BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **JOSEPH W. CHARLES,** **Bar No. 003038** Respondent.	No. 09-2452 **REPORT AND ORDER IMPOSING SANCTIONS**

On January 24, 2011, the Hearing Panel ("Panel") composed of Dr. John C. Hall, a public member from Maricopa County, George A. Riemer, an attorney member from Maricopa County, and the Honorable William J. O'Neil, Presiding Disciplinary Judge ("PDJ") held a one day hearing pursuant to Supreme Court Rule 58(j), Ariz.R.Sup.Ct. Shauna R. Miller appeared on behalf of the State Bar of Arizona ("State Bar") and Russell Yurk appeared on behalf of the Respondent. At the close of hearing, the PDJ requested the parties submit proposed findings of fact and conclusions of law. The Panel now issues the following "Report and Order Imposing Sanctions," pursuant to Rule 58(k), Ariz.R.Sup.Ct.

I. ISSUE

A lawyer violates several Rules of Professional Conduct if he charges an unreasonable fee, fails to comply with the disclosure requirements regarding a "earned upon receipt" fee, files and pursues a frivolous civil lawsuit to recoup the balance of the claimed fee, and, overall, engages in conduct involving misrepresentations and conduct that is prejudicial to the administration of justice. What is the appropriate sanction?

Suspension is generally appropriate when a lawyer violates a number of rules of professional conduct that include charging an unreasonable fee, failing to comply with the disclosure requirements regarding an "earned upon receipt" fee, misrepresentations to clients and the courts, filing a frivolous lawsuit, and conduct that causes injury to a party and has adverse effects on the legal system. The State Bar seeks a suspension of six months and one day with two years of probation. Respondent urges the Panel to dismiss the complaint or, in the alternative, impose an admonition. After consideration of the nature of Respondent's conduct and its consequences, the following sanction is imposed by the Panel:

II. SANCTION IMPOSED

ATTORNEY SUSPENDED FOR SIX (6) MONTHS AND ONE (1) DAY, TWO (2) YEARS OF PROBATION (LOMAP)[1] UPON REINSTATEMENT AND COSTS.

III. PROCEDURAL HISTORY

On September 30, 2010, the State Bar filed its Complaint[2] and Respondent filed his Answer on November 1, 2010. A Case Management Conference as required by Rule 58(c) was held on November 19, 2010. A Settlement Conference was held on January 11, 2011, before Settlement Officer Richard Goldsmith. The parties were unable to reach a settlement and an evidentiary hearing was held on January 24, 2011. The Panel heard testimony from the State Bar's witnesses (Joseph Charles (adversely), Penny Bennett, Mitchell Bennett, Preston McGrew, Jason Holmberg, Esq., Jason Lamm, Esq., and Joel Thompson, Esq.) and Respondent's witness (Joseph Charles). The parties filed proposed findings of fact and conclusions of law.

IV. FINDINGS OF FACT

The Panel finds the following facts have been established by clear and convincing evidence:

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 September 23, 1972.

2. On November 19, 2008, the Maricopa County Grand Jury indicted Preston McGrew (hereafter Preston) on three counts of Molestation of a Child (Class 2 Felonies and Dangerous Crimes Against Children) and one count of Sexual Misconduct with a Minor (Class 2 Felony and Dangerous Crime Against Children).

3. On November 26, 2008, a warrant was issued for Preston's arrest for the charges in the November 19, 2008 Indictment.

4. After Preston was arrested, the Bennetts retained Respondent to represent Preston regarding the charges in the November 19, 2008 Indictment. Respondent treated both the Bennetts and Preston as clients.

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[1] The State Bar's Law Office Management Assistance Program ("LOMAP").

[2] The Complaint alleged violations of E.R. 1.5(a) (unreasonable fee), 1.5(d)(3) (earned upon receipt fee/nonrefundable fees), 1.16(d) (terminating representation), 3.1 (meritorious claims and contentions), 3.3(a) (knowingly make false statement of fact or law), 8.1(a), (knowingly make false statement of material fact), 8.4(c)(conduct involving dishonesty, fraud, deceit or misrepresentation) and 8.4(d) (conduct prejudicial to the administration of justice).

5. Respondent did not enter into a written fee agreement signed by the Bennetts. Respondent memorialized his oral fee agreement with the Bennetts by sending them a December 2, 2008 letter advising that he would charge a $10,000.00 "earned upon receipt" legal fee to represent Preston (Exhibit 1 [SBA 000001]). This fee covered "pre-trial services, a settlement conference, a bond hearing, and other matters related to trying to resolve this issue without the necessity of setting the matter for trial."

6. The Bennetts paid Respondent $5,000.00 on November 26, 2008 and $1,000.00 on December 23, 2008. The Bennetts made no other fee payments to Respondent.

7. While Respondent communicated to the Bennetts in writing the scope of his representation of Preston and the basis of the fee for which they would be responsible, he failed to advise them (or Preston) in writing that they may nevertheless discharge him and in that event may be entitled to a refund of all or part of the fee based on the value of the representation.

8. On December 1, 2008, Respondent filed a Notice of Appearance regarding his representation of Preston and appeared at Preston's arraignment, where he entered a plea of not guilty to all charges.

9. On December 2, 2008, Respondent prepared and filed a Motion to Set Bond Review Hearing. On that same day, Respondent wrote to Jeannie [sic] Sorrentino at the Maricopa County Attorney's Office, emphasizing that Preston was in high school and the serious impact he would suffer if kept in jail. Respondent also noted that Preston was working two jobs, was hoping to attend medical school, and had no disciplinary record. Mr. Charles also provided a copy of the motion filed with the court.

10. On December 3, 2008, Respondent wrote to Correctional Health Services at the Tower jail. Respondent requested that Preston have access to an inhaler and receive monitoring for an asthmatic condition. Respondent also explained that Preston was highly allergic to peanut butter and other foods. That same day, Respondent wrote to the Bennetts, enclosing the court's minute entry concerning Preston's arraignment.

11. On December 11, 2008, the Court scheduled a hearing on Defendant's Motion for Bond Review for December 19, 2008. The court ultimately vacated that hearing date and reset the hearing for January 9, 2009.

12. On December 31, 2008, Respondent filed a Hearing Memorandum, arguing that Preston should be released on bond to his family. That same day, Respondent forwarded a copy of the hearing memorandum to the Bennetts.

13. On January 5, 2009, Respondent wrote to deputy county attorney Jason Holmberg, requesting the opportunity to interview seven witnesses, including four victim guardians, a witness, and two Glendale Police Department Officers.

14. On January 8, 2009, Respondent filed a Notice of Defenses and List of Witnesses and Exhibits. The Notice included six defenses to the charges against Preston, nine specific witnesses, three additional categories of potential witnesses, and five categories of exhibits for trial.

15. On January 14, 2009, Respondent participated in an Initial Pretrial Conference with the deputy county attorney and the Court.

16. On January 15, 2009, Mr. Holmberg's office faxed a proposed standard initial plea agreement which was received by Respondent. The plea agreement was valid through February 27, 2009. Respondent did not inform Preston or the Bennetts of the plea agreement or review it with them before he was discharged by the Bennetts.

17. On January 20, 2009, the Court rescheduled the settlement conference for February 5, 2009.

18. On January 28, 2009, the Bennetts hired new counsel, Mr. Joel Thompson, who filed and obtained an order for his substitution as counsel of record on February 2, 2009. Mr. Thompson made arrangements with Respondent's office to pick up his client file. When Mr. Thompson called on the morning of the day he was to pick up the file from Respondent's office, he was told the office did not have the file, that no one knew Respondent's whereabouts, and that Respondent had the file. Respondent did not deliver the file to Mr. Thompson until the day of the settlement conference.

19. On February 2, 2009, Respondent wrote to the Bennetts about Preston's case and the plea agreement received from the Maricopa County Attorney's Office. That same date, Mr. Thompson filed a Notice requesting Substitution of Counsel. An Order of Substitution was signed by the Court on February 2, 2009.

20. On February 27, 2009, the Court vacated the previously scheduled trial date of March 30, 2009 and designated the case as complex.

21. On March 6, 2009, Respondent sent a letter to the Bennetts, complying with their request for a copy of his time records regarding his representation of Preston. In that letter, Respondent stated that he expected to receive the remaining $4,000.00 owed to him if Preston accepted the plea agreement offered by the Maricopa County Attorney's Office.

22. On April 7, 2009 Preston and Mr. Thompson signed a plea agreement.

23. On May 4, 2009, Respondent wrote to the Bennetts and requested payment of the final $4,000.00 he claimed was owed under their fee agreement.

24. On May 29, 2009, Mr. Thompson filed a Memorandum Relating to Mitigation and Sentencing with Attached Support Letters. That same date, Preston was sentenced under the plea agreement to a suspended sentence with lifetime probation, one year of which was to be served in the county jail. The judge had no sentencing discretion under the agreement regarding prison time. Preston was to be released from the county jail no sooner than November 24, 2009.

25. On July 10, 2009, Respondent filed suit against the Bennetts seeking payment of the final $4,000.00 he claimed he was owed under their fee agreement. The complaint Respondent filed against the Bennetts alleged that he expended $11,888.00 in time and costs in representing Preston, and included an attached itemized billing for that amount.

26. Respondent informed the Bennetts by letter dated March 6, 2009 [SBA000008-9] that if Preston did not take the plea offer Respondent had obtained for him, he would forgive the balance of fees he claimed they still owed him. Respondent submitted time sheets in support of his lawsuit against the Bennetts (Exhibit "2" [SBA000017 to SBA000021]) that contained numerous inaccuracies regarding the services he claimed he performed on behalf of Preston.

27. On July 30, 2009, the Bennetts' civil lawyer, Jason Lamm, wrote to Respondent stating that he intended to file counterclaims on behalf of his clients if Respondent did not dismiss his suit against the Bennetts and refund $3,000.00 of the fees previously paid to him. Respondent dismissed his lawsuit against the Bennetts before Mr. Lamm filed any responsive pleading in the matter.

28. Respondent's lawsuit against the Bennetts to recover an additional $4,000 of attorney fees for the representation of Preston was frivolous. He had previously advised the Bennetts he would waive the claimed fee if Preston did not accept the plea offer made during the time Respondent represented Preston. Preston did not accept that plea. Furthermore, the claimed fee was unreasonable considering the services Respondent had actually performed. The Bennetts were put to the stress and expense of defending a meritless lawsuit and the legal system was burdened with processing a lawsuit that should not have been filed.

29. The State's initial plea offer to Preston left sentencing on one count to the discretion of the trial judge, which held a potential for a prison term and lifetime probation on a second count (as opposed to county jail time as part of guaranteed lifetime probation) and Deputy County Attorney Holmberg testified at the evidentiary hearing that the State was open to further negotiations if the defense would provide a risk assessment that was favorable to the defendant. A risk assessment was eventually provided during Mr. Thompson's representation of Preston and Preston ultimately received and accepted an offer to plead guilty to two of the four counts (as amended) in the indictment for which he was guaranteed lifetime probation without prison time but allowed up to one year in the county jail, which he received. The plea agreement precluded prison time in favor of probation.

30. Respondent told the Bennetts in a letter dated February 2, 2009, [SBA000006] that "The Prosecutor to date had wanted prison time. This is standard policy. Yet, based upon the circumstances concerning your son and issues presented, the supervisors agreed to an extraordinary plea offer of no prison being required. But this does mean that the sentencing Judge could impose a prison sentence." That initial plea offer to Preston, left sentencing to the discretion of the judge on one count and lifetime probation on another count and was not extraordinary. Respondent continued to claim that the initial plea offer was extraordinary in his letter to the Bennetts dated March 6, 2009 [SBA0000008-9].

31. The documentation Respondent submitted with his civil lawsuit against the Bennetts regarding the time he put into Preston's representation [SBA000017-21] contained numerous inaccuracies. Respondent's testimony regarding his billing hours and manner of maintaining his billing records was not credible. Respondent block billed for his time on each listed date and he was unable to adequately explain how the listed activities added up to the claimed time for a number of the listed dates during the evidentiary hearing.

32. Respondent perpetuated the above mentioned misrepresentations by being untruthful in response to the State Bar's investigation of this matter.

33. The legal services Respondent provided to Preston between early December 2008 and late January 2009 resulted in no more than a standard initial plea offer to a defendant in circumstances similar to those of Preston, yet Respondent charged the Bennetts a $10,000 "earned upon receipt" fee for such services, was paid $6,000, and sought to collect the claimed balance of $4,000 by filing a civil lawsuit against the Bennetts. Respondent did not engage in any retrospective analysis concerning the reasonableness of his fee following the termination of his services.

34. Mr. Thompson, successor counsel to Respondent, charged $7,500 for his services. While Mr. Thompson testified that in his opinion Respondent's fee of $10,000 was high, but not unreasonable, the Panel, after reviewing all the evidence, concludes that Respondent not only sought to collect an unreasonable fee by seeking to be paid the balance of his $10,000 fee after the termination of his representation, but also collected an unreasonable fee by failing to analyze, in good faith, the reasonableness of the fee he was paid by the Bennetts ($6,000) for the services he actually rendered.

V. CONCLUSIONS OF LAW

The Panel unanimously finds clear and convincing evidence Respondent violated E.R. 1.5(a), 1.5(d)(3), 3.1, 8.1(a), 8.4(c), and 8.4(d), as alleged in Count One of the Complaint. While Respondent contributed to some delay in Mr. Thompson obtaining his file on Preston's case, the Panel concludes that the evidence does not support a finding that Respondent violated E.R. 1.16(d) in connection with that delay. The Panel also concludes that the evidence does not

support a finding that Respondent violated E.R. 3.3(a)(knowingly offering false evidence) by submitting Exhibit "2" as part of his civil lawsuit against the Bennetts.

1. Respondent failed to conduct a retrospective analysis of the reasonableness of his "earned upon receipt" fee when his services were terminated and very limited value was derived from the legal services he actually provided. They did not justify a fee of $6,000. Respondent's conduct violated E.R. 1.5(a).

2. Respondent charged an "earned upon receipt" fee without simultaneously advising the Bennetts (or Preston) that they may nevertheless discharge him at any time and in that event may be entitled to a refund of all or part of the fee based upon the value of the representation pursuant to ER 1.5(a). Respondent's conduct violated E.R. 1.5(d)(3).

3. Respondent filed a frivolous civil lawsuit without a good faith basis against the Bennetts and this conduct violated E.R. 3.1.

4. Respondent engaged in conduct involving misrepresentations by making a number of misleading statements to the Bennetts in his letter dated February 2, 2009 and in the attachments to the civil complaint he filed against them to recoup the remaining fees he claimed was owed and his conduct violated E.R. 8.4(c).

5. Respondent's conduct in filing a frivolous lawsuit that contained misleading statements was prejudicial to the administration of justice and violated E.R. 8.4(d).

6. Respondent perpetuated his misleading statements to the Bennetts in his letter to the State Bar dated January 8, 2010 and his conduct in this regard violated E.R. 8.1(a).

VI. SANCTIONS

The American Bar Association *Standards for Imposing Lawyer Sanctions* (1991 & Supp. 1992) ("ABA *Standards*") and Arizona Supreme Court case law are the guiding authorities used in imposing sanctions for lawyer misconduct. The appropriate sanction depends upon the facts and circumstances of each case.

Analysis under the ABA *STANDARDS*

In imposing a sanction after a finding of lawyer misconduct, the Panel considers the following factors:

(a) the duty violated;
(b) the lawyer's mental state;
(c) the potential or actual injury caused by the lawyer's misconduct; and
(d) the existence of aggravating or mitigating factors.

Respondent's most serious misconduct involves his misrepresentations to the Bennetts, the court in his civil lawsuit against the Bennetts, and to the State Bar.

Standard 4.6, *Lack of Candor*, is implicated for violations of E.R. 8.4(c) and provides that:

> Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to a client.

Respondent also attempted to collect an unreasonable fee and kept a fee that exceeded a reasonable fee for the services he actually performed. He also forced the Bennetts to defend against a civil lawsuit that he had no good faith basis to file. This constituted conduct prejudicial to the administration of justice.

Standard 6.2, Abuse of the Legal Process, provides, in part, as follows:

Absent aggravating and mitigating circumstances, upon application of the factors set forth in Standard 3.0, the following sanctions are generally appropriate in cases involving failure . . . to bring a meritorious claim:

> *Standard* 6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

Standard 7.0, Violations of Duties Owed As A Professional, provides, in part, as follows:

Absent aggravating and mitigating circumstances, upon application of the factors set forth in Standard 3.0, the following sanctions are generally appropriate in cases involving . . . unreasonable or improper fees:

> *Standard* 7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty as a professional and causes injury or potential injury to a client, the public, or the legal profession.

The presumptive sanction for Respondent's misconduct is suspension.

A. THE DUTY VIOLATED

The Panel finds that Respondent violated his duty to his clients and to the legal system.

B. THE LAWYER'S MENTAL STATE

The Panel finds that Respondent's state of mind was knowing.

C. THE ACTUAL OR POTENTIAL INJURY

The Panel finds that Respondent's conduct caused actual injury to the client and the legal system.

D. AGGRAVATING FACTORS, ABA *STANDARD* 9.2

Aggravating factors in attorney discipline proceedings need only be supported by reasonable evidence. *Matter of Peasley*, 208 Ariz. 27, 90 P.3d 764 (2004). The Panel considered evidence of the following aggravating circumstances in determining the appropriate sanction.

Prior Disciplinary Offenses – 9.22(a)

Based on the evidence presented at the evidentiary hearing, the Panel finds this aggravating factor is present.

Pattern of Misconduct - 9.22(c)

The Panel finds this factor present based on the evidence presented involving similar prior misconduct.

Substantial Experience in the Practice of Law - 9.22(i)

Respondent was admitted to the practice of law in Arizona on September 23, 1972 and has practiced law for over thirty-five years.

E. MITIGATION FACTORS, ABA *STANDARD* 9.3

Respondent did not assert any factors or circumstances or provide any evidence to mitigate his misconduct.

VII. DISCUSSION

Respondent has an extensive prior disciplinary history that involves similar misconduct to the case at bench. His history is as follows:

- A 60 day suspension and two years of probation (LOMAP) was imposed for violating E.R. 8.4(d); Respondent has since filed his affidavit to be reinstated and the State Bar is opposing reinstatement. This matter is currently under consideration by the PDJ.
- A censure and two years of probation (LOMAP) in File Nos. 07-0302 et al. effective October 15, 2009, was imposed for violating E.R. 1.3, 1.4(a)(3), 3.4(c), 8.1(b), 8.4(c), 8.4(d), and Rule 53(f).

- A censure and one year of probation (CLE in ethics) effective April 20, 2009 in File Nos. 05-2002 et al., was imposed for violating E.R. 1.9(a).
- A censure effective February 16, 1993 in Files No. 89-0254 and 89-0794 was imposed for violating E.R. 8.4(c).
- An informal reprimand and restitution effective September 8, 1993 in File No. 92-2219 was imposed for violating E.R. 1.3, 1.5(c), and 1.15.
- An informal Reprimand effective September 12, 1994 in File No. 93-2066 was imposed for violating E.R. 1.3, 1.4(a), 1.16(d), and Rules 51(h) and (i).
- Three non-public informal reprimands were imposed on Respondent; one in 1994 and two in 1997 for misconduct involving clients. Diversion was also ordered on three occasions for misconduct involving clients

With respect to fees, E.R. 1.5(a) provides that "a lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses." The following eight (8) factors are considered in determining the reasonableness of a fee:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
(3) the fee customarily charged in the locality for similar legal services;
(4) the amount involved and the results obtained;
(5) the time limitations imposed by the client or by the circumstances;
(6) the nature and length of the professional relationship with the client;
(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
(8) the degree of risk assumed by the lawyer

A non-refundable, flat fee is a fee that is negotiated at the onset of representation and encompasses an element of risk that additional work may be required without further compensation. *In re Connelly*, 203 Ariz. 413, 55 P.3d 756 (2002). However, because a flat or contingent fee can ultimately be excessive, upon completion of a case, lawyers are required to conduct a retrospective analysis of and determine if the fee charged was reasonable. *In re Swartz*, 141 Ariz. 266, 273, 686 P.2d 1236, 1243 (1984). Respondent did not conduct a retrospective review of the services he provided and instead sued his clients in civil court to obtain the claimed $4,000.00 balance.

Respondent charged the Bennetts a $10,000 flat fee. The Bennetts paid Respondent $6,000.00 for pre-trial services and a balance of $4,000.00 remained. The Panel has determined that the evidence demonstrates the $6,000.00 fee was not justified for the result obtained.

While witness Joel Thompson, a certified specialist in criminal law, testified that from his vantage point Respondent's fee was "high," but not "unreasonable," the Panel finds, after reviewing all the evidence, the fee was unreasonable given

the value of the services rendered. The record supports that Respondent put forth modest effort for the results he obtained and a number of his billing entries were not accurate. His testimony regarding his billing in virtual every regard was not credible.

Concerning Respondent's misrepresentations, the record supports the conclusion that he sought to mislead the Bennetts, the court in his civil lawsuit, and the State Bar. Respondent's testimony was very inconsistent and frequently refuted by other evidence. Jason Holmberg, Deputy County Attorney, testified that the original offer was a non-negotiated, standard plea agreement. Mr. Holmberg further testified he was not seeking prison time because the offender was young and likely to be rehabilitated. Yet the initial agreement which Respondent attempted to thrust upon his client left the door open to prison which fact Respondent, in his rush to maximize his flat fee, failed and perhaps continues to fail to recognize.

Respondent did little meaningful work on the case, was misleading in his statements to the Bennetts, disingenuous to the court and deceptive to the State Bar. Actual harm was suffered by the Bennetts and the potential for harm from his conduct was extremely high. Worse, the actions were done to maximize the financial profit of Respondent. Either Respondent was putting in only the work necessary to maximize his fee or was unaware of what work was necessary. Either way he failed his clients. His follow up to such failings was to support a frivolous lawsuit with billings that were intentionally dishonest at worst or negligently and knowingly without support at best.

VIII. CONCLUSIONS

Given the facts of this matter and in consideration of the ABA *Standards,* including aggravating and mitigating factors, the Panel determines that a six month and one day suspension from the practice of law and two years of probation (LOMAP) fulfills the purposes of discipline. Respondent has had many opportunities to learn from prior ethics mistakes, yet he has continued to engage in serious misconduct. The purposes of attorney discipline are not served by allowing a lawyer who is unwilling to conform his conduct to the requirements of the Rules of Professional Conduct to continue to engage in the practice of law. Respondent is suspended from the practice of law for six months and a day. In seeking reinstatement, Respondent must demonstrate by clear and convincing evidence that he has been rehabilitated and again possesses the moral qualifications and knowledge of the law required for admission to the practice of law in the first instance. Respondent shall be placed on two years probation upon reinstatement.

IX. ORDER

The Panel therefore ORDERS:

1. JOESPH W. CHARLES, Bar No. 003038, is hereby SUSPENDED from the practice of law for six months and one day;

2. Respondent SHALL be placed on two (2) years of PROBATION (LOMAP) upon reinstatement. The terms of probation are as follows:

   A. Within thirty (30) days of the Order of Reinstatement, Respondent shall contact the LOMAP director and schedule an assessment. Respondent shall thereafter enter into a contract based upon the recommendation made by the LOMAP director or designee. Respondent shall comply with all recommended terms and pay costs associated with LOMAP.

   B. The State Bar shall report material violations of the terms of probation pursuant to Rule 60(a)(5), Ariz.R.Sup.Ct., and a hearing may be held within thirty (30) days to determine if the terms of probation have been violated and if an additional sanction should be imposed. The burden of proof shall be on the State Bar to prove non-compliance by a preponderance of the evidence.

3. Respondent shall pay the costs of these proceedings. The State Bar shall submit a Statement of Costs and Expenses pursuant to Rule 60(b), Ariz.R.Sup.Ct. Respondent may file objections within five (5) days of service of the Statement of Costs and Expenses and shall serve a copy on the State Bar and the Disciplinary Clerk.

DATED this 2nd day of March, 2011.

THE HONORABLE WILLIAM J. O'NEIL
PRESIDING DISCIPLINARY JUDGE

CONCURRING:

George A. Riemer, Volunteer Attorney Member

Dr. John C. Hall, Volunteer Public Member

Original filed with the Disciplinary Clerk
this 2nd day of March, 2011.

COPY of the foregoing e-mailed and mailed this
2nd day of March, 2011, to:

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