OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA
OCT 17 2013
FILED
BY LH

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7550 East Addis Avenue
Prescott Valley, Arizona 86314-3239
Telephone: 928-775-9398
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Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **Mark A. Kille,** **Bar No. 024441,** Respondent.	**PDJ-2013-** 9093 **AGREEMENT FOR DISCIPLINE BY CONSENT** State Bar No. 13-0459

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Mark A. Kille, who has chosen not to seek the assistance of counsel, 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. Additionally, this matter involves trust account violations and, therefore, there is no Complainant to notify regarding this Agreement for Discipline by Consent. 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, Ariz. R. Sup. Ct., ER 1.15(a), and Rules 43(b)(1)(A), 43(b)(1)(C), 43(b)(2)(A), 43(b)(2)(B), and 43(b)(2)(C). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand, followed by one year of probation and participation in the Law Office Management Assistance Program (LOMAP) and Trust Account Ethics Enhancement Program (TAEEP). 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 18, 2006.

COUNT ONE (State Bar File No. 13-0459)

2. On March 7, 2013, the State Bar of Arizona received an insufficient funds notice on Respondent's client trust account. On February 28, 2013, check number 269 in the amount of $155.00 attempted to pay against the account when the balance was $145.00. The bank paid the check and did not charge an overdraft fee, leaving the account with a negative balance of $10.00.

[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.

3. The Trust Account Examiner sent Respondent a copy of the overdraft notice, and requested an explanation of the overdraft and copies of the related mandatory records.

4. Respondent provided the requested information with exceptions, and explained that the overdraft was the result of failing to closely monitor the account after he merged his solo practice with another attorney's firm. Respondent states that this merger became effective June 2012. During and after this merger, Respondent was not diligent in maintaining his trust account that pertained to his solo practice. Respondent states that he lost track of an outstanding check, number 240 in the amount of $60,000.00, which cleared on January 17, 2013. When Respondent realized his error, he transferred what he thought were sufficient funds into his trust account on January 9, 2013; however, bank records demonstrate that Respondent was still $10.00 short, which is what caused the overdraft on February 28, 2013.

5. The Trust Account Examiner sent Respondent multiple requests for additional information. Respondent timely complied with the requests for additional information and was cooperative throughout the Trust Account Examiner's investigation.

6. During the course of the investigation, it was determined that Respondent's errors in maintaining his trust account went further than forgetting about check number 240 being outstanding. In addition to forgetting about check number 240, Respondent also failed to keep the appropriate client ledgers, and as such, Respondent failed to properly track or link disbursements to particular clients.

Respondent maintained an Excel spreadsheet but this spreadsheet did not comply with the trust account rules.

7. In addition, Respondent converted other client funds for at least 11 months. As of April 1, 2012, Respondent's trust account was short by approximately $16,117.75. It appears that the error was mostly due to client P.H. Respondent states that P.H. received two settlements, one in the amount of $150,000.00, and the other in the amount of $100,000.00, for a total of $250,000.00; however, Respondent made disbursements exceeding these amounts in this matter.

8. During the course of the investigation, it was also determined that Respondent disbursed $0.50 more than what client M had on deposit. Also, there was a transfer of $1,835.85 out of Respondent's trust account that was not related to any matter.

9. There is no evidence that Respondent knowingly used or converted client funds for personal gain. Rather, the above errors appear to be the result of poor recordkeeping and accounting practices.

10. Respondent has since remedied all errors, his trust account for his solo practice was closed with a $0 balance, and Respondent deposited the appropriate funds into his trust account with his new firm.

11. Respondent has an accountant that oversees his new firm's trust account and has so since June of 2012.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are 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 ER 1.15(a), and Rules 43(b)(1)(A), 43(b)(1)(C), 43(b)(2)(A), 43(b)(2)(B), and 43(b)(2)(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, followed by one year of probation and participation in the Law Office Management Assistance Program and Trust Account Ethics Enhancement Program.

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 his office's procedures, including, but not limited to, compliance with ER 1.15(a) and Rule 43(b). 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. Respondent shall be responsible for any costs associated with LOMAP.

TAEEP

Respondent shall attend a half-day Trust Account Ethics Enhancement Program (TAEEP). Respondent must contact the TAEEP Program Coordinator, State Bar of Arizona, at (602) 340-7278, within 20 days from the date of the final judgment and order. Respondent shall be responsible for the cost of attending the program.

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.

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* 4.13 applies in this matter, given the facts and circumstances involved. *Standard* 4.13 provides that a reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client. Respondent failed to safe keep client property, failed to maintain adequate internal controls to safeguard funds held in trust, failed to maintain complete trust records relating to client funds in his possession, failed to maintain individual client ledgers, and failed to conduct monthly three-way reconciliations.

The duty violated

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

The lawyer's mental state

For purposes of this agreement, the parties agree that Respondent negligently failed to safe keep client property, negligently failed to maintain adequate internal controls to safeguard funds held in trust, negligently failed to maintain complete trust records relating to client funds in his possession, negligently failed to maintain individual client ledgers, and negligently failed to

conduct monthly three-way reconciliations, and that his conduct was in violation of the Rules of Professional Conduct.

Respondent was a solo practitioner until June of 2012 when he merged with his current firm. He maintained the trust account relating to his solo practice for a period of time after the merger and admits that he simply was not diligent in maintaining his trust account that pertained to his solo practice.

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 as a result of the trust account errors discovered during the investigation of this matter.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is reprimand. 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 a dishonest or selfish motive.

Standard 9.32(d): Timely good faith effort to make restitution or to rectify consequences of misconduct. After the Trust Account Examiner informed Respondent of his conversion of client funds, Respondent deposited personal funds to his new firm's trust account on August 8, 2013. Respondent informed the Trust Account Examiner that, even if the Trust Account Examiner "had not caused me to understand the inadvertent loss of . . . funds", he would have realized the loss of funds himself when the matter related to those funds was resolved and "the same remedy of personal funds would have followed."

Standard 9.32(e): Full and free disclosure to disciplinary board or cooperative attitude toward proceedings.

Standard 9.32(g): Character or reputation. Respondent provided Bar Counsel with a letter stating that he is a member of the State Bar of Arizona Fee Arbitration Committee, has served as a court-appointed arbitrator for Yavapai County for three years, received the Yavapai County Pro Bono Attorney of the Year Award, donates time to the Yavapai County Law Day, and donates 40 hours per year at a local women's shelter. A copy of this letter is attached as Exhibit "B".

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: Although Respondent failed to maintain complete trust account records and this failure resulted in the conversion of client funds, Respondent's trust account issues can be addressed through the Law Office Management Assistance Program and Trust Account Ethics Enhancement Program. Moreover, Respondent has since remedied all the errors related to the trust account he utilized with his solo practice, closed that trust account, and deposited the appropriate funds into his joint trust account with his new firm. Respondent also has an accountant to assist him with his trust account responsibilities relating to his trust account with his new firm. 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 Reprimand, followed by one year of probation and participation in the Law Office Management Assistance Program and Trust Account Ethics Enhancement Program, and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "C."

DATED this 17th day of October, 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 16th day of October, 2013.

Mark A. Kille
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 17th day of October, 2013.

Copies of the foregoing mailed/emailed
this 17th day of October, 2013, to:

Mark A Kille
Moceri & Kille PLLC
7550 East Addis Avenue
Prescott Valley, Arizona 86314-3239
Email: mark@northernarizonainjurylaw.com
Respondent

Copy of the foregoing emailed
this 17th day of October, 2013, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

Copy of the foregoing hand-delivered
this 17th day of October, 2013, to:

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

By: Jackie Deventer
NSK:jld

EXHIBIT "A"

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Mark A Kille, Bar No. 024441, Respondent

File No(s). 13-0459

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings **$1,200.00**

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

Total for staff investigator charges	$ 0.00
TOTAL COSTS AND EXPENSES INCURRED	***$1,200.00***

Sandra E Montoya

Sandra E. Montoya
Lawyer Regulation Records Manager

10-10-13

Date

EXHIBIT "B"

MOCERI & KILLE, PLLC
WE MOVE MOUNTAINS

October 3, 2013

VIA FASCIMILE & U.S. MAIL

Ms. Nicole Kaseta
STATE BAR OF ARIZONA
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016
Fax: 602-271-4930

RE: File No. 13-0459

Dear Ms. Kaseta:

As we discussed during our telephone conversation on Tuesday, I am very interested in working toward a resolution of this file. Per your suggestion, below are mitigating factors I respectfully request the Committee consider prior to determining the final outcome:

1. I have practiced in Missouri and Arizona since 2002 and do not have a disciplinary record in either state.

2. I am certain the correspondence which I have shared with Mr. Robert Root throughout the investigation process supports the absence of a dishonest or selfish motive. Throughout the 11 months at issue, there was never a time when I attempted to personally profit from any inadvertent accounting error. Additionally, any accounting error was an inadvertent oversight. I did not possess the intent necessary to be dishonest or selfish.

3. There was never a client who received a trust account check from me that contained insufficient funds, or never a time when I was unable to provide a client with his/her funds he/she was entitled. The record clearly reveals a good faith effort to rectify any inadvertent accounting error which occurred.

4. Throughout the lengthy investigation process, I fully cooperated with Mr. Robert Root, promptly providing him any document he requested, if that document was available. This full and free disclosure, as well as my proactive cooperation with Mr. Root, assisted in your investigation and evidences the transparency I was willing to provide so that the investigation could be completed.

5. My character and reputation is something I take very seriously in my community. I am a member of the State Bar of Arizona Fee Arbitration Committee. Additionally, I have served as a court-appointed Arbitrator for Yavapai County in compulsory arbitration cases for the last three (3) years. In 2009, I was the recipient of the Yavapai County Pro Bono Attorney of the Year Award. Annually, I donate my time to the Yavapai County Law Day held in Prescott Valley, Arizona. In conjunction with the Community Legal Services, I donate approximately 40 hours per year providing guidance and suggestions to women at Stepping Stones,

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STATE BAR OF ARIZONA
LAWYER REGULATION

7550 E. Addis Avenue, Prescott Valley, AZ 86314 | www.NorthernArizonaInjuryLaw.com
P: 928.775.9398 | F: 928.775.9817 | E: mark@northernarizonainjurylaw.com

at a local women's shelter, on how to successfully maneuver the divorce process to legally free themselves from their abusive husbands. I am on the Board of Directors of the Prescott Area Habitat for Humanity. I am a husband and a father of three beautiful daughters. Finally, I am an active member of Lifepointe Church in Prescott Valley, Arizona, where I play acoustic guitar in the worship band.

6. I am remorseful for the lack of attention to my IOLTA account as well, as the fact I did not have an accountant when I was a solo practitioner with The Kille Law Firm, PLLC. Since June 1, 2012, as Moceri & Kille, PLLC, we employed an extremely competent and experienced accountant who oversees and balances all of our accounts, most importantly, the IOLTA account. I understand the importance of Rule 43 and do have the proper checks and balances, including a three-way reconciliation in place. Candidly, considering my strict attention to detail in my injury law cases and the type of representation I provide my clients, I am embarrassed of the oversight I once provided my IOLTA account.

Thank you for your sincere consideration of these mitigating factors. Should you have any questions or would prefer clarification or additional information on any of the above, do not hesitate to contact me directly.

Very truly yours,

MOCERI & KILLE, PLLC

By: Mark A. Kille

MAK/jm
cc: file

EXHIBIT "C"

COPY

BEFORE THE PRESIDING DISCIPLINARY JUDGE OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **Mark A. Kille** **Bar No. 024441** Respondent.	**PDJ-2013-_____** **FINAL JUDGMENT AND ORDER** State Bar No. 13-0459

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

IT IS HEREBY ORDERED that Respondent, **Mark. A. Kille,** is hereby reprimanded for his 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 year. The probation period will commence at the time of entry of this judgment and order and will conclude one year from that date.

IT IS FURTHER ORDERED that, during the period of probation of one year, 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

COPY

examination of his office's procedures, including, but not limited to, compliance with ER 1.15(a) and Rule 43(b). 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. Respondent shall be responsible for any costs associated with LOMAP.

TAEEP

Respondent shall attend a half-day Trust Account Ethics Enhancement Program (TAEEP). Respondent must contact the TAEEP Program Coordinator, State Bar of Arizona, at (602) 340-7278, within 20 days from the date of the final judgment and order. Respondent shall be responsible for the cost of attending the program.

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.

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IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of $1,200.00.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____.

DATED this _____ day of October, 2013.

_____
The Honorable 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 _____ day of October, 2013.

Copies of the foregoing mailed/emailed
this _____ day of October, 2013, to:

Mark A Kille
Moceri & Kille PLLC
7550 East Addis Avenue
Prescott Valley, Arizona 86314-3239
Email: mark@northernarizonainjurylaw.com
Respondent

Copy of the foregoing hand-delivered/emailed
this _____ day of October, 2013, to:

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

COPY

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

By: _____

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, **MARK A. KILLE,** **Bar No. 024441** Respondent.	**PDJ-2013-9093** **FINAL JUDGMENT AND ORDER** [State Bar No. 13-0459] **FILED OCTOBER 30, 2013**

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on October 17, 2013, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Mark. A. Kille**, 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 a period of one (1) year. The probation period will commence at the time of entry of this Final Judgment and Order and will conclude one year from that date.

IT IS FURTHER ORDERED that during the one year probationary period, 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 his office's procedures, including, but not limited to, compliance with ER 1.15(a) and Rule 43(b). 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 Final Judgment and Order and will conclude one (1) year from that date. Respondent shall be responsible for any costs associated with LOMAP.

TAEEP

Respondent shall attend a half-day Trust Account Ethics Enhancement Program (TAEEP). Respondent must contact the TAEEP Program Coordinator, State Bar of Arizona, at (602) 340-7278, within twenty (20) days from the date of the Final Judgment and Order. Respondent shall be responsible for the cost of attending the program.

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 $1,200.00. 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 30th day of October, 2013.

/s/ *William J. O'Neil*

The Honorable 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 30th day of October, 2013.

Copies of the foregoing mailed/emailed
this 30th day of October, 2013, to:

Mark A Kille
Moceri & Kille PLLC
7550 E Addis Ave
Prescott Valley, AZ 86314-3239
Email: mark@northernarizonainjurylaw.com
Respondent

Copy of the foregoing hand-delivered/emailed
this 30th day of October, 2013, to:

Nicole S Kaseta
Staff 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