

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,**

**JAMES N. TILSON,
Bar No. 020041**

Respondent.

PDJ 2014-9047

FINAL JUDGMENT AND ORDER

State Bar No. 13-1268, 13-1972,
13-2127, 13-2848, 14-0454, 14-0983,
14-1148, 14-1702, 14-1748, 14-2302,
and 14-2352

FILED OCTOBER 17, 2014

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on October 2, 2014, pursuant to Rule 57(a), Ariz. R. Sup. Ct., and the parties' Acceptance of Proposed Modifications filed on October 15, 2014, hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **James N. Tilson**, is hereby suspended for three (3) years for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective November 17, 2014.

IT IS FURTHER ORDERED that Respondent shall pay Restitution within 90 days of the date of this order to the following people in the following amounts:

a. Count One, 13-1268, Gabriel Amaya and Maria Amaya, \$10,500.00;

- b. Count Six, 14-0983, Mr. & Mrs. Paul Moreno, \$5,926.00, plus accrued and accruing interest, minus credits for any payments Respondent already has made;
- c. Count Seven, 14-1148, Nina Russell, \$4,150.00;
- d. Count Eight, 14-1702, Maria Vasquez, \$12,000.00;
- e. Count Nine, 14-1748, (Judicial Referral), \$8,760.00 plus accrued and accruing interest, less credits for payments already made, to the opposing parties and real parties in interest in Yuma County Superior Court, cause no. S1400CV201201066, and in the Arizona Court of Appeals, Div. One, No. 1 CA-SA 14-0065; and
- f. Count Ten, 14-2302, Leticia Godoy, \$6,000.00.

IT IS FURTHER ORDERED that as a term of probation and prior to the filing of an application for reinstatement, Respondent shall participate in State Bar-sponsored Fee Arbitration with the following people:

- a. Count Two, 13-1972, Mario Hernandez;
- b. Count Three, 13-2848, Steven Joseph LaLonde and Doreen LaLonde;
- c. Count Four, 13-2127, Jaime Urbina; and
- d. Count Five, 14-0454, Mario & Angelica Gonzalez.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$2,644.64 within thirty (30) days from the date of this order. 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 17TH day of October, 2014.

_____*William J. O'Neil*_____
William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 17th day of October, 2014.

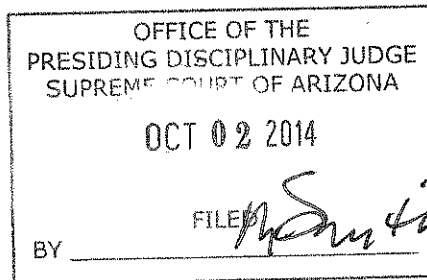
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Respondent

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

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

**JAMES N. TILSON,
Bar No. 020041,**

Respondent.

PDJ 2014-9047

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

State Bar Nos. 13-1268, 13-1972,
13-2127, 13-2848, 14-0454, 14-0983,
14-1148, 14-1702, 14-1748, 14-2302,
and 14-2352

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, James N. Tilson, 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.¹ A Probable Cause Order was entered for the following counts and a Complaint has been filed:

1. Count One (File No. 13-1268/The Amayas), September 17, 2013;
2. Count Two (File No. 13-1972/Hernandez), May 15, 2014; and

¹ All references herein to rules are to the Arizona Rules of the Supreme Court unless otherwise expressly stated.

3. Count Three (File No. 13-2848/The LaLondes), February 26, 2014.

Probable Cause Orders were issued for the following counts, but a formal complaint has not been filed:

4. Count Four (File No. 13-2127/Urbina), June 12, 2014;

5. Count Five (File No. 14-0454/Gonzalez), August 25, 2014; and

6. Count Six (File No. 14-0983/Moreno), August 25, 2014.

For the following counts Probable Cause Orders have not yet been issued:

7. Count Seven (File No. 14-1148/Russell);

8. Count Eight (File 14-1702/Vasquez);

9. Count Nine (File No. 14-1748/ State Bar of Arizona);

10.Count Ten (File No. 14-2302/Godoy); and

11.Count Eleven (File No. 14-2352/State Bar of Arizona).

Respondent voluntarily waives the right to an adjudicatory hearing on the three counts alleged in the complaint, and on the other eight pre-filing counts, 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:

- i. ER 1.1, Competence;
- ii. ER 1.2, Scope of Representation and Allocation of Authority;
- iii. ER 1.3, Diligence;
- iv. ER 1.4, Communication;
- v. ER 1.5(a), (b) and (d)(3), Fees and Fee Agreements;

- vi. ER 1.7(a), Conflict of Interest: Current Client;
- vii. ER 1.15(b), Safekeeping Client Property;
- viii. ER 1.16(d), Duties on Termination of Representation;
- ix. ER 3.1, Meritorious Claims and Counterclaims;
- x. ER 3.2, Expediting Litigation;
- xi. ER 3.3(a), Candor Toward the Tribunal;
- xii. ER 3.4(c), Fairness to Opposing Party;
- xiii. ER 4.4(a), Respect for the Rights of Others;
- xiv. ER 5.5, Unauthorized Practice of Law;
- xv. ER 8.1(b), Disciplinary Matters;
- xvi. ER 8.4(c), (Misconduct Involving Dishonesty); and
- xvii. ER 8.4(d), (Misconduct Prejudicial to the Administration of Justice);

Respondent conditionally admits that his conduct, as set forth below, also violated Rules 54(c), (d)(1) and (d)(2)(C) (respectively, violation of a court rule or order, refusal to cooperate in a State Bar investigation, and failure to furnish requested information to the State Bar).

Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline:

1. Suspension for three years;
2. Restitution to the following people and in the following amounts:
 - a. Count One, 13-1268, Gabriel Amaya and Maria Amaya, \$10,500.00;
 - b. Count Six, 14-0983, Mr. & Mrs. Paul Moreno, \$5,926.00, plus accrued and accruing interest, minus credits for any payments Respondent already has made;
 - c. Count Seven, 14-1148, Nina Russell, \$4,150.00;

- d. Count Eight, 14-1702, Maria Vasquez, \$12,000.00;
- e. Count Nine, 14-1748, (Judicial Referral), \$8,760.00 plus accrued and accruing interest, less credits for payments already made, to the opposing parties and real parties in interest in Yuma County Superior Court, cause no. S1400CV201201066, and the Arizona Court of Appeals, Div. One, No. 1 CA-SA 14-0065;
- f. Count Ten, 14-2302, Leticia Godoy, \$6,000.00;

3. State Bar-sponsored Fee Arbitration with the following people:

- a. Count Two, 13-1972, Mario Hernandez;
- b. Count Three, 13-2848, Steven Joseph LaLonde and Doreen LaLonde;
- c. Count Four, 13-2127, Jaime Urbina;
- d. Count Five, 14-0454, Mario & Angelica Gonzalez; and

4. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding.² 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 October 25, 1999.

COUNT ONE (File no. 13-1268/The Amayas)

² 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.

2. In June 2010, various banks and other parties collaborated to foreclose upon the property of Gabriel Amaya and Maria Amaya (hereinafter "the Amayas") and the Amayas were sued for a deficiency judgment.

3. The Amayas hired Respondent to sue those parties, reacquire the house, and rescind any post-foreclosure sales of the home.

4. On April 19, 2012, the Amayas signed a fee agreement with Respondent that called for an "Initial Case Start-up Fee" of \$1,500 and a "Monthly Litigation Fee" of \$750.

5. The fee agreement also called for two types of contingent fees depending on the course of the litigation and the relief obtained, but the case did not progress far enough to actuate those provisions.

6. The fee agreement defined the Initial Case Start-up Fee thus: "[T]his fee is paid every month, beginning one month after Attorney is retained, while litigation is pending in this matter. This fee is not an hourly rate fee, but represents an amalgam of the efforts and time necessary to take a matter of this nature from beginning to resolution." There was never a time during the representation in which the contemplated litigation was pending.

7. Respondent explained the fee structure thus: "[T]he compensation was meant to provide my client with a knowable, predictable fee which would be affordable to them, and provide an income stream to me."

8. The Amayas paid the Initial Start-up Fee and \$750/month from May 2012 to April 2012, for a total of \$10,500.

9. Over the course of the representation, the Amayas called Respondent numerous times to obtain a status.

10. When the monthly fees were due, Respondent talked to the Amayas only about the fee and not about the case.

11. In March and April 2013, the Amayas visited Respondent who told them that the case was going well and would end favorably for them in a matter of days.

12. Respondent refused to take the Amayas' calls seeking a status.

13. The Amayas went to Respondent's office on May 6, 2013, to get copies of the suit papers.

14. Respondent gave a copy of the purported complaint to the Amayas and closed his door, saying he had to go to court.

15. The suit purported to be in Yuma County Superior Court, contained Respondent's signature, and was dated July 18, 2012. It was missing the court seal and bore an incomplete case number.

16. The Amayas went to Yuma County Superior Court and discovered that Respondent had never filed the suit.

17. On May 20, 2013, the Amayas, believing they were crime victims, returned to Respondent's office with a police officer.

18. Respondent gave the Amayas a copy of an "Affidavit of Default" dated May 16, 2013, bearing Respondent's signature attesting to the "facts" that none of the three specifically named defendants had filed an Answer, and that the time to plead or otherwise defend "since the service of copy of the complaint and summons upon the Defendants" has passed.

19. During a telephone call on May 21, Respondent apologized to the Amayas and offered to work for a year on the case without pay.

20. The Amayas refused, fired Respondent, and demanded a full refund.

21. Respondent explained that the suit was ready for filing on July 18, 2012. In hindsight he discovered that he left the papers unfiled among other suit documents that were of the same nature that he did file. Respondent claimed that he did not discover this until the Amayas brought it to his attention in May 2013.

22. Respondent's May 16, 2013, "Affidavit of Default" was a lie.

23. Since Respondent had not filed the complaint he necessarily could not have obtained a summons, arranged service of the complaint and summons on the defendants, or received from the process server an affidavit of service of process by May 16, or at all. Respondent had no reasonable basis to believe that his affidavit was true.

COUNT TWO (File no. 13-1972/Hernandez)

24. Mario Hernandez (herein after "Hernandez") retained Respondent for a flat fee of \$10,000 to represent him in a criminal matter.

25. Hernandez grew dissatisfied with the representation and hired new counsel with whom he was happier.

26. Hernandez has tried to obtain from Respondent an accounting of time and fees to determine if he was entitled to a refund but Respondent has not responded to Hernandez's phone calls and letters.

27. Respondent responded to the State Bar that Hernandez retained him to represent Hernandez in a child molestation case (minor under the age of 12) for a flat fee of \$20,000. Per Respondent, Hernandez paid \$10,000.

28. Respondent claims that he investigated the case and retained consulting experts on various matters but the evidence against Hernandez was compelling.

29.Hernandez declined a plea offer of 5-15 years in prison and lifetime probation following release.

30.In May 2011, Hernandez discharged Respondent and hired new counsel.

31.Hernandez pled guilty and was sentenced in 2012 to six years imprisonment and lifetime probation upon release.

32.On November 19, 2013, Bar Counsel asked Respondent to furnish a copy of his file.

33.On February 11, 2014, Bar Counsel again asked Respondent to furnish a copy of his file.

34.Respondent failed to comply with either request.

35.Respondent responded to screening and provided a log of some of his activities on Hernandez's behalf but the log does not establish that the \$10,000 paid or the \$20,000 charged was reasonable.

36.Respondent did not respond to the charge that he failed to respond to Hernandez's request for an accounting of time and fees.

COUNT THREE (File No. 13-2848/The LaLondes)

37.Steven Joseph LaLonde (hereinafter "Joseph") is the father of four year-old Steven Korbin LaLonde (hereinafter "Korbin").

38.Doreen LaLonde (hereinafter "Doreen") is Joseph's mother and Korbin's grandmother.

39.Korbin lived with his mother Clariza Mora Heredia (hereinafter "Clariza") and her boyfriend.

40.Joseph and Doreen (hereafter "the LaLondes") alleged that Clariza was in an abusive relationship with her boyfriend and that the boyfriend abused Korbin.

41. In 2012, the LaLondes retained Respondent to represent Joseph in a paternity action and in an action to obtain temporary custody of Korbin.

42. The LaLondes produced a fee agreement for the paternity case by which Respondent charged and the LaLondes paid a \$2,000 flat fee "in this criminal matter."

43. The LaLondes did not produce a separate fee agreement for the temporary custody matter but produced checks showing they paid Respondent an additional \$2,500, for a total of \$4,500.

44. On November 7, 2012, the parties appeared in court for the custody matter. The LaLondes had tapes and diaries evidencing the abuse to which Clariza's boyfriend subjected Korbin.

45. Respondent failed to offer the tapes and diaries into evidence.

46. The judge was about to dismiss the case when Doreen stood up in open court and asked the judge to consider that evidence.

47. The judge agreed and, after chastising Respondent, awarded temporary custody to Joseph.

48. Respondent's motion for temporary orders requested that sole custody "of his minor daughter Roselyn" be awarded to Joseph.

49. Respondent failed to return phone calls, failed to involve CPS, and failed to coordinate with Korbin's doctor in order to facilitate the legal proceedings.

50. When the LaLondes were able to reach Respondent, he promised "to do better" but did not.

51. Respondent failed timely to obtain a signed custody order.

52. When Doreen took Korbin to the hospital for surgery, the hospital staff sent them home because she could not demonstrate that she had legal decision-making authority.

53. At that point, the LaLondes fired Respondent and hired new counsel, Ms. Boyte.

54. Respondent failed to respond to Ms. Boyte's calls when she tried to determine from him where the cases stood.

55. Respondent failed to respond to Bar Counsel's investigative screening and follow up letters dated November 1 and December 2, 2013. Those requests included that Respondent furnish copies of his entire case files.

COUNT FOUR (File No. 13-2127/Urbina)

56. Complainant Jaime Urbina and his wife Tong were divorced in 2000. Mr. Urbina was obligated to pay \$780/mo. in child support for the couple's two young daughters.

57. Mr. Urbina hired Respondent to obtain orders to stop the payments. Daughter Maria turned 18 on June 1, 2012, and daughter Alexandra was to complete school by June 30, 2013.

58. Respondent's fee agreement, signed and dated June 12, 2012, called for payment of a \$1,000 "Initial Retainer" and a \$2,000 "Trust Advanced Fees." Mr. Urbina paid both sums. The "Initial Retainer" is defined thus:

Client agrees that prior to the commencement of representation by Attorney the Client will deposit with Attorney an amount designated above as an "Initial Retainer." This Retainer does not represent an advance of earned fees, but rather pays for costs involved in beginning a case, the difficulty of the case, the lost opportunity for the attorney, the novelty of the issues involved and other circumstances specific to each case. It also represents payment for the professional obligations

that Attorney undertakes with Client at the beginning of the case, such as the duty of confidentiality, to act as Client's agent and the inability to ever represent another party against Client's interests without Client's prior consent. This amount is earned at the beginning of the case.

The fee agreement defined Respondent's billing rate at \$200/hr.

59. On August 24, 2012, Respondent filed a simple motion for a stop order re: Maria's child support and asked that Respondent's payment for Alexandra be reduced to \$202/mo.

60. Tong Urbina lived in Massachusetts. Respondent served her by certified mail. The delivery date on the signed green certified mail ticket is September 8, 2012. Respondent did not file an affidavit of service until November 30, 2012.

61. The court set a child support hearing for February 2013. In January, though, the court issued an order stopping the 2000 order of assignment by which Respondent paid \$780/mo. for both children.

62. At the February hearing the court evaluated the Urbinas' relative financial abilities and issued a "downward deviation" of Complainant's support obligation for Alexandra to \$900/mo. It also ruled that since the presumptive termination date for Alexandra's support was June 30, 2013, Respondent should file a new motion for a stop order toward the end of June.

63. Respondent filed the new motion on June 12, 2013 but did not serve it on Mrs. Urbina. On July 31 the court issued an order stating that since there was no proof of service it would take no action.

64. In connection with both motions, Mr. Urbina was unable to get answers to his questions regarding the status of the motions, why it seemed to take so long to advance the matters, and why so much time seemingly transpired between events.

When Respondent informed Mr. Urbina that action on the second motion was delayed due to a lack of service on Mrs. Urbina, in August 2013 Complainant fired Respondent.

65. Mr. Urbina told Respondent that he would handle the second motion on his own. First he required an order of termination of Respondent as counsel. Respondent did not file it until September 9. After the court granted the motion, Mr. Urbina completed service on Mrs. Urbina in October and the court issued a stop order in November.

66. Respondent told A/CAP counsel that delays were encountered because Mr. Urbina was in the military and stationed overseas. Most communication was by email. In screening, bar counsel asked Respondent to produce a copy of his file. Respondent failed to do so. Mr. Urbina's communications with the State Bar, also by email, have been prompt. It is fair to infer that delays due to inactivity cannot be blamed on Mr. Urbina's alleged unresponsiveness to or his distance from Respondent.

67. Respondent claims that he spent 10.6 hours on the case for total fees of \$2,120, a sum that exceeds what he was paid in legal fees by \$120. He produced a "Time Entry Report" of his activities. He claimed "4.00" hours for the February 1, 2013 "Urbina HEAR Div 2 Plante." The court minute entry for the hearing says that it started at 1:49 p.m. and ended at 3:10 p.m. (one hour, 21 minutes total). Respondent cannot attribute the excess to trial preparation; he claimed "2.00" hours for "trial preparation" on January 31. Respondent block-billed one hour for all email in each of February and March.

68.A/CAP counsel told Respondent to call her when Respondent emailed to Complainant the motion to withdraw as counsel. She left Respondent three phone messages in September and October 2013 to call her but he failed to do so.

COUNT FIVE (File No. 14-0454/The Gonzalezes)

69.In August 2012, Mario and Angelica Gonzalez hired Respondent to represent them in a Chapter 7 bankruptcy case. The Gonzalezes paid the \$2,000 fee plus the \$299.00 filing fee. The written fee agreement stated that Respondent would handle standard post-filing tasks and "Any litigation necessary after filing the schedules, and the initial creditors' meeting."

70.The trustee served a document request on the Gonzalezes, and they gave all the requested documents to Respondent. Respondent, however, failed to give the documents to the trustee.

71.In December 2012, the bankruptcy judge dismissed the case because Respondent failed to file a list of creditors in the proper format and failed to submit the Statement of Social Security Number, both of which are required by local bankruptcy rules.

72.At some point the case was reinstated. In June 2013, the trustee filed objections to the Gonzalezes' claimed exemptions of \$5,000 for a vehicle and \$754.69 cash. He claimed that the vehicle was worth \$7,500 which exceeded the allowable statutory \$5,000 vehicle exemption, and that he Gonzalezes had \$904.69 in the bank which exceeded the allowable bank account exemption of \$150.00 by \$754.69.

73. The Gonzalezes gave Respondent evidence that the vehicle (a 1999 GMC truck) was worth at most \$5,500 but Respondent failed to forward that evidence to the trustee or try to negotiate a settlement.

74. In January 2014, the trustee demanded that the Gonzalezes pay \$2,750.00. The Gonzalezes tried to reach Respondent through several phone messages and office visits but Respondent did not respond. Ultimately, the Gonzalezes struck a deal with the trustee on their own and paid \$2,000.00.

75. The bar sent screening and reminder letters to Respondent on April 1 and May 2, 2014, respectively; he did not reply.

COUNT SIX (File No. 14-0983/The Morenos)

76. Bank of America threatened the Morenos with foreclosure. They retained Respondent to represent them in an effort to modify their mortgage and avoid a trustee's sale. On May 17, 2013, they signed a fee agreement with Respondent to pay a \$1,300 "Initial Case Start-up Fee" and a \$500.00 "Monthly Litigation Fee." The monthly litigation fee was to be paid every month "while litigation is pending in this matter. This fee is not an hourly rate fee, but represents an amalgam of the efforts and time necessary to take a matter of this nature from beginning to resolution." Respondent also charged a "Reduction of Principal Contingency Fee" of 10% of the reduction of the principal amount owed on the mortgage, and a "Trial Award Contingency Fee" of 25% of damages awarded at trial.

77. The Morenos paid the \$1,300 initial case start-up fee on May 17, 2013, and \$500/mo. for nine months through January 2014, for total payments of \$5,800. During that time, Respondent took no action on their behalf, effectively prolonging

indefinitely the length of time over which the Morenos would have to pay the monthly fee.

78. On November 15, 2013, counsel for the loan servicing company sent the Morenos a courtesy notice that their home was scheduled for a trustee's sale on December 16. The Morenos notified Respondent but he took no action.

79. The sale occurred on December 16 and a trustee's deed upon sale was recorded December 18. Based on Respondent's representations at their initial meeting, the Morenos believed that Respondent had the situation under control and could reverse the sale. Hence, they continued to pay Respondent \$500/mo. until February 2014.

80. On February 12, 2014, the Morenos asked Respondent for an update on their legal matter. Respondent did not reply. The Morenos retained new counsel, Pam Walsma, who wrote to Respondent in March demanding a \$5,800 refund. Respondent did not reply to her, either.

81. On April 2, 2014, the Morenos sued Respondent in Yuma Justice Court for \$5,800.00. They served him on April 3, making Respondent's answer due by April 23. They filed an Application for Entry of Default on April 24, making May 8 Respondent's new answer due date. On May 9, the Morenos filed a Request for Entry of Default Without Hearing. Respondent filed an answer late, on May 14, and the court entered judgment for the Morenos against Respondent on June 11, 2014, for \$5,926.00 plus interest.

82. In his late-filed answer to the Morenos' suit, Respondent denied all material allegations of the complaint. He admitted that a trustee sale occurred and a trustee's deed issued, and that the Morenos' new counsel sent him a demand for a

refund and Respondent failed to respond or refund any fees. He concluded: "Defendant requests that this Court dismiss this Complaint; the allegations contained therein are better suited for adjudication through the State Bar of Arizona, as a complaint regarding professional services."

83. Respondent failed to respond to the bar's screening and reminder letters dated April 18 and May 14, 2014, respectively.

COUNT SEVEN (File No. 14-1148/Russell)

84. In approximately August 2012, Nina Russell met Respondent and talked to him about her precarious financial standing. In 2013, when her own efforts to improve her standing failed, she retained Respondent to represent her regarding the possibility of filing for bankruptcy due to a foreclosure on her rental property home in Sierra Vista, Arizona, problems keeping up with mortgage payments on her Yuma, Arizona home in which she resided, her student loan, and \$20,000 in credit card debt.

85. Respondent advised Ms. Russell to file for Chapter 7 Federal Bankruptcy protection and to stop paying the mortgage on her residence. He advised that this would enable her to renegotiate with her mortgage company after her bankruptcy case was final but keep her home in the interim.

86. Respondent did not explain to Mrs. Russell the tax consequences of filing a Chapter 7 case, and he did not discuss with her any options other than filing for bankruptcy protection.

87. Respondent charged Mrs. Russell \$2,300 for the bankruptcy case and a monthly fee of the equivalent of her mortgage payment for as long as Respondent represented her against her mortgage company. However, Respondent did not

intend to take action against the mortgage company until after the bankruptcy case was completed.

88. In September 2013, Respondent failed to respond to the bankruptcy trustee's request for important documents to support Mrs. Russell's claims, including reaffirmation documents that resulted in Mrs. Russell's vehicle being repossessed. When Mrs. Russell learned that Respondent did not respond to the trustee, she assembled the required documents and sent them to Respondent. He told Mrs. Russell that he would take care of all contact with the trustee, leading Mrs. Russell to believe that he was actually doing so.

89. On October 2, 2013, the automatic bankruptcy stay against foreclosure of Mrs. Russell's home was lifted. Respondent told Mrs. Russell that he would stop the mortgage company from taking her home.

90. Mrs. Russell's home was financed through the Veterans Administration and she was eligible to renegotiate the terms of her loan. Respondent did not communicate with the mortgage company despite its willingness to renegotiate. Mrs. Russell tried to discuss the situation with VA and mortgage company representatives but they declined to talk to her because she was represented by Respondent. Respondent told Mrs. Russell that it was pointless for her to talk to the representatives but that he would communicate with the VA and mortgage company. However, he failed to do so.

91. Respondent collected from Mrs. Russell \$1,450 as a "retainer" for the foreclosure defense, and in addition charged her \$725 per month. Mrs. Russell paid Respondent \$725 for December 2013.

92. Contrary to Respondent's assurances to Mrs. Russell that he was litigating a foreclosure defense case for her, he was not actually doing so. Respondent filed an action in December 2013 but did not serve it. Mrs. Russell's home was foreclosed and sold in October 2013, something she learned when she found a realtor's business card in her door with a note on the back. Respondent told Mrs. Russell that the court ruled against her claim even though Respondent never served it.

93. The new owners of the home offered to pay Mrs. Russell's moving expenses but Respondent told her to decline and persuaded her that he would still save her home. Respondent deluded Mrs. Russell about the true status of her legal matter in order to preserve a regular monthly income stream based on her monthly payment of fees to him while litigation was pending.

94. Mrs. Russell was served with eviction papers and a court date was set for December 16, 2013. Respondent convinced Mrs. Russell that there was some sort of "discrepancy" and that he could still save her home. Mrs. Russell was ordered to move out by January 2, 2014 and was lucky to obtain Army Housing at a cost of \$1,200.

95. Respondent refunded to Mrs. Russell \$325 after she was evicted from her home.

96. Respondent failed to respond to the Chapter 7 bankruptcy trustee's requests for information and documents. In April 2014, Mrs. Russell dismissed Respondent from representing her in the bankruptcy case and hired new counsel who successfully concluded the matter.

97. Respondent failed to respond to the bar's screening and reminder letters dated May 2 and May 29, 2014, respectively.

COUNT EIGHT (File No. 14-1702/Maria Vasquez)

98. In June 2012, Ms. Vasquez hired Respondent to prevent the foreclosure of her home. She paid him \$1,000 and continued to pay \$500 per month through March 2014.

99. Respondent calls the monthly payment a "litigation fee" that he charges indefinitely for as long as the client's litigation lasts.

100. Respondent told Ms. Vasquez that they should sue the home loan company, Bank of America ("BA"), for fraud, to bring BA to the bargaining table. He filed suit for her in September 2012, and told her that as long as a suit was filed BA could not sell her home.

101. In December 2013, Ms. Vasquez learned that BA sold her home and wanted to know if she would like to rent it. She called Respondent but was unable to reach him.

102. Ms. Vasquez went to court and learned that since filing suit in September 2012, Respondent did nothing to prosecute the action.

103. Respondent finally contacted Ms. Vasquez. They attended court in March 2014. The judge gave Respondent to March 26, April 7, April 21, and then April 28 to file "appeal papers" (per Ms. Vasquez) but he did not do so.

104. On April 28, 2014, Ms. Vasquez and her daughters vacated their home. She tried to reach Respondent until June 10, 2014, the date she filed this charge, but he did not respond to her calls and emails.

105. Respondent failed to respond to the State Bar's initial and reminder screening investigation letters dated, respectively, June 18 and July 15, 2014.

COUNT NINE (File No. 14-1748/State Bar of Arizona)

106. Respondent filed suit for the complainant in 14-1702, Maria Vasquez, alleging mortgage fraud. He filed the suit in Yuma County Superior Court, cause no. S1400CV201201066. Respondent did not serve the suit and it was dismissed.

107. Respondent filed a Special Action in the Arizona Court of Appeals, Div. One, No. 1 CA-SA 14-0065.

108. On May 29, 2014, the Court of Appeals declined jurisdiction and granted a motion for sanctions against Respondent only and not Ms. Vasquez. The court held that Respondent "has persisted in pursuing this petition for special action relief without ever serving real parties in interest with process and thereby obtaining proper jurisdiction over them." It held that the Superior Court never had jurisdiction and that Respondent's "pursuit of this special action was also frivolous and unreasonable in view of controlling Supreme Court precedent [citation omitted] which he failed even to cite, much less distinguish." The court ordered that Respondent "shall not bill or charge his client for any attorney's fees or costs for this special action. If Mr. Tilson has received any fees or reimbursement of costs from his client for the filing of this special action, he shall reimburse his client for such payments."

109. In a July 15, 2014 order the court awarded the opposing parties \$8,500 in attorneys' fees and \$260.00 in costs "against [Respondent] personally (and not his client)."

110. Respondent failed to respond to the State Bar's initial and reminder screening investigation letters dated, respectively, June 18 and July 15, 2014.

COUNT TEN (File No. 14-2302/Godoy)

111. In August 2013, Leticia Godoy hired Respondent to file an action to prevent BA from foreclosing on her home.

112. Respondent charged and collected from Ms. Godoy \$6,000 and filed an action but did not serve it.

113. Respondent appeared at one court hearing that took place in September 2013 but failed to appear at a second hearing.

114. Ms. Godoy tried to reach Respondent to find out what was going on with the case but he did not respond to her.

115. BA foreclosed on the home in December 2013. Ms. Godoy did not know that she had lost her home until BA contacted her and advised her she had to leave.

COUNT ELEVEN (File No. 14-2352/State Bar of Arizona)

116. On June 10, 2014, Respondent was suspended from the practice of law in Arizona for nonpayment of his required annual bar dues.

117. From June 10-July 3, 2014, in Yuma County Superior Court, Respondent filed ten different documents in three different cases in which he held himself out publicly as an attorney licensed to practice law in Arizona.

118. Respondent paid his bar dues and was reinstated to practice on July 7, 2014.

119. Respondent failed to respond to the State Bar's initial and reminder screening investigation letters dated, respectively, July 31 and September 4, 2014.

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 1.1, 1.2, 1.3, 1.4, 1.5(a), (b), and (d)(3), 1.7(a), 1.15(b), 1.16(d), 3.1, 3.2, 3.3(a), 3.4(c), 4.4(a), 5.5, 8.1(b), 8.4(c), and 8.4(d). Respondent conditionally admits that his conduct, as set forth below, also violated Rules 54(c), (d)(1), and (d)(2)(C).

RESTITUTION and FEE ARBITRATION

Respondent agrees to pay restitution and to participate in State Bar-sponsored fee arbitration, as described above.

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: Suspension for three years, restitution and fee arbitration as described above, and payment of the costs of these proceedings.

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).

"The *Standards* do not account for multiple charges of misconduct. The ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations; it might well be and generally should be greater than the sanction for the most serious misconduct." *Standards*, II. Theoretical Framework.

In determining an appropriate sanction consideration is given to: 1. the duty violated; 2. the lawyer's mental state; 3. the actual or potential injury caused by the misconduct; and 4. the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard 3.0*.

1. The duty violated

Respondent violated duties to his client, the public, the legal system, and the legal profession.

2. The lawyer's mental state

Respondent's mental state for the most serious offenses was "intentional," the most culpable of all mental states that the *Standards* identify.

3. The extent of the actual or potential injury

There was actual harm to the clients, the public, the legal system, and the legal profession.

Given the facts and circumstances of these matters, the parties agree that the following *Standards* are applicable:

ER 1.1 (Competence)

Standard 4.53

Reprimand is generally appropriate when a lawyer: (a) demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or (b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client.

ER 1.2 (Scope of Rep.)

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 1.3 (Diligence)

Standard 4.41

Disbarment is generally appropriate when: . . . (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

ER 1.4 (Communication)

See *Standard 4.41* above re: ER 1.3.

ER 1.5 (Fees and Fee Agreements)

Standard 4.61

Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to a client.

Standard 7.1

Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

ER 1.7 (Conflicts: Current Clients)

Standard 4.31

Disbarment is generally appropriate when a lawyer, without the informed consent of client(s): (a) engages in representation of a client knowing that the lawyer's interests are adverse to the client's with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to the client

ER 1.15(d) (Safekeeping Property)

Standard 4.12

Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

ER 1.16(d) (Duties on Termination of Rep.)

See Standard 7.1 above re ER 1.5.

ER 3.1 (Nonmeritorious Claims and Contentions)

Standard 6.22

Suspension is appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

ER 3.2 (Expediting Litigation)

See Standard 7.1 above re ER 1.5.

See Standard 4.41 above re ER 1.3.

ER 3.3(a) (Candor Toward the Tribunal)

Standard 6.12

Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

ER 3.4(c) and Rule 54(c) (Disobedience of Rules or Orders of a Tribunal)

See Standard 6.22 above re: ER 3.1.

ER 4.4(a) (Respect for Rights of Others)

See Standard 6.22 above re: ER 3.1.

ER 5.5 (Unauthorized Practice of Law)

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 8.1(b) and Rule 54(d) (Duties Related to Disciplinary Matters)

Standard 7.2

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.

ER 8.4(c) (Dishonesty)

See Standard 4.61 above re: ER 1.5.

ER 8.4(d) (Prej. to Admin. of Justice)

See Standard 7.2 above re: ER 8.1 and Rule 54(d).

4. Aggravating and mitigating circumstances

The presumptive principal sanction in this matter is disbarment. The following aggravating (*Standard 9.22*) and mitigating (*Standard 9.32*) factors should be considered.

Aggravating factors include:

- (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) multiple offenses;
- (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency (Respondent did not respond to the State Bar's request for information as part of its screening investigation in several of the cases);
- (h) vulnerability of victims; and
- (i) substantial experience in the practice of law.

Mitigating factors include:

- (a) absence of a prior disciplinary record-however, Respondent has four diversions dating to 2003 for, variously, trust account issues and unreasonable fees (TAEPP and TAP), ER 1.5 (fee arb. and LOMAP consult to ensure compliance with look-back on reasonableness of fees), ER 1.5 (fee arb. and practice monitor), and ERs 1.1 and 1.5 (consolidated with the immediately preceding diversion case);
- (c) personal or emotional problems (see attached letter from Respondent to bar counsel);
- (l) remorse.

Discussion

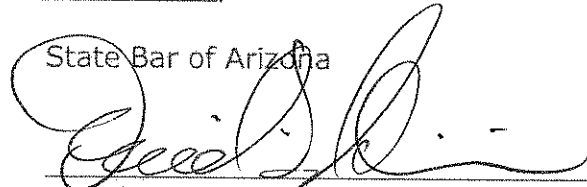
The parties conditionally agree that a greater or lesser sanction is not necessary or appropriate. The presumptive sanction is disbarment which is mitigated downward by Respondent's agreement to pay restitution and to participate in fee arbitration with his former clients. Respondent's personal life played a significant role in his misconduct and he is taking steps to address the destructive aspects of his life. The public will be protected by Respondent's departure from the practice of law for three years coupled with the showing he will have to make to get reinstated if and when that time comes. 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 sanctions and will serve the purposes of lawyer discipline.

CONCLUSION

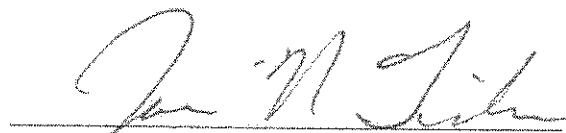
The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of a three-year suspension, restitution and fee arbitration as indicated, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit "B."

DATED this 1st day of _____, October 2014.


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. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this 1st day of October, 2014.


James N. Tilson
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
of the Supreme Court of Arizona
this 2nd day of October, 2014.

Copies of the foregoing mailed/emailed
this 2nd day of October 2014 to:

James N. Tilson
The Law Office of James Neal Tilson, LLC
106 S. Madison Ave., Ste. 1
Yuma, AZ 85364-1474
james@jamesnealtilson-attorneyatlaw.com
Respondent

Copy of the foregoing emailed
this 2nd day of October, 2014, to:

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

Copy of the foregoing hand-delivered
this 2nd day of October, 2014, to:

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


by: 
DLS: dds

EXHIBIT "A"

Statement of Costs and Expenses

In the Matter of a Current Member of the State Bar of Arizona,
James N. Tilson, Bar No. 020041, Respondent

File Nos. 13-1268, 13-1972, 13-2127, 13-2848, 14-0454, 14-0983,
14-1148, 14-1702, 14-1748, 14-2302, and 14-2352

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.

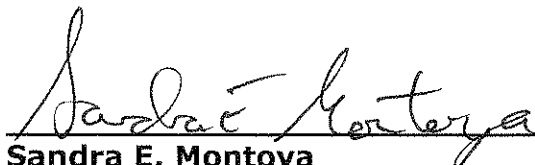
Staff Investigator/Miscellaneous Charges

06/20/14	Computer investigation reports, pacer	\$	0.50
09/15/14	Travel and mileage to settlement conference	\$	4.14

Total for staff investigator charges	\$	4.64
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Total Costs and Expenses for each matter over 5 cases where a violation is admitted or proven (6 over 5 x (240.00)):	\$	1,440.00
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<u>TOTAL COSTS AND EXPENSES INCURRED</u>	<u>\$</u>	<u>2,644.64</u>
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Sandra E. Montoya
Lawyer Regulation Records Manager

10-1-14

Date

EXHIBIT "B"

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
CURRENT MEMBER OF
THE STATE BAR OF ARIZONA,**

**JAMES N. TILSON,
Bar No. 020041,**

Respondent.

PDJ 2014-9047

FINAL JUDGMENT AND ORDER

State Bar No. 13-1268, 13-1972,
13-2127, 13-2848, 14-0454, 14-0983,
14-1148, 14-1702, 14-1748, 14-2302,
and 14-2352

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

IT IS HEREBY ORDERED that Respondent, **James N. Tilson**, is hereby suspended for three years for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective thirty (30) days from the date of this order or _____.

IT IS FURTHER ORDERED that Respondent shall pay Restitution to the following people and in the following amounts:

- a. Count One, 13-1268, Gabriel Amaya and Maria Amaya, \$10,500.00;
- b. Count Six, 14-0983, Mr. & Mrs. Paul Moreno, \$5,926.00, plus accrued and accruing interest, minus credits for any payments Respondent already has made;
- c. Count Seven, 14-1148, Nina Russell, \$4,150.00;

- d. Count Eight, 14-1702, Maria Vasquez, \$12,000.00;
- e. Count Nine, 14-1748, (Judicial Referral), \$8,760.00 plus accrued and accruing interest, less credits for payments already made, to the opposing parties and real parties in interest in Yuma County Superior Court, cause no. S1400CV201201066, and in the Arizona Court of Appeals, Div. One, No. 1 CA-SA 14-0065; and
- f. Count Ten, 14-2302, Leticia Godoy, \$6,000.00.

IT IS FURTHER ORDERED that Respondent shall participate in State Bar-sponsored Fee Arbitration with the following people:

- a. Count Two, 13-1972, Mario Hernandez;
- b. Count Three, 13-2848, Steven Joseph LaLonde and Doreen LaLonde;
- c. Count Four, 13-2127, Jaime Urbina; and
- d. Count Five, 14-0454, Mario & Angelica Gonzalez.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, within thirty (30) days from the date of service of this Order.

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 _____, within thirty (30) days from the date of service of this Order.

DATED this _____ day of _____, 2014.

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 _____, 2014.

Copies of the foregoing mailed/mailed
this _____ day of _____, 2014.

James N. Tilson
The Law Office of James Neal Tilson, LLC
106 S. Madison Ave., Ste. 1
Yuma, AZ 85364-1474
Email: james@jamesnealtilson-attorneyatlaw.com
Respondent

Copy of the foregoing emailed/hand-delivered
this _____ day of _____, 2014, to:

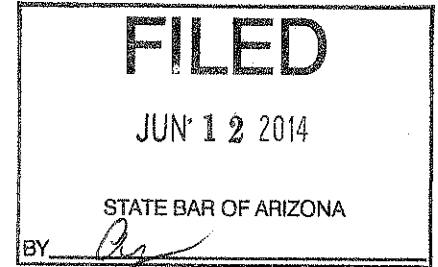
David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Copy of the foregoing hand-delivered
this _____ day of _____, 2014, to:

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

by: _____

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**



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

**JAMES N. TILSON,
Bar No. 020041,**

Respondent.

No. 13-2127

PROBABLE CAUSE ORDER

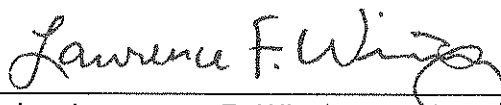
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on June 6, 2014, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 6-0-3¹, the Committee finds probable cause exists that Respondent violated the Rules of the Supreme Court of Arizona:

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 11th day of June, 2014.



Judge Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause
Committee of the Supreme Court of Arizona

¹ Committee members Ella Johnson, Daisy Flores and Bill Friedl did not participate in this matter.

Original filed this 12th day
of June, 2014 with:

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

Copy mailed this 18th day
of June, 2014, to:

James N. Tilson
James Neal Tilson Attorney at Law PC
141 South Madison Avenue
Yuma, Arizona 85364-1409
Respondent

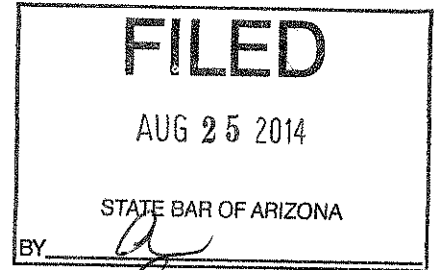
Copy emailed this 18th day
of June, 2014, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

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

by: Rodney T. Bruce

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**



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

**JAMES N. TILSON,
Bar No. 020041,**

Respondent.

No. 14-0454

PROBABLE CAUSE ORDER

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on August 15, 2014, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 7-0-2¹, the Committee finds probable cause exists that Respondent violated the Rules of the Supreme Court of Arizona in File No. 14-0454.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 25 day of August, 2014.

Lawrence F. Winthrop

Judge Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause
Committee of the Supreme Court of Arizona

¹ Committee members Karen E. Osborne and Ella G. Johnson did not participate in this matter.

Original filed this ^{25th} day
of August, 2014, with:

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

Copy mailed this ^{26th} day
of August, 2014, to:

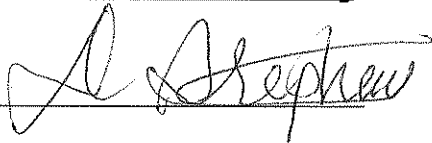
James N. Tilson
The Law Office of James Neal Tilson LLC
106 South Madison Avenue,
Suite 1
Yuma, Arizona 85364-1474
Respondent

Copy emailed this ^{26th} day
of August, 2014, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by:



**PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**

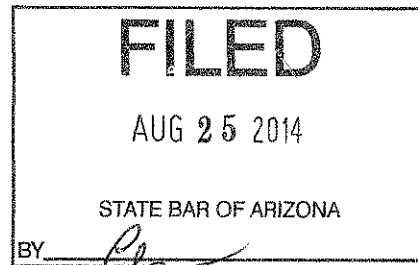
**IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,**

**JAMES N. TILSON,
Bar No. 020041,**

Respondent.

No. 14-0983

PROBABLE CAUSE ORDER



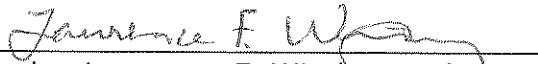
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on August 15, 2014, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Complainant's Response.

By a vote of 7-0-2¹, the Committee finds probable cause exists that Respondent violated the Rules of the Supreme Court of Arizona in File No. 14-0983.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 25 day of August, 2014.



Judge Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause
Committee of the Supreme Court of Arizona

¹ Committee members Karen E. Osborne and Ella G. Johnson did not participate in this matter.

Original filed this 25th day
of August, 2014, with:

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

Copy mailed this 26th day
of August, 2014, to:

James N. Tilson
The Law Office of James Neal Tilson LLC
106 South Madison Avenue,
Suite 1
Yuma, Arizona 85364-1474
Respondent

Copy emailed this 26th day
of August, 2014, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

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,

JAMES N. TILSON,
Bar No. 020041

Respondent.

No. PDJ-2014-9047

**ORDER REQUESTING
MODIFICATION OF AGREEMENT
FOR DISCIPLINE BY CONSENT**

[State Bar Nos. 13-1268, 13-1972,
and 13-2848, 13-2127, 14-0454,
and 14-0983, 14-1148, 14-1702,
14-1748, 14-2302 and 14-2352]

FILED OCTOBER 8, 2014

An Agreement for Discipline by Consent (Agreement) was filed on October 2, 2014, and submitted pursuant to Rule 57(a)(3), Ariz. R. Sup. Ct. A complaint was filed on June 5, 2014, regarding three of the charges in the Agreement. In addition to the matters in the formal Complaint, the Agreement contains three charges that Probable Cause Orders were issued, but for which a complaint was not yet filed. Five other charges in the Agreement have not yet received a probable cause order. Mr. Tilson has voluntarily waived the right to an adjudicatory hearing on all the charges if the conditional admission and proposed form of discipline is approved.

Factual Summary of Bar Charges

State Bar No. 13-1268

Mr. Tilson was hired by Gabriel and Maria Amaya. Mr. Tilson was paid an "Initial Case Star-up Fee" of \$1,500 and a "Monthly Litigation Fee" of \$750 "to provide [him] an income stream." Over a course of time he was paid \$10,500. He never filed a lawsuit. In 2013, his clients went to his office to get copies of the lawsuit. He gave them what purported to be a complaint. He later gave them what purported to be an affidavit of default. The affidavit of default was a lie.

State Bar No. 13-1972

Mr. Tilson was hired by Mario Hernandez to represent him in a criminal case. He was paid a flat fee of \$10,000. His client became dissatisfied and demanded an accounting of his time. Mr. Tilson refused to respond to his client's phone calls or letters. Mr. Tilson responded to the State Bar stating the flat fee was for \$20,000 and he had investigated the case and retained consulting experts on various matters. When, on multiple occasions the State Bar asked Mr. Tilson to furnish a copy of his file regarding this specific charge, he failed to. Mr. Tilson ultimately responded to State Bar screening letters, but could not establish the \$10,000 fee was reasonable. He also failed to respond to the charge that he had refused to respond to his client's request for an accounting.

State Bar No. 13-2848

Mr. Tilson was retained by Steven Joseph LaLonde ("Mr. LaLonde") and his mother, Doreen LaLonde ("Ms. LaLonde"), to file a paternity case and sue for temporary custody of Joseph's four-year-old son. He was paid a flat fee of \$2,000 for the paternity case. In his fee agreement Mr. Tilson described it as a "criminal matter." He was paid an additional \$2,500 for the custody matter. At the court hearing for temporary custody, Mr. Tilson failed to produce tapes and diaries which

related to the case, evidence which he had in his possession. The judge was about to dismiss the case when Ms. LaLonde stood up and asked the judge to consider this evidence. The judge, upon considering this evidence, awarded temporary custody to Mr. LaLonde and chastised Mr. Tilson. Mr. Tilson then failed to return any of his clients' phone calls and failed to timely obtain a signed custody order. Due to this, when the child was taken to the hospital for surgery, his clients were turned away as they could not demonstrate custody. When they retained new counsel, Mr. Tilson failed to respond to that attorney or the State Bar regarding this specific charge.

State Bar No. 13-2127

Mr. Tilson was retained by Jaime Urbina to terminate orders of child support regarding his two daughters; one who had turned 18 and the other who would have completed school the following year. The retainer agreement required an initial retainer of \$1,000, not as an advance of earned fees, but rather for costs in beginning a case, the difficulty of the case, the "lost opportunity" for Mr. Tilson, "the novelty of the issues involved and other circumstances." The fee was also described as payment for the professional obligations of an attorney, "such as the duty of confidentiality."

Mr. Tilson filed a simple motion to stop the order of child support. He served the mother by certified mail but did not file an affidavit of service for nearly three months. The hearing to consider the order was not set for over three more months. The court directed a new motion be filed for the not yet emancipated child. Mr. Tilson filed the motion in June 2013, but did not serve it. When his client discovered this, he terminated Mr. Tilson and demanded he file a withdrawal as counsel. The court required that withdrawal before permitting Mr. Urbina to file *pro per*. Mr. Tilson failed to withdraw until September. He failed to return calls. The second support order was

not stopped until November. Mr. Tilson charged one hour for each email reviewed. He failed to produce his file to the State Bar regarding this specific charge.

State Bar No. 14-0454

Mr. Tilson was retained by Mario and Angelica Gonzalez to represent them for a Chapter 7 bankruptcy. Mr. Tilson was paid \$2,000 and the \$299 filing fee. Mr. Tilson was given all the required documents by his clients. He failed to give the documents to the trustee in response to a document request, failed to file a list of creditors and failed to submit a Statement of Social Security Number. The case was dismissed. After the case was reinstated, the trustee filed objections to various exemptions. Mr. Tilson failed to give evidence to the trustee or try to negotiate a settlement. Mr. Tilson refused to respond to his clients' phone calls and did not respond to a trustee demand for payment of funds. His clients reached an agreement with the trustee on their own. On multiple occasions, Mr. Tilson did not respond to the State Bar regarding this specific charge.

State Bar No. 14-0983

Mr. Tilson was retained by Mr. and Mrs. Moreno to represent them in an effort to avoid a trustee sale on their home. He was paid an "Initial Case Start-up Fee" of \$1,500 and a "Monthly Litigation Fee" of \$500 instead of an hourly rate fee. This monthly fee "represent[ed] an amalgam of the efforts and time necessary to take a matter of this nature from beginning to resolution." Over a course of time he was paid \$5,800. During that time, Mr. Tilson took no action, effectively prolonging the length of time over which the Morenos would have to pay the monthly fee. His clients gave Mr. Tilson the notice of trustee's sale. He did nothing. After the sale of their home, he told his clients he had the situation under control in order to keep receiving

payments. Mr. Tilson did not respond to his clients' calls. They retained new counsel. Mr. Tilson did not respond to the requests of that new attorney. His clients sued him and default judgment was entered against him. On multiple occasions, Mr. Tilson did not respond to the State Bar regarding this specific charge.

State Bar No. 14-1148

Mr. Tilson was retained by Nina Russell to represent her for a possible bankruptcy action. He advised she file a Chapter 7 bankruptcy and told her to stop paying her mortgage payment as he would renegotiate with her mortgage company regarding her home. He was paid an "Initial Case Star-up Fee" of \$2,300 and a monthly fee which equaled her mortgage payment. He failed to respond to the bankruptcy trustee's request for documents. When his client discovered this, she delivered the requested documents to Mr. Tilson. He still failed to deliver them.

Ms. Russell's home was financed through the Veterans Administration ("VA") and she was eligible to renegotiate the terms of her loan. The VA was willing to renegotiate. Mr. Tilson told her efforts by her would fail and that only he could negotiate the matter. He failed to do so. Mr. Tilson assured his client he was litigating a foreclosure defense for her. He filed an action but never served it. When her home was lost he was untruthful and told his client the court ruled against her. He told her there was a discrepancy and he could still save her home. He did so to preserve a regular monthly income stream based on her monthly payments to him. On multiple occasions Mr. Tilson did not respond to the State Bar regarding this specific charge.

State Bar No. 14-1702 & 14-1748

Mr. Tilson was retained by Ms. Maria Vasquez to prevent the foreclosure of her home. Mr. Tilson was paid \$1,000 and a Monthly Litigation fee of \$500 per month

for as long as the litigation lasts. He advised Ms. Vasquez to file a fraud suit against Bank of America. He assured her so long as the suit was pending the bank could not sell the home. She learned from Bank of America the home was sold and Bank of America offered to rent it to her. Mr. Tilson did not return her calls. She went to the courthouse and discovered the suit had been filed but never prosecuted. Mr. Tilson continued to fail to respond to her calls or emails nor did he respond to the State Bar on multiple occasions regarding this specific charge.

Mr. Tilson was also retained by Ms. Vasquez to represent her in a mortgage fraud case as described above. Mr. Tilson filed the suit on her behalf but never served it. It was dismissed. Mr. Tilson filed a special action in the Court of Appeals. The court declined jurisdiction and granted a motion for sanctions against Mr. Tilson; not his client. Mr. Tilson failed to respond to the State Bar on multiple occasions regarding this specific charge.

State Bar No. 14-2302

Mr. Tilson was retained by Leticia Godoy to file a lawsuit to prevent Bank of America from foreclosing on her home. Mr. Tilson was paid \$6,000 by his client. He filed the lawsuit but did not serve it. Mr. Tilson did not respond to the inquiries of his client regarding the case. The home of his client was foreclosed. She was unaware of the foreclosure until notified by the bank.

State Bar No. 14-2352

On June 10, 2014, Mr. Tilson was notified by the State Bar, he was suspended from the practice of law in Arizona for nonpayment of his required annual bar dues. During that suspension, Mr. Tilson continued to file multiple documents in three different cases in which he held himself out publicly as an attorney authorized to

practice law in Arizona. Mr. Tilson paid his bar dues and was reinstated on July 7, 2014. Mr. Tilson did not respond to the State Bar on multiple occasions regarding this specific charge.

Discussion

Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate". Under Rule 53(b)(3), Ariz. R. Sup. Ct., bar counsel is required to serve notice of this agreement to complainant(s). Included within that letter must be a notification of the opportunity for the complainants to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. In an e-mail to the disciplinary clerk by the State Bar counsel verified this required notice was given to all complainants by October 2, 2014.

An objection was filed by complainant Mario Hernandez (Count Two) on October 3, 2014. Mr. Hernandez objects as Mr. Tilson never submitted proof of his work on the case. Mr. Hernandez stated he does not care about the suspension. His main objective in filing the complaint was to have 50% of his fee returned to his mother, who paid the fee on his behalf. It is conditionally admitted by Mr. Tilson, for the purposes of this agreement, that his log of his time does not establish his fee of \$10,000 was reasonable. Mr. Hernandez is imprisoned. It is highly improbable he will be in a position to participate in any meaningful manner in typical fee arbitration. The arbiter shall be given a copy of the agreement and this ruling. The admissions by Mr. Tilson shall be construed against Mr. Tilson. The arbitration shall be conducted in such a manner as to permit meaningful participation by Mr. Hernandez, although that will not require the actual physical presence of him considering his incarceration.

Absent from the Agreement is the mandatory language of Supreme Court Rule 57(a)(D)(iv). The rule requires "a statement that outlines the possible consequences of any violation of the terms and conditions of . . . any other *provision of the agreement.*" [Emphasis added.] As written, the Agreement does not contain the standard noncompliance language should Mr. Tilson fail to adhere or fulfill provisions in the Agreement. The consequences of a violation of the terms of the agreement may include any of the disciplinary sanctions set forth in Supreme Court Rule 60.

The Agreement must include a date certain for the payment of restitution which at a minimum shall be paid in full prior to the filing of any petition for reinstatement or upon terms of payment approved by each individual client for whom restitution is owed. The Agreement must require costs to be paid to the State Bar within 30 days as it is set forth in the proposed stipulated final judgment and order. These provisions serve to offset the presumptive sanction of disbarment and also protects the public.

Mr. Tilson did virtually nothing for these clients and much to harm them. If proven at hearing, it is highly probable he would receive a higher term of suspension, if not disbarment. However, the Agreement concludes the matter without his clients having to relive his misconduct. The Agreement sets forth stipulated restitution. The burden of proof is upon the State Bar by clear and convincing evidence. Hearings are never certain. This Agreement brings certainty and closure without any opportunity of appeal. If the modifications are agreed to, the Agreement will be accepted by the PDJ. If the parties agree to the modifications, the parties may file an original pleading entitled, "Acceptance of Proposed Modifications." That pleading, at a minimum, will verify the parties have read the proposed modifications of the PDJ, agree with those modifications and stipulate the agreement is modified

accordingly. The parties shall also specifically set forth what the payment terms for restitution are.

Accordingly,

IT IS ORDERED recommending modification of the Agreement pursuant to Rule 57(a)(4)(B). The parties may file an acceptance of these proposed modifications not later than by October 17, 2014, addressing the above mentioned concerns.

IT IS FURTHER ORDERED rejecting the agreement absent such acceptance being timely filed as discussed above. The conditional admissions will be deemed withdrawn and the matter will be reset for an expeditious hearing.

DATED this 8th of October, 2014.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
this 8th of October, 2014, to:

David L. Sandweiss
Senior Bar Counsel
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Phoenix, AZ 85016-6266
Email: lro@staff.azbar.org

James N. Tilson
106 South Madison Ave., Suite 1
Yuma, AZ 85364
Email: james@jamesnealtilson-attorneyatlaw.com
Respondent

by: JAlbright

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,

JAMES N. TILSON,
Bar No. 020041

Respondent.

No. PDJ-2014-9047

**ORDER ACCEPTING AGREEMENT
FOR DISCIPLINE BY CONSENT
AS MODIFIED**

[State Bar Nos. 13-1268, 13-1972,
and 13-2848, 13-2127, 14-0454,
and 14-0983, 14-1148, 14-1702,
14-1748, 14-2302 and 14-2352]

FILED OCTOBER 17, 2014

An Agreement for Discipline by Consent (Agreement) was filed on October 2, 2014, and submitted pursuant to Rule 57(a)(3), Ariz. R. Sup. Ct. A complaint was filed on June 5, 2014, regarding three of the charges in the Agreement. In addition to the matters in the formal Complaint, the Agreement contains three charges that Probable Cause Orders were issued, but for which a complaint was not yet filed. Five other charges in the Agreement have not yet received a probable cause order. Mr. Tilson has voluntarily waived the right to an adjudicatory hearing on all the charges if the conditional admission and proposed form of discipline is approved.

The parties agree Mr. Tilson shall be suspended from the practice of law for three years, pay restitution in an amount specified in the Agreement as to six of the charges, as a term of probation, participate in fee arbitration regarding four of the

charges, pay costs of this matter and other terms set forth in the Agreement. See Acceptance of Proposed Modifications filed on October 15, 2014.

Factual Summary of Bar Charges

State Bar No. 13-1268

Mr. Tilson was hired by Gabriel and Maria Amaya. Mr. Tilson was paid an "Initial Case Star-up Fee" of \$1,500 and a "Monthly Litigation Fee" of \$750 "to provide [him] an income stream." Over a course of time he was paid \$10,500. He never filed a lawsuit. In 2013, his clients went to his office to get copies of the lawsuit. He gave them what purported to be a complaint. He later gave them what purported to be an affidavit of default. The affidavit of default was a lie.

State Bar No. 13-1972

Mr. Tilson was hired by Mario Hernandez to represent him in a criminal case. He was paid a flat fee of \$10,000. His client became dissatisfied and demanded an accounting of his time. Mr. Tilson refused to respond to his client's phone calls or letters. Mr. Tilson responded to the State Bar stating the flat fee was for \$20,000 and he had investigated the case and retained consulting experts on various matters. When, on multiple occasions the State Bar asked Mr. Tilson to furnish a copy of his file regarding this specific charge, he failed to. Mr. Tilson ultimately responded to State Bar screening letters, but could not establish the \$10,000 fee was reasonable. He also failed to respond to the charge that he had refused to respond to his client's request for an accounting.

State Bar No. 13-2848

Mr. Tilson was retained by Steven Joseph LaLonde ("Mr. LaLonde") and his mother, Doreen LaLonde ("Ms. LaLonde"), to file a paternity case and sue for

temporary custody of Joseph's four-year-old son. He was paid a flat fee of \$2,000 for the paternity case. In his fee Agreement Mr. Tilson described it as a "criminal matter." He was paid an additional \$2,500 for the custody matter. At the court hearing for temporary custody, Mr. Tilson failed to produce tapes and diaries which related to the case, evidence which he had in his possession. The judge was about to dismiss the case when Ms. LaLonde stood up and asked the judge to consider this evidence. The judge, upon considering this evidence, awarded temporary custody to Mr. LaLonde and chastised Mr. Tilson. Mr. Tilson then failed to return any of his clients' phone calls and failed to timely obtain a signed custody order. Due to this, when the child was taken to the hospital for surgery, his clients were turned away as they could not demonstrate custody. When they retained new counsel, Mr. Tilson failed to respond to that attorney or the State Bar regarding this specific charge.

State Bar No. 13-2127

Mr. Tilson was retained by Jaime Urbina to terminate orders of child support regarding his two daughters; one who had turned 18 and the other who would have completed school the following year. The retainer Agreement required an initial retainer of \$1,000, not as an advance of earned fees, but rather for costs in beginning a case, the difficulty of the case, the "lost opportunity" for Mr. Tilson, "the novelty of the issues involved and other circumstances." The fee was also described as payment for the professional obligations of an attorney, "such as the duty of confidentiality."

Mr. Tilson filed a simple motion to stop the order of child support. He served the mother by certified mail but did not file an affidavit of service for nearly three months. The hearing to consider the order was not set for over three more months. The court directed a new motion be filed for the not yet emancipated child. Mr. Tilson

filed the motion in June 2013, but did not serve it. When his client discovered this, he terminated Mr. Tilson and demanded he file a withdrawal as counsel. The court required that withdrawal before permitting Mr. Urbina to file *pro per*. Mr. Tilson failed to withdraw until September. He failed to return calls. The second support order was not stopped until November. Mr. Tilson charged one hour for each email reviewed. He failed to produce his file to the State Bar regarding this specific charge.

State Bar No. 14-0454

Mr. Tilson was retained by Mario and Angelica Gonzalez to represent them for a Chapter 7 bankruptcy. Mr. Tilson was paid \$2,000 and the \$299 filing fee. Mr. Tilson was given all the required documents by his clients. He failed to give the documents to the trustee in response to a document request, failed to file a list of creditors and failed to submit a Statement of Social Security Number. The case was dismissed. After the case was reinstated, the trustee filed objections to various exemptions. Mr. Tilson failed to give evidence to the trustee or try to negotiate a settlement. Mr. Tilson refused to respond to his clients' phone calls and did not respond to a trustee demand for payment of funds. His clients reached an agreement with the trustee on their own. On multiple occasions, Mr. Tilson did not respond to the State Bar regarding this specific charge.

State Bar No. 14-0983

Mr. Tilson was retained by Mr. and Mrs. Moreno to represent them in an effort to avoid a trustee sale on their home. He was paid an "Initial Case Start-up Fee" of \$1,500 and a "Monthly Litigation Fee" of \$500 instead of an hourly rate fee. This monthly fee "represent[ed] an amalgam of the efforts and time necessary to take a matter of this nature from beginning to resolution." Over a course of time he was

paid \$5,800. During that time, Mr. Tilson took no action, effectively prolonging the length of time over which the Morenos would have to pay the monthly fee. His clients gave Mr. Tilson the notice of trustee's sale. He did nothing. After the sale of their home, he told his clients he had the situation under control in order to keep receiving payments. Mr. Tilson did not respond to his clients' calls. They retained new counsel. Mr. Tilson did not respond to the requests of that new attorney. His clients sued him and default judgment was entered against him. On multiple occasions, Mr. Tilson did not respond to the State Bar regarding this specific charge.

State Bar No. 14-1148

Mr. Tilson was retained by Nina Russell to represent her for a possible bankruptcy action. He advised she file a Chapter 7 bankruptcy and told her to stop paying her mortgage payment as he would renegotiate with her mortgage company regarding her home. He was paid an "Initial Case Star-up Fee" of \$2,300 and a monthly fee which equaled her mortgage payment. He failed to respond to the bankruptcy trustee's request for documents. When his client discovered this, she delivered the requested documents to Mr. Tilson. He still failed to deliver them.

Ms. Russell's home was financed through the Veterans Administration ("VA") and she was eligible to renegotiate the terms of her loan. The VA was willing to renegotiate. Mr. Tilson told her efforts by her would fail and that only he could negotiate the matter. He failed to do so. Mr. Tilson assured his client he was litigating a foreclosure defense for her. He filed an action but never served it. When her home was lost he was untruthful and told his client the court ruled against her. He told her there was a discrepancy and he could still save her home. He did so to preserve a

regular monthly income stream based on her monthly payments to him. On multiple occasions Mr. Tilson did not respond to the State Bar regarding this specific charge.

State Bar No. 14-1702 & 14-1748

Mr. Tilson was retained by Ms. Maria Vasquez to prevent the foreclosure of her home. Mr. Tilson was paid \$1,000 and a Monthly Litigation fee of \$500 per month for as long as the litigation lasts. He advised Ms. Vasquez to file a fraud suit against Bank of America. He assured her so long as the suit was pending the bank could not sell the home. She learned from Bank of America the home was sold and Bank of America offered to rent it to her. Mr. Tilson did not return her calls. She went to the courthouse and discovered the suit had been filed but never prosecuted. Mr. Tilson continued to fail to respond to her calls or emails nor did he respond to the State Bar on multiple occasions regarding this specific charge.

Mr. Tilson was also retained by Ms. Vasquez to represent her in a mortgage fraud case as described above. Mr. Tilson filed the suit on her behalf but never served it. It was dismissed. Mr. Tilson filed a special action in the Court of Appeals. The court declined jurisdiction and granted a motion for sanctions against Mr. Tilson; not his client. Mr. Tilson failed to respond to the State Bar on multiple occasions regarding this specific charge.

State Bar No. 14-2302

Mr. Tilson was retained by Leticia Godoy to file a lawsuit to prevent Bank of America from foreclosing on her home. Mr. Tilson was paid \$6,000 by his client. He filed the lawsuit but did not serve it. Mr. Tilson did not respond to the inquiries of his client regarding the case. The home of his client was foreclosed. She was unaware of the foreclosure until notified by the bank.

State Bar No. 14-2352

On June 10, 2014, Mr. Tilson was notified by the State Bar, he was suspended from the practice of law in Arizona for nonpayment of his required annual bar dues. During that suspension, Mr. Tilson continued to file multiple documents in three different cases in which he held himself out publicly as an attorney authorized to practice law in Arizona. Mr. Tilson paid his bar dues and was reinstated on July 7, 2014. Mr. Tilson did not respond to the State Bar on multiple occasions regarding this specific charge.

Discussion

Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate". Under Rule 53(b)(3), Ariz. R. Sup. Ct., bar counsel is required to serve notice of this Agreement to complainant(s). In an e-mail to the disciplinary clerk by the State Bar counsel verified this required notice was given to all complainants by October 2, 2014.

An objection was filed by complainant Mario Hernandez (Count Two) on October 3, 2014. He is presently in prison and likely unable to be able to have meaningful participation in fee arbitration due to his imprisonment. Mr. Hernandez objects as Mr. Tilson never submitted proof of his work on the case. Mr. Hernandez stated he does not care about the suspension. His main objective in filing the complaint was to have 50% of his fee returned to his mother, who paid the fee on his behalf.

PDJ Modifications Accepted by the Parties

By Order filed October 8, 2014, the PDJ requested a modification of the Agreement to assure Mr. Hernandez, who is imprisoned, would have a meaningful

arbitration. The parties accepted that modification. The arbiter shall be given a copy of the Agreement and the rulings of the PDJ regarding this Agreement. The admissions by Mr. Tilson shall be construed against Mr. Tilson. The arbitration shall be conducted in such a manner as to permit meaningful participation by Mr. Hernandez, although that will not require the actual physical presence of him considering his incarceration.

A further modification was requested by the PDJ. Absent from the Agreement was the mandatory language of Supreme Court Rule 57(a)(D)(iv). That rule requires "a statement that outlines the possible consequences of any violation of the terms and conditions of . . . any other *provision of the agreement*." [Emphasis added.] The parties accepted the modification to include the mandatory language. The parties agree, the consequences of a violation of any of the provisions of the Agreement as modified by the PDJ may include any of the disciplinary sanctions set forth in Supreme Court Rule 60.

Further, the PDJ requested the Agreement include a date certain for the payment of restitution, which at a minimum must be paid in full prior to the filing of any application for reinstatement. It was also requested the Agreement require costs to be paid to the State Bar within 30 days as it is set forth in the proposed stipulated final judgment and order. These modification were accepted by the parties. See Acceptance of Proposed Modification filed on October 15, 2014. Mr. Tilson shall fully pay the various parties listed their specified restitution within 90 days of the approval of this Agreement, and as a term of probation, Mr. Tilson shall participated in fee arbitration. He may not be reinstated unless those sums are paid in full prior to

reinstatement in any event. Further, the Agreement has been modified to be consistent with the form of judgment. Mr. Tilson shall pay his costs within 30 days.

PDJ Acceptance of the Agreement as Modified

IT IS ORDERED incorporating by this reference the Agreement, its supporting documents and the pleadings requiring and accepting the modifications recommended by the PDJ. The Agreement is modified accordingly.

IT IS ORDERED the Agreement as modified is accepted. A final judgment and order was submitted simultaneously with the Agreement and has been modified accordingly. Costs as submitted are approved in the amount of \$2,644.64. The suspension of Mr. Tilson shall be effective on **November 17, 2014**.

Now therefore, the final judgment and order is signed this date.

DATED this 17th of October, 2014.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
this 17th of October, 2014, to:

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Respondent

by: JAlbright