

In the Matter of Kathryn L. Busby, Bar No. 07142, PDJ-2011-9086 filed December 19, 2011. *Attorney Reprimanded and Probation and Costs imposed.*

Pursuant to Rule 57(a)(4)(A), Ariz.R.Sup.Ct., the PDJ approved the Agreement for Discipline by Consent submitted by the parties and Reprimanded Kathryn Busby. She was also placed on probation, required to view "Ten Deadly Sins of Conflict." and assessed the costs and expense of the disciplinary proceeding.

In 1988, Respondent became a frequent patron of a Phoenix restaurant. She later became social acquaintances with the owner and then provided him with legal and business advice involving the business. In 1989, Respondent filed a dissolution action on behalf of him. When he remarried, his new wife helped with managing and operating several restaurants. Respondent received a one percent ownership interest in various restaurants as payment for her legal work. She failed, however, to make her client, the restaurant owner, aware of any of the legal ramifications of a business transaction with a client. The terms of the business transaction were also not fully disclosed in writing as required by the Ethical Rules.

In the mid 2000's, Respondent drafted a boilerplate will for the restaurant owner and his wife, but failed to obtain their informed consent in writing for the joint representation.

When, in 2007, the husband and wife separated, they asked Respondent to draft a settlement agreement using terms upon which they already had agreed. Respondent complied, but because the settlement failed because she had added additional language that the parties had not discussed. Respondent failed to have a written waiver of conflict of interest when she drafted the settlement agreement. Respondent also failed to notify the wife that she had a personal interest in the restaurants at the time she drafted the settlement agreement.

Subsequently the husband and wife hired separate counsel to represent them in the dissolution proceedings. A six-day dissolution trial occurred before a special master. In August 2009, the special master issued a report regarding all contested issues except for attorney's fees and costs. The special master awarded the wife an equalization payment from the husband. However, there was no restriction on transferring ownership because the special master awarded the businesses to husband.

In January 2010, the court entered a decree of dissolution. There was no ruling regarding the security for the equalization award because the parties were to determine this on their own. On or about March 30, 2010, the husband transferred several shares of various businesses to his business advisor and Respondent for their past and future work

On August 23, 2010, the wife filed a complaint alleging fraudulent conveyance against Respondent and others. . The case was settled on September 7, 2010. As

part of the settlement, the businesses were to be used as security for the money the husband owed his ex-wife.

At the time of the transfer of shares, Respondent failed to have her client sign a waiver of any potential conflict of interest created by her owning shares in the business while also drafting the documents associated with the transfer of shares to herself and the business advisor in violation of the Ethical Rules.

Aggravating factor: substantial experience in the practice of law.

Mitigating factors: absence of prior disciplinary record, timely good faith-effort to rectify the consequences of her misconduct, full and free disclosure to disciplinary board, and remorse:

Respondent violated Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.7, 1.8, and 4.3.

The agreement is accepted and costs awarded in the amount of \$1,200.00. The proposed final judgment and order is reviewed, approved and signed.