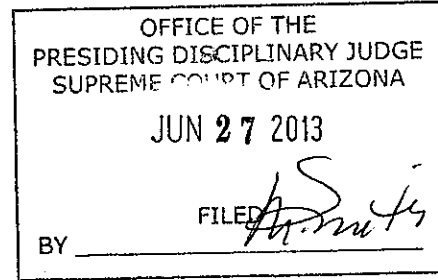


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Respondent's Counsel

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

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

**DAVID J. WOLF,
Bar No. 012946,**

Respondent.

PDJ-2013- 9056

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

State Bar No. 11-3917

The State Bar of Arizona ("SBA"), through undersigned Bar Counsel, and Respondent David J. Wolf, who is represented in this matter by counsel John Gabroy, hereby submit their Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. (hereafter, all references to "Rule" are to the Arizona Rules of the Supreme Court unless expressly stated otherwise). Respondent voluntarily waives the right to an adjudicatory hearing on the complaint, 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, ERs 1.2, 1.3, 1.4, 1.7, 5.3, and 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand and Probation for one year (CLE programs "Ten Deadly Sins of Conflict" and "Protecting Your Business from Employee Theft"). 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."

PROBATION TERMS

TEN DEADLY SINS and PROTECTING YOUR BUSINESS FROM EMPLOYEE THEFT

Respondent shall contact State Bar of Arizona publications at 602-340-7318 to either obtain and listen to the CDs or obtain and view the DVDs entitled "The Ten Deadly Sins of Conflict" and "Protecting Your Business from Employee Theft". Alternatively, Respondent may go to the State Bar website (www.myazbar.org) and complete the self-study online version. Respondent shall provide Bar Counsel with evidence of completion by providing copies of handwritten notes. Respondent shall be responsible for the cost of the CDs, DVDs or online self-studies.

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

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.

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.

COUNT ONE of ONE

State Bar File No. 3917: Angela Hainsworth, Complainant

FACTS

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 October 21, 1989.

2. In May 2010, Complainant was charged with having committed aggravated assault, criminal damage, threatening and intimidating, disorderly conduct, and leaving the scene of a motor vehicle accident ("disorderly conduct charge"). She attacked her former boyfriend's fiancé by ramming her truck several times, then throwing rocks at and pepper spraying her.

3. Complainant was on probation for a Disorderly Conduct conviction, a class 1 misdemeanor.

4. Both cases were prosecuted in Mesa Municipal Court.

5. Complainant ultimately was found guilty of the disorderly conduct charge and placed on probation on the condition that she serve twenty days in jail and attend anger management counseling.

6. In December 2010, Complainant was indicted for three counts of sale of dangerous drugs, one count of sale of narcotic drugs (each involving hand-to-

hand sales to undercover law enforcement officers), one count of manufacturing methamphetamine, and one count of tampering with physical evidence ("drug case").

7. Upon her release from jail, Complainant met Respondent through a mutual acquaintance who also was Respondent's housemate.

8. For the reason that she had been living in a house in which the landlord used and sold methamphetamine, Complainant moved into the home that Respondent and his housemate occupied.

9. Complainant first consulted with Respondent regarding the above-referenced criminal cases on January 5, 2011. He filed a Motion to Quash a bench warrant in the disorderly conduct charge on January 7, 2011, entered into a fee agreement with Complainant on January 8, 2011, to handle the disorderly conduct charge and drug case for a flat fee of \$15,000, and substituted in as counsel of record in the drug case on January 24, 2011. Complainant's grandmother paid the fee.

10. Complainant lived in Respondent's home from early January to February 21, 2011, during the time that Respondent represented her. Were this matter to proceed to a contested hearing, Respondent would offer evidence that prior to his having been retained he permitted Complainant to live with him temporarily until her father arrived and helped her move out.

11. In the drug case the prosecutor extended a plea offer which required a stipulated five year prison term.

12. On April 5, 2011, Respondent and Complainant participated in a "free talk" with the arresting undercover detectives. It was agreed that Complainant

would be a cooperating witness which would have garnered Complainant a more lenient sentence in exchange for helping to convict more dangerous criminals.

13. Complainant had been cooperating for about three months prior to the case being reassigned to Deputy Maricopa County Attorney Lindsey Coates. During this time, Complainant was arrested in Apache Junction when the authorities discovered a pound of cocaine in the bedroom she shared with her new boyfriend. Thereafter, the detectives refused to continue the cooperation agreement. Were this matter to proceed to a contested hearing the SBA would offer evidence that another reason the prosecution declined to continue the cooperation agreement was that Ms. Coates believed that both Complainant and Respondent were unreliable because they failed to appear at court hearings (see below) and, therefore, declined to offer Complainant a lenient plea.

14. Complainant allegedly had significant mitigating circumstances that may have entitled her to leniency (physical and mental abuse since 2000, attempted suicide, self disfigurement, schizophrenia, and bi-polar disorder).

15. Were this matter to proceed to a contested hearing, Respondent would offer evidence that: He and Complainant missed two scheduled court appearances; Complainant missed court on September 29, 2011, because Respondent and Complainant mistakenly calendared the next court date for October 29, 2011; at the September 29 status hearing, the matter was reset for October 19, 2011; however, for the reasons discussed below, Respondent's secretary had been hiding the mail; therefore, Respondent was not aware that the matter had been reset for October 19, 2011, so he did not notify Complainant of that court date; Complainant alleged that the court dates that she attended were because she learned of the

court dates from her bail bondsman; however, Complainant was advised in court of the next scheduled court date.

16. Were this matter to proceed to a contested hearing, Respondent would offer further evidence that: The April 28, 2011 hearing was suddenly vacated due to what the Minute Entry ("M/E") described as due to unavailability of the court; the M/E was filed Thursday April 29, 2011; however, Respondent did not receive it until May 3, 2011 and was unable to reach the Complainant; per the M/E, the matter was reset for May 4, 2011, not May 3, 2011; however, on May 3, 2011, Respondent had received a call from a co-defendant's attorney, Corwin Townsend; Mr. Townsend advised that he was filing a motion to continue for the hearing that date; he asked whether Respondent would agree to join in the motion; he offered to stand in for Respondent since he had to be there in any event; Respondent did not appear for the June 29th status hearing for the same reason.

17. Were this matter to proceed to a contested hearing, the SBA would offer evidence that: Respondent missed five scheduled court appearances and Complainant missed four of them; Complainant missed court because Respondent did not notify her of the dates; those she attended were because she learned of court dates from her bail bondsman; Respondent missed his dates because at times he did not know of them owing to bad secretarial help, another he missed because on an occasion on which he did appear he wrote down the wrong date for a subsequent hearing, and others he missed due to a physical impairment; on May 3, June 29, August 24, September 29 and October 19, 2011, Respondent did not appear for scheduled court matters; and on most occasions Mr. Townsend, counsel

for a co-defendant who was present in court, agreed extemporaneously to cover for Respondent.

18. After the May 3 date, the court ordered Respondent to file an affidavit on or before June 29, 2011, to the effect that Complainant was aware of future court dates. Were this matter to proceed to a contested hearing, the SBA would offer evidence that after the May 3 date, the court also ordered Respondent personally to appear at subsequent hearings.

19. Respondent prepared an affidavit but did not file it with the court. However, Complainant was advised of the pending trial date at the June 29, 2011 status conference. Thus, the court took no action on this failure and there was no adverse consequence to Complainant or Respondent.

20. On other occasions, the court issued warnings to both Complainant and Respondent that it would deal with their absences severely, including by the use of an Order to Show Cause ("OSC") why they ought not be held in contempt, or by serving bench warrants. Were this matter to proceed to a contested hearing, Respondent would offer evidence that this did not occur.

21. On one occasion, the court did issue a bench warrant for Complainant and an OSC for Respondent, but later vacated them. Were this matter to proceed to a contested hearing, Respondent would offer evidence that there were extenuating circumstances that caused him to miss some scheduled court matters. For purposes of this consent, the SBA conditionally agrees to dismiss the charge that Respondent violated Rule 42, ER 3.4(c) the proof of which would require a showing that Respondent acted "knowingly" in missing court.

22. Complainant's mental health was relevant to her defense. She provided faxed authorizations to Respondent to obtain records from her mental healthcare providers on September 14 and November 14, 2011.

23. At a December 16, 2011, hearing, Respondent told the judge and prosecutor in chambers that he had been trying to get Complainant's records and an authorization from her "for months." The in-chambers discussion occurred at the prosecutor's request. Prior to the hearing, Respondent advised Complainant that the prosecutor was not going to allow her to enter a plea without a stipulated prison sentence. Complainant was also advised that Respondent would have to withdraw from the representation because he was going on inactive status. Were this matter to proceed to a contested hearing Respondent would offer evidence that at that time Complainant became irate, accused Respondent of being on the Court's side, and made other wild accusations. Were this matter to proceed to a contested hearing, the SBA would offer evidence that Complainant and Respondent had an argument in open court that left Complainant crying; Prosecutor Coates witnessed the argument from a distance and it appeared to her that Respondent was berating Complainant; and she then asked for the in-chambers discussion.

24. Were this matter to proceed to a contested hearing, the SBA would offer evidence that Respondent deliberately misled the court when he stated that he had been trying to get Complainant's records "for months." Were this matter to proceed to a contested hearing, Respondent would offer evidence rebutting the SBA's contention that he misled the court as alleged and that, in fact, he had tried to obtain Complainant's mental health treatment records prior to December 16, 2011. For purposes of this consent, the SBA conditionally agrees that even if

Respondent's representation to the court on December 16, 2011, was incorrect, it was based on a good faith or, at worst, negligent mistake and not a knowing or intentional misrepresentation. As such, the SBA conditionally dismisses the charge that Respondent violated Rule 42, ERs 3.3 and 8.4(c).

25. Complainant and Respondent disagreed over the best approach to her defense. They disagreed over whether to obtain an Ariz. R. Crim. P., Rule 11 mental health evaluation, whether he or she was at fault for failing to parlay the free talk into a lenient plea bargain, and whether, by refusing to take her prescribed medication, she was at fault for alienating the prosecution. Their relationship had grown tumultuous at the court hearing. Complainant was dissatisfied with Respondent's representation, his apparent failure to keep her apprised of goings-on in her case, his failure to obtain her psychiatric treatment records, and dismissed him. Were this matter to proceed to a contested hearing, Respondent would offer evidence that Complainant dismissed him after Respondent already had withdrawn although he later learned that Complainant had mailed a dismissal letter the day before court. Respondent told Complainant in open court that he was "done" with her after she made what Respondent characterizes as wild accusations. Respondent orally moved to withdraw during the December 16, 2011, hearing, the court granted the motion, and the court appointed a public defender to represent Complainant for the balance of the case.

26. On December 20, 2011, after Respondent withdrew, he requested the healthcare records from Complainant's providers; however, he asked that they forward the records to Complainant's new counsel, and not to him.

27. Up to that point, the best plea offers that Respondent was able to obtain for Complainant were first five and then three years in prison. They both believed that Complainant deserved better. Complainant underwent a Criminal Rule of Procedure Rule 11 evaluation by two providers who disagreed as to whether she was competent to stand trial. The court appointed a third evaluator to break the tie. He concluded that Complainant was incompetent but treatable. She received therapy while incarcerated (she violated her probation in the disorderly conduct case by failing to attend her anger management counseling sessions and violated the terms of her release pending trial in the drug case because a large amount of cocaine was found in the home she shared with her then-boyfriend). With treatment, Complainant eventually was determined to be competent to stand trial and she entered into a plea agreement to serve 2.25 years in prison as the principal term.

28. In the disorderly conduct case, Complainant faced up to six months in jail and the best plea offer included 60 days in jail. On the day of trial, the prosecutor offered to dismiss all charges except for disorderly conduct in exchange for 20 days in jail with work furlough. Sentencing was in October 2011.

29. Respondent's gout made it impossible for him to attend court. He told Complainant that he was moving to continue the sentencing. Complainant did not want to continue the matter because she had scheduled a class at school and did not want the jail time to interfere. She was advised that if she wanted to proceed she could appear without him and see if the court would agree to waive his appearance or allow him to appear telephonically.

30. Complainant took the latter approach, and the judge was annoyed that Respondent did not appear. The court called Respondent but he did not answer. He did, however, respond to Complainant's text messages, so the judge ordered Complainant to text Respondent to call the court. He did, and participated in the sentencing remotely.

31. While representing Complainant, Respondent's secretary obtained a duplicate copy of Complainant's driver's license and used it for fake identification. The secretary "changed" Complainant's address at the Department of Motor Vehicles so the fake identification would be mailed to her at Respondent's office.

32. Thereafter, Complainant received no mail at her home, including any notices of court hearings. Respondent already had fired the secretary for failure to adequately attend to filing and calendaring prior to the time he learned of the secretary's criminal misconduct.

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, specifically ERs 1.2, 1.3, 1.4, 1.7, 5.3, and 8.4(d).

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss charges that Respondent violated Rule 42, specifically ERs 3.3, 3.4(c), and 8.4(c).

RESTITUTION

Restitution is not an issue in this matter.

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: Reprimand and Probation for one year (CLE programs "Ten Deadly Sins of Conflict" and "Protecting Your Business from Employee Theft"). Respondent also agrees to pay the costs and expenses of the disciplinary proceeding. The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "A."

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 duty violated

As described above, Respondent's conduct violated his duties to his client, as a professional, and to the legal system.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent's conduct as described above was done with a negligent mental state.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was actual and potential harm to Respondent's client, the legal profession, and the legal system.

The parties agree that the following *Standards* are appropriate given the facts and circumstances of this matter:

- ERs 1.2 (Scope of Representation and Allocation of Authority), 1.3 (Diligence), and 1.4 (Communication)

Standard 4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

- ER 1.7 (Conflict of Interest)

Standard 4.33 Reprimand is generally appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes injury or potential injury to a client.

- ER 5.3 (Responsibilities Regarding Nonlawyer Assistants)

Standard 7.3 Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system.

- ER 8.4(d) (Conduct Prejudicial to the Administration of Justice)

Standard 6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

Based on the foregoing analysis, the presumptive applicable sanction is reprimand.

Aggravating and mitigating circumstances

The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Aggravating factors include *Standard 9.22*:

- (a) prior disciplinary offenses;
- (d) multiple offenses;
- (h) vulnerability of victim; and
- (i) substantial experience in the practice of law;

In mitigation:

Mitigating factors include *Standard 9.32*:

- (b) absence of a dishonest or selfish motive;
- (e) full and free disclosure to a disciplinary board or cooperative attitude toward proceedings; and
- (h) physical disability;

Discussion

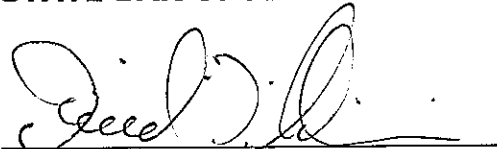
The parties conditionally agree that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. Reprimand is the presumptive sanction. To the extent that the preponderance of aggravating over mitigating factors warrants sterner discipline than a reprimand, Respondent's attendance at probationary CLE is adequate to fill the gap. 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 SBA and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of reprimand and probation and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "B."

DATED this 21st day of June, 2013.

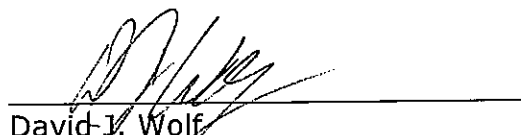
STATE BAR OF ARIZONA



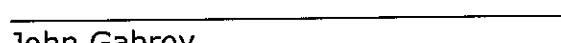
David L. Sandweiss
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this 21st day of June, 2013.


David J. Wolf
Respondent

DATED this _____ day of _____, 2013.


John Gabroy
Counsel for Respondent

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 SBA and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of reprimand and probation and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "B."

DATED this _____ day of _____, 2013.

STATE BAR OF ARIZONA

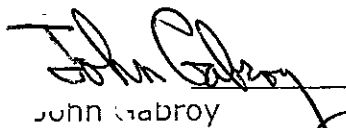
David L. Sandweiss
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this _____ day of _____, 2013.

David J. Wolf
Respondent

DATED this 26th day of June, 2013.



John Gabroy
Counsel for 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 27th day of June, 2013.

Copies of the foregoing mailed/emailed
this 27th day of June, 2013, to:

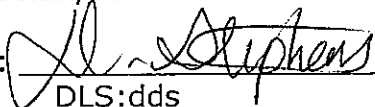
John Gabroy
Gabroy Rollman & Bosse PC
3507 North Campbell Avenue, Suite 111
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Email: JGABROY@gabroylaw.com
Respondent's Counsel

Copy of the foregoing emailed
this 27th day of June, 2013, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

Copy of the foregoing hand-delivered
this 27th day of June, 2013, to:

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

By: 
DLS:dds

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

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

**DAVID J. WOLF,
Bar No. 012946**

Respondent.

PDJ-2013-9056

FINAL JUDGMENT AND ORDER

[State Bar No. 11-3917]

FILED AUGUST 29, 2013

The Presiding Disciplinary Judge of the Supreme Court of Arizona ("PDJ"), has reviewed the Agreement for Discipline by Consent filed on June 27, 2013, and Complainant's Objection thereto filed July 9, 2013. On July 19, 2013, the PDJ issued an Order RE Modification of Agreement for Discipline by Consent in which he granted the parties 30 days to either accept or reject the proposed modification. The parties have timely filed notices that they accept the proposed modification. Therefore, pursuant to Rule 57(a), Ariz. R. Sup. Ct., the PDJ hereby accepts the parties' proposed agreement as modified. Accordingly:

IT IS HEREBY ORDERED that Respondent, **David J. Wolf**, is hereby reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

IT IS FURTHER ORDERED that Respondent shall be placed on probation for one year effective the date of this Order, to complete the CLE programs "Ten Deadly Sins of Conflict" and "Protecting Your Business from Employee Theft".

IT IS FURTHER ORDERED that as a term and condition of probation, Respondent shall immediately participate in the State Bar's Fee Arbitration Program and comply with any award imposed by the fee arbitrator. The specific terms and conditions of probation are as follows:

PROBATION TERMS

**"TEN DEADLY SINS"
"PROTECTING YOUR BUSINESS FROM EMPLOYEE THEFT"
and
FEE ARBITRATION**

Respondent shall contact State Bar of Arizona publications at 602-340-7318 to either obtain and listen to the CDs or obtain and view the DVDs entitled "The Ten Deadly Sins of Conflict" and "Protecting Your Business from Employee Theft". Alternatively, Respondent may go to the State Bar website (www.myazbar.org) and complete the self-study online version. Respondent shall provide Bar Counsel with evidence of completion by providing copies of handwritten notes. Respondent shall be responsible for the cost of the CDs, DVDs or online self-studies.

Respondent shall contact State Bar of Arizona Fee Arbitration at 602-340-7288 to initiate fee arbitration with Complainant Angela Hainsworth. Alternatively, Respondent may go to the State Bar website link:

<http://www.azbar.org/media/429781/2012feearbpkt.pdf>

to download fee arbitration forms and instructions in order to immediately initiate fee arbitration with Complainant.

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 Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,214.42. 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 29th day of August, 2013.

/s/ William J. O'Neil

Hon. William J. O'Neil
Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 29th day of August, 2013.

Copies of the foregoing mailed/emailed
this 29th day of August, 2013, to:

John Gabroy
Gabroy Rollman & Bosse PC
3507 North Campbell Avenue, Suite 111
Goodyear, Arizona 85719-2000
Email: JGABROY@gabroylaw.com
Respondent's Counsel

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Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: lro@staff.azbar.org

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

by: MSmith