancer.
6. In responding to Dewey's allegations, Respondent admitted that he was not diligent in his work or his communication during the representation.
7. Dewey believes that he paid Respondent roughly three or four thousand dollars for help with the following matters:
8. In the first matter, Respondent was hired to execute a judgment on Dewey's behalf. Respondent has indicated that he failed to complete the work due to personal circumstances that caused him to leave the state and close his practice.
9. In the second matter, Respondent had been hired to collect payments owed to Dewey by a company by the name of NoteWorld. Respondent believes Dewey ultimately received all payments owed to him. Dewey, however, has indicated that roughly \$400 is still owed to him.
10. The third matter was a quiet title action. Respondent obtained a judgment on Dewey's behalf, but while the matter was pending, the couple against whom the judgment was obtained became divorced. After the judgment was recorded, Respondent realized that the Assessor's office failed to remove one of the divorced spouses from the title. Although Respondent took some steps to remedy the issue, he did not resolve the issue before closing his practice. Dewey has not yet received the corrected title that he hired Respondent to obtain.

11. In the fourth matter Respondent was hired by Dewey to handle a deed reformation that would allow Dewey to recover property of which he had been deprived due to an inaccurate property description. Respondent told Dewey he would obtain a litigation guarantee report before beginning litigation. Respondent did not obtain the report and did not litigate the matter.
12. Respondent moved to Georgia and closed his law practice during the summer of 2011. Respondent did not return Dewey's files to him and has indicated that he does not intend to continue practicing in Arizona.
13. Dewey has had difficulty finding a new attorney to represent him.
14. Respondent moved to Georgia and closed his practice after his ex-wife, who resides in Georgia, was diagnosed with cancer and after Respondent was diagnosed with cancer and a surgical kidney condition. Respondent's personal issues are more fully addressed in a January 31, 2012, letter drafted by attorney Larry Berlin attached as Exhibit "B".

COUNT TWO (Cochennour - State Bar File No. 11-3185)

15. Complainant Gary Cochennour ("Cochennour") entered into a fee agreement with Respondent on February 4, 2009, to represent him in a legal malpractice action against his former attorney. Cochennour paid Respondent \$5,000.00.
16. In July of 2011, Respondent, who had performed little or no work in the matter, informed Cochennour that he was moving to Georgia and closing his office.
17. Respondent did not return the file to Cochennour or refund money owed to him.

18. Respondent, with help from attorney Larry Berlin, was able to obtain Cochennour's file from storage after the Bar Complainant was filed and the file was made available to Cochennour.

COUNT THREE (Batchelor - State Bar File No. 11-3355)

19. Complainant Lavina Batchelor ("Batchelor") hired Respondent to handle a probate matter in February of 2011.
20. Batchelor made payments of \$1,800.00 in February of 2011 and \$1,000.00 in March of 2011.
21. Respondent did little or no work in the matter. When Batchelor inquired as to the status of his case, Respondent indicated that he was going into the hospital and that he would transfer Batchelor's case to another attorney.
22. Respondent never provided the name of the new lawyer and stopped returning Batchelor's phone calls. Additionally, Respondent did not timely return the original of Batchelor's mother's will.
23. Batchelor explained to the Bar that because probate has not been filed and because she went months without access to her personal representative paperwork, she was unable to take care of the affairs of the estate.
24. Batchelor attempted to contact Respondent on several occasions and Respondent's line was either disconnected or provided a message indicating Respondent's voice mailbox was full.
25. Respondent has indicated to the Bar that he has no money, but will refund Batchelor's \$2,800.00 when he is able.

COUNT FOUR (Palma - State Bar File No. 12-0889)

26. Respondent was retained by Complainant Rosario Palma ("Palma") in September of 2009 to handle a child support matter in exchange for a \$1,500.00 flat fee.
27. Respondent filed a Notice of Appearance in the matter and wrote a letter to the opposing party.
28. During the middle of 2011 when Palma attempted to communicate with Respondent concerning the case, she discovered that Respondent's phone number had been disconnected and that his office was closed.
29. Palma's file has not been returned and no part of her fee has been refunded.

COUNT FIVE (Peterson - State Bar File No. 12-1172)

30. Complainant Vernon Peterson ("Peterson") retained Respondent to handle an appeal in a matter related to his family trust.
31. Shortly after filing his opening brief, Respondent communicated to Peterson that he would be traveling to Georgia to handle personal matters.
32. Legal issues arose in the case that required action by Peterson. Peterson attempted to communicate with Respondent, but was unable to reach him.
33. Peterson prepared and filed a Supplement/Addendum to Reply Brief/Complaint without the assistance of Respondent.
34. Respondent subsequently filed a pleading in the matter without communicating with Peterson that he was doing so.
35. As a result, The Court of Appeals, believing that Complainant had counsel in the matter, denied Complainant's pro-per filing.

36. Respondent has not formally withdrawn from Peterson's case, has not returned Complainant's file and has not refunded money to Complainant.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and is 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., specifically ERs 1.2, 1.3, 1.4, 1.15 and ER 1.16.

RESTITUTION

Respondent and the State Bar agree that Respondent will make restitution of \$5,000.00 to Complainant Cochennour and restitution of \$2,800.00 to Complainant Batchelor. Respondent agrees to participate in fee arbitration with Complainants in file numbers 11-1359, 12-0889 and 12-1172. All restitution payment shall be made within one year of the Judgment and Order in this matter. All fee arbitration awards shall be paid within one year of any arbitration order.

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 sanction is appropriate: Suspension of one year.

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* 4.42 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 4.42 provides that suspension is generally appropriate when a lawyer knowingly fails to perform services for a client or engages in a pattern of neglect and causes injury or potential injury to a client. In five different matters Respondent failed to complete work, failed to reasonably communicate his decision to cease representation, and failed to return client money and client files.

The duty violated

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

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent intentionally failed to complete work, failed to reasonably communicate with his clients and failed to return client money and client files. 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 harm to clients and the profession.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is suspension. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Standard 9.22(a): Prior disciplinary offenses:

- Censure and 2 years Probation (01-0065, 01-1700, 01-1808) - For a period of time, Mr. Sammons failed to diligently represent clients and failed to adequately communicate with his clients. In another matter, while acting as a conservator, Mr. Sammons failed to take appropriate steps to manage the financial affairs of a conservatorship and engaged in conduct prejudicial to the administration of justice. (ERs 1.3, 1.4, 1.15, 8.4(d) and Rule 51(k)).
- Diversion in 08-2088 (Trust account overdraft), 08-2247 (Lack of diligence and failure to communicate.)

Standard 9.22(i): Substantial experience in the practice of law. Respondent has been an attorney in Arizona since 1979.

In mitigation:

Standard 9.32(c): Personal or emotional problems that are more fully set out in exhibit "B" of this consent agreement.

Discussion

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: Respondent closed his law office and stopped communicating with his clients and performing work for them.

Additionally, he failed to refund fees that had been paid to him and failed to return client files. Respondent no longer resides in Arizona and closed his office due to personal difficulties.

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 suspension of one year, restitution, participation in fee arbitration and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "C."

DATED this 25th day of May, 2012.

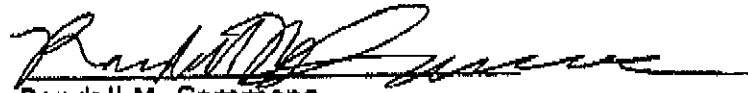
STATE BAR OF ARIZONA

A handwritten signature in dark ink, appearing to read 'H. Perlmeter', is written over a horizontal line.

Hunter F. Perlmeter
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. [I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.]

DATED this 23 day of May, 2012.


Randall M. Sammons
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
this ____ day of May, 2012.

Copies of the foregoing mailed/emailed
this ____ day of May, 2012, to:

Randall M. Sammons
205 Springdale Drive North East
Atlanta, Georgia 30305
Email: RandallSammons46@gmail.com
Respondent

Copy of the foregoing emailed
this ____ day of May, 2012, to:

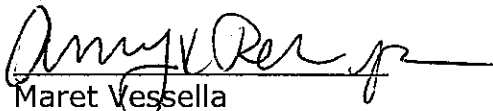
William J. O'Neill
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

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Randall M. Sammons
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
this 25th day of May, 2012.

Copies of the foregoing mailed/emailed
this 25th day of May, 2012, to:

Randall M. Sammons
205 Springdale Drive North East
Atlanta, Georgia 30305
Email: RandallSammons46@gmail.com
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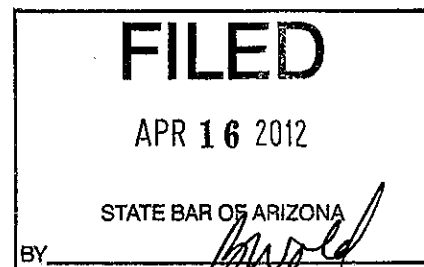
William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

Copy of the foregoing hand-delivered
this 25th day of May, 2012, to:

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

By: *Robert T. Brown*
HFP/ rtb/

**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**

**RANDALL M. SAMMONS
Bar No. 005811**

Respondent

Nos. 11-1359, 11-3185 and 11-3355

PROBABLE CAUSE ORDER

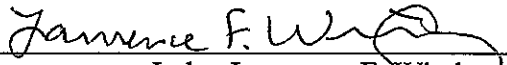
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on April 13, 2012, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 7-0-2,¹ the Committee finds probable cause exists to file a complaint against Respondent in File Nos. 11-1359, 11-3185 and 11-3355.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing 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 13th day of April, 2012.



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

¹ Committee members Daisy Flores and Karen Osborne did not participate in this matter.

Original filed this 16th day
of April, 2012, with:

Lawyer Regulation Records Department
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Copy mailed this 16th day
of April, 2012, to:

Laurence M. Berlin
Laurence M. Berlin Esq.
4525 East Skyline Drive, Suite 111
Tucson, Arizona 85718-1600
Respondent's Counsel

Copy emailed this 16th day
of April, 2012, to:

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

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
ProbableCauseComm@courts.az.gov

by: *Richard T. Brunt*