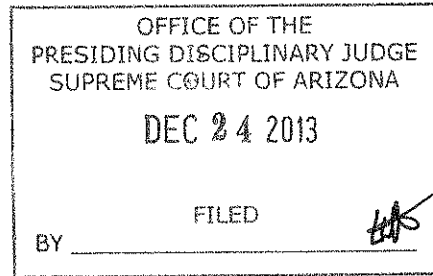


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Respondent's Counsel

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

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

**Iller Michelle Hardy,
Bar No. 022885,**

Respondent.

PDJ-2013- 9120

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

State Bar No. 13-1665

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Iller Michelle Hardy, who is represented in this matter by counsel, Ralph W. Adams, hereby submit their Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. The parties reached an agreement for discipline by consent before the matter was submitted to the Attorney Discipline Probable Cause Committee; therefore, there is no order of probable cause. 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.

Bar Counsel mailed a letter to the Complainant in this matter, Chris DeSantis, on November 22, 2013, informing Mr. DeSantis of this consent agreement and his opportunity to object to this agreement. Bar Counsel has not received any objection from Mr. DeSantis relating to this consent agreement.

Respondent conditionally admits that her conduct, as set forth below, violated Rule 42, Ariz. R. Sup. Ct., ER 5.5, and Rule 31(c). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand and one year of probation to include a Law Office Management Assistance Program (LOMAP) Assessment, and any resulting recommendations. 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."

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 May 27, 2004.

COUNT ONE (State Bar File No. 13-1665)

2. Respondent failed to timely pay her State Bar annual member dues for 2013.

3. On April 3, 2013, the State Bar informed Respondent via email that she would be suspended if she did not pay her dues.

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.

4. On April 26, 2013, the State Bar sent a letter to Respondent advising her that a suspension was imminent because she failed to pay her dues.

5. On June 18, 2013, Respondent was suspended for nonpayment of her dues.

6. On June 26, 2013, the State Bar sent a letter to Respondent advising her of her suspension.

7. Commencing June 19, 2013, Respondent represented Amber Strack (Strack) in a dependency action with Child Protective Services (CPS).

8. Chris DeSantis (DeSantis) is an acquaintance of Strack.

9. In late June of 2013, DeSantis contacted Respondent and Respondent spoke with Strack. DeSantis contends that Respondent informed Strack of a July 1, 2013 hearing. In contrast, Respondent contends that that she informed Strack that her next hearing was on July 8, 2013. However, Respondent admits that she "had several documents in her possession with the date of July 2, 2013 and may have become confused" because the first hearing was originally scheduled for July 2, 2013, and not July 1, 2013, but the court continued it until July 8, 2013.

10. DeSantis and Strack showed up at court on July 1, 2013 and the court informed them that the hearing had been rescheduled for July 8, 2013.

11. DeSantis then attempted to contact Respondent but her office phone was disconnected. Respondent's office phone was disconnected in early July of 2013 because Respondent's payments to the phone company were automatically deducted from her bank account and her bank card was reported stolen which resulted in the bank cancelling the card, Respondent missing a payment, and her phone being disconnected for about a week.

12. DeSantis subsequently contacted the State Bar in an effort to locate Respondent and the State Bar informed him that Respondent had been suspended since June 18, 2013.

13. During the time that the State Bar sent Respondent notice of her suspension and from June 21, 2013 to July 5, 2013, Respondent's office assistant was out of the country and Respondent generally worked from home, picking up her mail from her office two or three times during that time frame.

14. The court held the July 8, 2013 hearing relating to Strack while Respondent was still suspended. Both DeSantis and Strack appeared at court that day. Respondent located Strack by calling her name in the waiting area near the entrance of the assigned court room.

15. After Respondent located Strack, DeSantis informed Respondent that he believed she was suspended from practicing law. Respondent was surprised by this information and informed Strack that she would check on the status of her license as soon as possible.

16. Respondent then appeared in court on behalf of Strack and did not inform the court that she may be suspended.

17. Immediately after the hearing, Respondent contacted the State Bar and a State Bar representative informed her that she was suspended because she did not pay her dues. Respondent then asked for the amount due and the procedure for paying the dues. A State Bar representative informed her that she would fax the necessary documents to Respondent for her to be reinstated.

18. Respondent did not receive the documents immediately and again contacted the State Bar on July 10, 2013. Respondent then travelled to the State Bar's office and paid her dues on July 10, 2013.

19. Respondent was not reinstated until July 15, 2013.

20. Respondent appeared in court other times during her suspension, including on July 8, 9, and 10, 2013.

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 her conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ER 5.5(a), and Rule 31(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 one year of probation to include a LOMAP assessment, and any terms recommended by LOMAP as a result of the assessment. If LOMAP determines after this assessment, however, that Respondent does not need the assistance of LOMAP, Respondent's probation will terminate after the LOMAP assessment and such determination by LOMAP.

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* 7.2 is the appropriate *Standard* given the facts and circumstances of the case. *Standard* 7.2 provides: "Suspension is generally appropriate when a lawyer knowingly 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." *Standard* 7.2 applies because Respondent acted knowingly. Specifically, Respondent contacted the State Bar on July 8, 2013 and the State Bar informed her that she was suspended for failing to pay her dues. Respondent, however, continued to appear in court on July 8, 9 and 10, 2013.

The duty violated

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

The lawyer's mental state

For purposes of this agreement, the parties agree that Respondent acted knowingly when she appeared in court on July 8, 9, and 10, 2013 after the State Bar informed her she was suspended, and that her 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 potential harm to Respondent's clients, to the legal system, 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: There are no applicable aggravating factors.

In mitigation:

Standard 9.32(a): Absence of a prior disciplinary record.

Standard 9.32(b): Absence of dishonest or selfish motive. Respondent states that she did not intend to deceive the court or to be dishonest with the court when she appeared in court after the State Bar informed her of her suspension. Instead, Respondent states that she was dealing with personal and office staff issues at the time and "tried to attend to the issue as best she could." See Exhibit B.

Standard 9.32(c): Personal or emotional problems. Respondent states that did not pay her dues and did not realize she was suspended until contacting the State Bar on July 8, 2013 because she was distracted as she was involved in a divorce proceeding with her husband who she asserts stalked

and harassed her. See Maricopa County Superior Court Case No. FN 2012-05232; see also Exhibit "B."

Standard 9.32(e): Full and free disclosure to disciplinary board or cooperative attitude toward proceedings. Respondent admitted to the State Bar that she practiced law while suspended. Respondent also states that she has instituted several changes at her office to ensure what happened in this matter does not occur again, including new office software and additional staff. See Exhibit B.

Standard 9.32(g): Character or reputation. See Exhibit "C."

Discussion

The parties have conditionally agreed that a lesser sanction is appropriate under the facts and circumstances of this matter. This agreement is based on the following: While the presumptive sanction is suspension, Respondent has explained that her personal problems and staffing issues contributed to her failure to timely pay her dues and her decision to appear in court while suspended. Once Respondent learned of the suspension, she took immediate steps to become reinstated. Additionally, the LOMAP assessment will assist Respondent should LOMAP determine that Respondent needs assistance with practice management or staffing issues.

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 a reprimand, one year of probation to include a LOMAP assessment, and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "D."

DATED this 24th day of December, 2013.

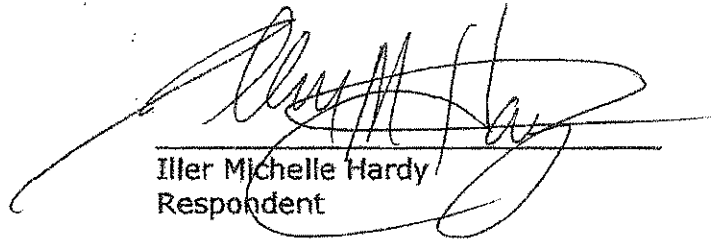
STATE BAR OF ARIZONA



Nicole S. Kaseta
Staff Bar Counsel

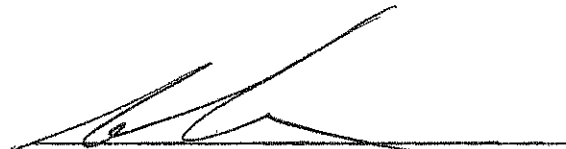
This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this 19th day of December, 2013.



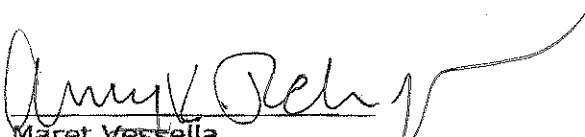
Iller Michelle Hardy
Respondent

DATED this 23rd day of December, 2013.



Ralph W. Adams
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 24th day of December, 2013.

Copies of the foregoing mailed/emailed
this 24th day of December, 2013, to:

Ralph W Adams
Adams & Clark PC
520 East Portland Street
Phoenix, Arizona 85004-1843
Email: ralph@adamsclark.com
Respondent's Counsel

Copy of the foregoing emailed
this 24th day of December, 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 24th day of December, 2013, to:

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

By: Jackie Daventer
NSK:jld

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 MEMBER OF THE
STATE BAR OF ARIZONA,**

**Iller Michelle Hardy
Bar No. 022885**

Respondent.

PDJ-2013-9120

FINAL JUDGMENT AND ORDER

[State Bar No. 13-1665]

FILED: JANUARY 3, 2014

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on December 24, 2013, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Iller Michelle Hardy**, is hereby reprimanded for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED that Respondent shall be placed on probation for a period of one (1) year. The period of probation shall commence upon entry of this final judgment and order.

IT IS FURTHER ORDERED that, during the probation period of one (1) years, Respondent shall also complete the following:

LOMAP

Respondent shall contact the director of the State Bar's Law Office Management Assistance Program (LOMAP), at 602-340-7332, within 30 days of the date of the final judgment and order. Respondent shall submit to a LOMAP examination of her office's procedures, including, but not limited to, compliance with ER 5.5(a) and Rule 31(c). If the director of LOMAP determines that Respondent needs assistance in complying with the aforementioned ER and Rule or with practice management or staffing issues, the director of LOMAP shall develop "Terms and Conditions of Probation", and those terms shall be incorporated herein by reference. The probation period will commence at the time of the entry of the judgment and order and will conclude one (1) year from that date. If the director of LOMAP determines, however, that Respondent does not need the assistance of LOMAP, Respondent's probation will terminate after the LOMAP assessment and after the LOMAP director makes such determination.

Respondent shall be responsible for any costs associated with LOMAP.

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 \$1,241.81. There are no costs incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 3rd day of January, 2013.

William J. O'Neil

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 3rd day of January, 2014.

Copies of the foregoing mailed/emailed
this 3rd day of January, 2014, to:

Ralph W Adams
Adams & Clark PC
520 East Portland Street
Phoenix, Arizona 85004-1843
Email: ralph@adamsclark.com
Respondent's Counsel

Copy of the foregoing hand-delivered/emailed
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Nicole S. Kaseta
Staff Bar Counsel
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4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: lro@staff.azbar.org

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By: s/sLHopkins