

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**MICHAEL RIES,**

Bar Nos. 6244774 in Illinois and  
53,518 in the United States Patent  
and Trademark Office,

Respondent.

**PDJ 2019-9073**

**FINAL JUDGMENT AND  
ORDER**

State Bar No. 18-2312

**FILED NOVEMBER 15, 2019**

The Presiding Disciplinary Judge of the Supreme Court of Arizona accepted the parties' Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct.,

Accordingly:

**IT IS ORDERED** Respondent, **MICHAEL RIES**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

**IT IS FURTHER ORDERED** Respondent shall pay restitution in the amount of \$3,500 to Complainant by no later than thirty (30) days from the date of this Order.

**IT IS FURTHER ORDERED** that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within thirty (30) days from

the date of this Order. There are no costs incurred by the Office of the Presiding Disciplinary Judge.

**DATED** this 15<sup>th</sup> day of November 2019.

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

Copies of the foregoing mailed/emailed  
this 15th day of November, 2019, to:

Michael Ries  
P. O. Box 42  
Peshtigo, Wisconsin 54157  
Email: [mikeries@aol.com](mailto:mikeries@aol.com)  
Respondent

David L. Sandweiss  
Senior Bar Counsel  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
Email: [LRO@staff.azbar.org](mailto:LRO@staff.azbar.org)

by: BEnsign

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

IN THE MATTER OF A NON-  
MEMBER OF THE STATE BAR OF  
ARIZONA,

**MICHAEL RIES,**

Respondent.

**PDJ 2019-9042**

**DECISION ACCEPTING  
DISCIPLINE BY CONSENT**

[State Bar No. 18-2312]

**FILED NOVEMBER 15, 2019**

Under Rule 57(a), Ariz. R. S. Ct.,<sup>1</sup> an Agreement for Discipline by Consent (“Agreement”), was filed on November 5, 2019. A Probable Cause Order issued on September 26, 2019 and the formal complaint was filed on September 30, 2019. No Answer has been filed. The State Bar of Arizona is represented by Senior Bar Counsel David L. Sandweiss and Mr. Ries is self-represented.

Rule 57 requires admissions be tendered solely “...in exchange for the stated form of discipline....” Under that rule, the right to an adjudicatory hearing is waived only if the “...conditional admission and proposed form of discipline is approved....” If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Mr. Ries has voluntarily waived the right to an adjudicatory hearing, and waived all

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<sup>1</sup> Unless otherwise stated all Rule references are to the Ariz. R. Sup. Ct.

motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. Notice of the Agreement and an opportunity to object within five (5) days pursuant to Rule 53(b)(3), was provided to the complainant on November 4, 2019 by letter, email and telephone. No objection has been filed.

The Agreement details a factual basis to support the conditional admissions. It is incorporated by this reference. Mr. Ries admits he violated Rule 42, ERs 1.2 (scope of representation), 1.3 (diligence), 1.4 (communication), 1.5 (fees) and 1.7 (conflict of interest). The parties stipulate to reprimand, restitution in the amount of \$3,500.00, and the payment of costs of \$1,200.00 within 30 days.

For purposes of the agreement, the parties stipulate that in March 2018, Mr. Ries, represented a client in obtaining a non-provisional patent application. He charged the client a flat fee of \$3,500. In April 2018, Mr. Ries sent the client the draft application that the client found to be deficient as the diagrams were amateurish and the invention description was not sufficiently broad to ward off competitors. It also contained grammatic and syntax errors. The client requested a refund of \$2,500.00. Mr. Ries refused to refund any monies. The client posted a negative review of Respondent and Respondent refused to complete the final application until the client deleted the negative review. Thereafter, Mr. Ries failed to communicate with his client and did not complete the application.

Mr. Ries knowingly violated his duties to clients and as a professional. His conduct caused actual harm to the client and potentially serious harm to the client. *Standards 4.42(a) Lack of Diligence, 7.2, Violation of Duties Owed as a Professional, and 4.32, Failures to Avoid Conflicts of Interest* are applicable to the misconduct. The parties agree aggravating factors 9.22(a) prior disciplinary offenses, (b) selfish motive, (d) multiple offenses, (g) refusal to acknowledge wrongful nature of conduct and (i) substantial experience in the practice of law are present. In mitigation is factor 9.32(e), full and free disclosure and cooperative attitude towards proceedings. The presumptive sanction is suspension. If Mr. Ries was a member of the State Bar of Arizona, a long-term suspension would have been an appropriate sanction.

**IT IS ORDERED** accepting the Agreement and incorporating it with any supporting documents by this reference. A final judgment and order is signed this date.

DATED this 15<sup>th</sup> day of November 2019.

*William J. O'Neil*

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

COPY of the foregoing e-mailed/mailed  
on this 15<sup>th</sup> day of November 2019, to:

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

Michael Ries  
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Peshtigo, Wisconsin 54157  
Email: [mikeries@aol.com](mailto:mikeries@aol.com)  
Respondent

by: BEnsign

NOV 04 2019

BY REKED  
*P. Benson*

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Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**MICHAEL RIES,  
Bar Nos. 6244774 in Illinois and  
53,518 in the United States  
Patent and Trademark Office,**

Respondent.

**PDJ 2019-9073**

**State Bar File No. 18-2312**

**AGREEMENT FOR DISCIPLINE  
BY CONSENT**

The State Bar of Arizona and Respondent Michael Ries who has chosen not to be represented hereby submit their Agreement for Discipline by Consent

pursuant to Rule 57(a), Ariz. R. Sup. Ct.<sup>1</sup> A probable cause order was entered on September 26, 2019. A formal complaint was filed September 30, 2019. Respondent has not yet filed an Answer. Respondent voluntarily waives the right to an adjudicatory hearing, 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.

Pursuant to Rule 53(b)(3), notice of this agreement was provided to the complainant by letter/email/telephone on November 4, 2019. Complainant has been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice. Copies of Complainant's objections, if any, have been or will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ERs 1.2, 1.3, 1.4, 1.5, and 1.7. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline:

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<sup>1</sup> All references to rules are to the Arizona rules of the Supreme Court unless otherwise noted.



Reprimand and Restitution to Complainant of \$3,500. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding within 30 days from the date of this order. If costs are not paid within the 30 days interest will begin to accrue at the legal rate.<sup>2</sup> The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

## FACTS

### COUNT ONE of ONE (File no. 18-2312/ Trevizo)

1. At all times relevant Respondent was licensed to practice law in Illinois and before the United States Patent and Trademark Office (USPTO).<sup>3</sup>
2. In March 2018, Complainant, an Arizona citizen, hired Respondent to file a non-provisional patent application for Complainant's invention, "MySuds2Go," a portable soap-and-water hand washing device.
3. Complainant paid Respondent's \$3,500 flat fee that included a formal patent drawing fee ordinarily charged at \$375.00, and changes and updates.

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<sup>2</sup> 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.

<sup>3</sup> Respondent was admitted to the Washington, D.C. bar in 2001, bar no. 474703, but has since resigned.

4. In early April 2018, Respondent sent Complainant a draft of a patent application.

5. Complainant criticized the document, claiming it "looked like a second grader drafted it."

6. Respondent's draft and subsequent edits had many grammatical and syntax errors.

7. Complainant feared that the USPTO would reject his application.

8. The diagrams were amateurish and the invention description was not sufficiently broad to ward off competitors.

9. Complainant asked and paid two other patent attorneys for their opinions.

10. The two other patent attorneys agreed that Respondent's work product was deficient.

11. Complainant and Respondent exchanged text messages and in late April 2018 Complainant asked Respondent to refund \$2,500.

12. Respondent refused to refund anything to Complainant.

13. Respondent told Complainant that the procedure, not stated in the perfunctory written fee agreement (a text message), was that Complainant had to approve the application and then Respondent would obtain professional drawings.

14. Complainant was frustrated because he already had told Respondent what changes were needed to give the application a professional look.

15. Complainant hired a different attorney to file a provisional application.

16. In late May 2018 Complainant posted a negative review of Respondent on Thumbtack.com.

17. However, having paid Respondent the full fee and seeing he would not get a refund, Complainant believed he was stuck with Respondent for purposes of filing the non-provisional patent application.

18. In late June 2018 Complainant contacted Respondent again and asked when Respondent would have a final application ready.

19. Respondent told Complainant to update or delete the Thumbtack review because it was costing him clients.

20. Complainant refused: "Why would I do that when your product hasn't changed? The review has been up for months? And now you are trying to strong

arm me to remove it before you do what I paid you to do? Are you serious? If you do a good job I will not only remove it but write a glowing review for you."

21. Respondent replied, "OK" but did not complete the project or respond to Complainant's subsequent emails and text messages.

### **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 he violated Rule 42, specifically ERs 1.2, 1.3, 1.4, 1.5, and 1.7.

### **CONDITIONAL DISMISSALS**

There are no conditional dismissals.

### **RESTITUTION**

Respondent agrees to pay Restitution in the amount of \$ 3,500.00 dollars to Complainant Trevizo within thirty (30) days of entry of the final judgment and order.

### **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 sanctions are

appropriate: Reprimand. If Respondent violates any of the terms of this agreement, the State Bar may bring further discipline 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.

In determining an appropriate sanction the Court considers 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. *Standard* 3.0.

#### **The duty violated**

Respondent's conduct violated his duties to his client and as a professional.

#### **The lawyer's mental state**

Respondent acted with a knowing mental state.

#### **The extent of the actual or potential injury**

There was actual harm and potential serious harm to the client.

The parties agree that the following *Standards* are relevant:

ERs 1.2, 1.3, and 1.4

*Standard 4.42(a)* Suspension is generally appropriate when: (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client . . . .

ER 1.5

*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 1.7

*Standard 4.32* Suspension is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client.

### **Aggravating and mitigating circumstances**

The presumptive sanction is suspension. The parties conditionally agree that the following aggravating and mitigating factors should be considered:

#### **In aggravation: *Standard 9.22*—**

(a) prior disciplinary offenses -- In December 2018, Respondent was suspended for 3½ years from practicing before the USPTO. From 2013-2018 Respondent violated a variety of rules while representing Canadian patent applicants, committed domestic violence crimes to which he pled guilty, and

committed DUI. Respondent violated the federal USPTO versions of ERs 1.2-1.5, 1.16(d), 3.3, and 8.4(b)-(d).

(b) selfish motive;

(d) multiple offenses;

(g) refusal to acknowledge wrongful nature of conduct;

(i) substantial experience in the practice of law;

**In mitigation:** *Standard 9.32*—

(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;

### **Discussion**

The presumptive sanction of suspension should be maintained and perhaps aggravated to a long-term suspension. Respondent, however, is not an Arizona-licensed attorney; hence, the maximum principal sanction that can be levied is reprimand. See *In re Jennifer Elcock*, Arizona Supreme Court No. SB-19-0022-AP, PDJ 2018-9079, filed September 27, 2019, citing *Matter of Olsen*, 180 Ariz. 5 (1994).

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

allowable 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. *In re Peasley*, 208 Ariz. 27 at 33,35 (2004). 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 and Restitution, and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

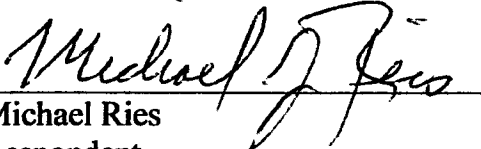
DATED this 4<sup>th</sup> day of November, 2019.

STATE BAR OF ARIZONA  
  
\_\_\_\_\_  
David L. Sandweiss  
Senior Bar Counsel



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

**DATED** this \_\_\_\_\_ day of October, 2019.

  
Michael Ries  
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 \_\_\_ day of October, 2019.

Copy of the foregoing emailed  
this \_\_\_\_\_ day of October, 2019, to:

The Honorable William J. O'Neil  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
1501 West Washington Street, Suite 102  
Phoenix, Arizona 85007  
E-mail: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

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

**DATED** this \_\_\_\_\_ day of November, 2019.

---

Michael Ries  
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 4<sup>th</sup> day of November, 2019.

Copy of the foregoing emailed  
this 4<sup>th</sup> day of November, 2019, to:

The Honorable William J. O'Neil  
Presiding Disciplinary Judge  
Supreme Court of Arizona  
1501 West Washington Street, Suite 102  
Phoenix, Arizona 85007  
E-mail: [officepdj@courts.az.gov](mailto:officepdj@courts.az.gov)

Copy of the foregoing mailed/mailed  
this 4<sup>th</sup> day of November, 2019, to:

Michael Ries  
P. O. Box 42  
Peshtigo, Wisconsin 54157  
Email: mikeries@aol.com  
Respondent

Copy of the foregoing hand-delivered  
this 4<sup>th</sup> day of November, 2019, to:

Lawyer Regulation Records Manager  
State Bar of Arizona  
4201 N. 24<sup>th</sup> St., Suite 100  
Phoenix, Arizona 85016-6266

by: \_\_\_\_\_

  
DLS/js

**EXHIBIT A**

## Statement of Costs and Expenses

In the Matter of a Non-Member of the State Bar of Arizona,  
Michael Ries, Respondent

File No. 18-2312

### 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.

<i>General Administrative Expenses for above-numbered proceedings</i>	<b>\$1,200.00</b>
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<b><u>TOTAL COSTS AND EXPENSES INCURRED</u></b>	<b><u>\$ 1,200.00</u></b>
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**EXHIBIT B**

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**MICHAEL RIES,  
Bar Nos. 6244774 in Illinois and  
53,518 in the United States  
Patent and Trademark Office,**

**Respondent.**

**PDJ 2019-9073**

**FINAL JUDGMENT AND  
ORDER**

State Bar No. 18-2312

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

Accordingly:

**IT IS ORDERED** that Respondent, **Michael Ries**, is **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, Michael Ries, pay restitution of \$3,500 to Complainant by no later than 30 days following the date of entry of this Final Judgment and Order.

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

**DATED** this \_\_\_\_\_ day of November, 2019.

---

**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 November, 2019.



Copies of the foregoing mailed/mailed  
this \_\_\_\_\_ day of November, 2019, to:

Michael Ries  
P. O. Box 42  
Peshtigo, Wisconsin 54157  
Email: [mikeries@aol.com](mailto:mikeries@aol.com)  
Respondent

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David L. Sandweiss  
Senior Bar Counsel  
State Bar of Arizona  
4201 N 24<sup>th</sup> Street, Suite 100  
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Phoenix, Arizona 85016-6266

by: \_\_\_\_\_