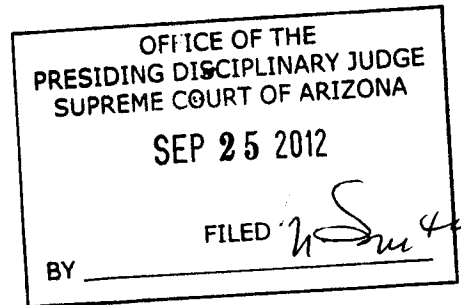


Craig D. Henley, Bar No. 018801
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Richard E. Clark, Bar No. 009052
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Respondent

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

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

**Richard E. Clark
Bar No. 009052**

Respondent.

PDJ-2012- 9097

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar No. 11-0210, 11-1135]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Richard E Clark, 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. Respondent voluntarily waives the right to an adjudicatory hearing on the complaint, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER(s) 1.3, 1.4, 1.7, 1.13, 1.16, 2.1, 3.2, 8.4(d). Upon acceptance of this

agreement, Respondent agrees to accept imposition of the following discipline: Sixty (60) Day Suspension with One (1) Year of Probation upon Reinstatement.

Respondent also agrees to pay the costs and expenses of the disciplinary proceeding.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "A."

FACTS

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on October 15, 1983.

2. In October 2009, Respondent was hired as general counsel for AOM Group (AOM) "to file suits on behalf of their foreclosure clients." Respondent was interviewed by all four "members" of AOM and hired the same day.

3. AOM was initially formed by Mark Murphy (Mr. Murphy) and Orlando Sagarnaga (Mr. Sagarnaga) "to help homeowners with foreclosure." Mr. Sagarnaga stated they later brought Sherryl Madison (Ms. Madison) and Sheila Pilat (Ms. Pilat) into the company as it grew. Mr. Sagarnaga stated Ms. Pilat eventually became a member of AOM, but Ms. Madison acted as an independent contractor.

4. A review of the corporate records from the Arizona Corporations Commission (ACC) revealed that the only member and manager for AOM was AOM Holdings, whose sole manager and member was Mr. Sagarnaga. Mr. Murphy was

¹ Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

identified as the statutory agent for AOM. If this matter proceeded to trial, Respondent would testify that Ms. Pilat never became a member of AOM.

5. In addition to conducting work for AOM, a condition of his employment as general counsel "was to represent any of the aforementioned four individuals that made up AOM, with no further compensation, as long as this representation didn't interfere with AOM's client's interests."

6. Mr. Sagarnaga stated that in late April or early May 2010, Respondent advised him that they were not succeeding in their various law suits and "didn't think they were ever going to win in the court system." Respondent also disclosed that he may have sanctions ordered against him and that AOM may be sanctioned as well. If this matter proceeded to trial, Respondent would testify that this event did not occur until May 2012.

7. Mr. Sagarnaga said as a result of the faltering cases, AOM decided to stop doing business.

8. In late May 2010, Mr. Sagarnaga told Respondent to stop all litigation. Mr. Sagarnaga did not have any additional contact with Respondent until January 6, 2011 (see Count Two File No. 11-1135, below).

9. Ms. Pilat stated that when they informed Respondent that AOM would stop operations, she asked him to prepare orders to withdraw from pending AOM matters, but Respondent "seemed real lax about it and just said [Mr. Sagarnaga] had taken away his computer and he had no way of tracking all of the cases and withdrawing." If this matter proceeded to trial, Respondent would testify that Ms.

Pilat was told in May 2010 that motions to withdraw would be filed as soon as the negotiation for the terms of the dismissals of pending AOM litigation was completed. Respondent would further testify that discussions regarding his lack of access to the computers and inability to track cases and withdrawing occurred in late summer or early fall 2010.

10. On June 7, 2010, Respondent was terminated as general counsel for AOM by Mr. Sagarnaga.

11. Respondent stated that after his termination, he made requests to have access to AOM's files so that he could file motions to withdraw from pending AOM matters. Respondent stated he was denied such access.

12. Respondent stated that he "did not know the case numbers or file information on any of the litigation pending at the time of my termination." Respondent also did not maintain copies of the client files or have any such copies in his possession.

13. On June 9, 2010, Respondent returned to New York to reside.

COUNT ONE (State Bar File No. 11-0210)

14. By Minute Entry dated December 2, 2010, Respondent failed to appear at a status conference for AOM in Maricopa County Superior Court Case No. CV2009-035976.

15. The Minute Entry further reflected that Respondent had told opposing counsel he was no longer pursuing or representing AOM matters in Arizona.

16. At the time of the Minute Entry, a motion for summary judgment (MSJ) was pending a response from AOM.

17. Upon conducting a review of 46 additional cases undertaken by Respondent in Maricopa Superior Court and the US District Court while acting as AOM's general counsel, bar counsel discovered the following ten additional cases to the one specifically referred to the State Bar, above. Respondent was still counsel of record on all matters upon their conclusions:

a. *AOM v. First Bank, CV2009-036908*

i. Respondent filed a case which was dismissed for failure to state a claim and lack of legal standing. Respondent filed an appeal which was subsequently deemed abandoned by letter dated July 13, 2010 because Respondent failed to timely pay the filing fee for the appeal.

ii. Respondent stated he could not prosecute the cases after he was terminated by AOM and he had no access to the file after his termination. Respondent further stated he believed AOM had hired new counsel which would take care of pending litigation.

b. *AOM v. DHI Mortgage Co., CV2009-038258*

i. The case was placed on the Court's inactive calendar after being removed to the US District Court for further proceedings by Minute Entry dated February 4, 2010. The matter was subsequently dismissed in August 2010 because no further action was taken.

ii. Respondent stated he did not file anything additional because he was litigating the matter in federal court after it had been removed there.

c. *Wachovia v. Mary Tehrani, CV2010-004760*

i. Respondent failed to appear at an oral argument on Respondent's motion to dismiss scheduled for March 19, 2010. As a result, Respondent's motion was denied and a forcible detainer was entered into against Ms. Tehrani.

ii. Respondent stated that the State Court denied AOM's Motion for Intervention and that he would not have been permitted to argue on behalf of AOM, so he did not appear. Respondent clarified he did not represent Ms. Tehrani. In an email dated March 26, 2010 provided by Respondent, he discusses a different federal case with Ms. Tehrani, in which he represented AOM, with AOM members and how the case was not worth pursuing.

d. *Aggregated Properties v. Timoteo Araiza, CV2010-004895*

i. Respondent and his client failed to appear at a forcible detainer trial set on March 19, 2010. The trial was held in absentia and judgment was entered against Mr. Araiza and he was ordered to pay \$1641 to the property management company.

ii. Respondent stated that the Court denied AOM's Motion for Intervention and that he would not have been permitted to argue on

behalf of AOM, so he did not appear. Respondent stated he did not represent Mr. Araiza.

e. *Murphy v. Preferred Home Mortgage, CV2010-009473*

i. Respondent represented Mr. Murphy in litigation much like he represented Ms. Madison, below. Respondent appears to have had verbal permission to engage in the representation, but did not secure a written conflict waiver.

ii. Respondent implied that he was permitted to continue to represent Mr. Murphy because, unlike Ms. Madison, he continued to devote time to AOM while his litigation remained pending. There did not appear to be any problems in this litigation.

f. *AOM v. Downey Savings and Loan, CV2010-0011095*

i. By Minute Entry dated April 16, 2010, Respondent failed to appear at a scheduled Order to Show Cause hearing resulting in the revocation of a temporary restraining order in favor of Respondent's client. The case was then placed on the Court's inactive calendar and subsequently dismissed for lack of prosecution on January 8, 2011.

ii. Respondent stated that he did not appear because the case had been removed to federal court where he pursued it.

g. *AOM v. First Magnus Financial, CV2010-011768*

- i. By Minute Entry dated September 8, 2010, Respondent failed to respond to a motion for summary judgment resulting in a judgment against Respondent's client and an award of attorney's fees.
 - ii. Respondent stated that since he was terminated in June 2010, he no longer had access to the file and could not respond.
- h. *AOM v. Morgagit, Inc.*, CV 09-2639-PHX-SRB
 - i. By Order dated December 23, 2010, the District Court ordered Respondent and AOM to pay attorney's fees, joint and several, for failing to respond to a motion for sanctions.
 - ii. Respondent stated that the Motion for Sanctions was not properly served on him. Respondent further stated that he had no access or notice of the proceedings given his termination in June 2010.
- i. *AOM v. Loancity*, CV 10-00088-PHX-GMS
 - i. By Order dated June 8, 2010, Respondent failed to file a Status Report as directed by the District Court. The Court then set an Order to Show Cause why the matter should not be dismissed, which Respondent did not respond to. By Order dated July 20, 2010, the case was dismissed.
 - ii. Respondent stated that since he was terminated June 7, 2010, he had no access to the physical or electronic file and relied on his impression that AOM retained counsel after he was terminated.

j. *AOM v. DHI Mortgage, CV 10-208-PHX-GMS*

i. By Order dated June 30, 2010, the District Court issued an Order to Show Cause because Respondent failed to file stipulations as promised and stopped "pursuing the case." Respondent failed to appear at the subsequent hearing and the matter was dismissed by Order dated July 20, 2010.

ii. Respondent stated that since he was terminated June 7, 2010, he had no access to the physical or electronic file and relied on his impression that AOM retained counsel after he was terminated.

18. In general, Respondent places most of the blame of the problems in these matters on AOM by either not allowing him access to the physical or electronic files or by not securing counsel after he was terminated in June 2010.

19. Respondent further stated that he could not/did not file any motions to withdraw or notices to the courts because he no longer had access to the files or access to the case numbers of pending litigation: "I had no idea what the file numbers were, I had no access to a law office nor to any computer other than my wife's older computer and I was then residing in New York."

20. Respondent did provide a copy of handwritten notes he took during his May meeting with Mr. Sagarnaga indicating AOM would look for another attorney.

COUNT TWO (State Bar File No. 11-1135)

21. Sometime in November 2009, Ms. Madison asked Respondent to represent her in pending bankruptcy proceedings. Respondent agreed after receiving the verbal consent of the remaining members of AOM.

22. On November 20, 2009, Respondent filed an adversary proceeding on behalf of Ms. Madison related to her pending bankruptcy matter.

23. Respondent further stated that Ms. Madison was supposed to support him as a paralegal for AOM, but was so engulfed in her own litigation that she provided little support to him. However, AOM hired a legal assistant in January 2010 to help him.

24. On December 23, 2009, the defendants to the adversary proceeding filed a motion to dismiss. Respondent filed a response on January 11, 2010.

25. Respondent stated that during the time he conducted research for his January 11 response, he discovered prior dismissal ordered by the federal district court that Ms. Madison had not told him about and formed the opinion that the adversarial proceeding would ultimately be dismissed in accordance with the prior orders.

26. Respondent stated that, at the time he filed the adversary proceeding, Ms. Madison "did not advise me of the various motions to dismiss which were filed in the federal lawsuit which had been granted by the District Court and that more than 30 days had elapsed from the time of the orders of dismissal and the filing of her

Chapter 13. I feel she had purposely misled me, had lied to me so that I would file the adversarial complaint in her Chapter 13.”

27. On January 11, 2010, the defendants filed a second motion to dismiss. Respondent failed to respond to the second motion.

28. Respondent stated that on January 15, 2010, he told Ms. Madison he could no longer represent her because his caseload for AOM was too high and he did not believe she would prevail in the adversary matter. Respondent also says he confronted her about misleading him about the status of the case. Respondent stated he agreed to remain counsel of record for her for three months to give her time to find substitute counsel, but that she needed to represent herself in the meantime. Respondent stated that Ms. Madison understood and agreed to represent herself from then on.

29. Respondent stated, and testified, that he sent a confirmatory email to all of the members of AOM regarding his caseload and his need to halt representation of Ms. Madison. Respondent has not produced the email. Ms. Madison and Ms. Pilat both deny such an email or conversation occurred in January.

30. Ms. Madison denies that Respondent ever spoke to her about halting his representation and did not have any contact with her about her pending matter as it progressed.

31. Respondent claimed he kept in contact with Ms. Madison about the status of finding substitute counsel. Respondent says Ms. Madison told him she was representing herself and checking PACER daily. Ms. Madison denies any such

discussions occurred and that Respondent failed to return her phone calls about her matter after January.

32. On February 18, 2010, a hearing was scheduled in the adversary hearing. Respondent failed to appear at the hearing. The hearing was subsequently continued.

33. On March 18, 2010, the hearing resumed. Respondent again failed to appear at the hearing.

34. On March 25, 2010, the bankruptcy court dismissed the adversary proceeding.

35. Sometime in late March or early April, Mr. Sagarnaga stated that Respondent came to him and Ms. Pilat and told them his work load for AOM was heavy and his representation of Ms. Madison was interfering with his duties to AOM clients. Ms. Pilat confirmed that this meeting took place in this timeframe and not in January. If this matter proceeded to trial, Respondent would testify that he believes that Mr. Sagarnaga was mistaken as to the time of the meeting which he believes took place in mid-January 2010.

36. Mr. Sagarnaga stated that he then spoke with Ms. Madison about Respondent's concerns and "it was decided at that point [Respondent] would stop representing [Ms. Madison]."

37. On April 12, 2010, Respondent filed a motion to withdraw as Ms. Madison's lawyer.

38. Sometime in April 2010, Ms. Madison stated that she checked PACER and realized Respondent wasn't replying to opposing parties pleadings.

39. On November 2, 2010, Ms. Madison filed a request to vacate the court's dismissal. Ms. Madison argued that the matter was dismissed because Respondent failed to adequately represent her. The Court denied her motion, but set an Order to Show Cause (OSC) hearing for January 6, 2011 to address Respondent's conduct.

40. On January 6, 2011, the OSC hearing was held. Respondent testified and called Mr. Murphy on his behalf. The court did not find Mr. Murphy or Ms. Madison to be fully credible.

41. By an untitled opinion dated March 31, 2011, the Court found Respondent violated ERs 1.3, 1.4, and 1.16. The Court was careful to say that while Ms. Madison seemed to be well aware of what was transpiring in the adversary proceedings because she was checking the docket on her own PACER account on a regular basis, she did not get that information from Respondent who should have been communicating it to her.

42. Ms. Madison states that she lost her home because of Respondent's failure to pursue her adversary matter. If this matter proceeded to trial, Respondent would testify that Ms. Madison lost her home because she did not appeal the prior dismissals of the federal district court for more than 30 days prior to the filing of her bankruptcy.

43. Though Respondent appears to have had verbal consent to represent Ms. Madison, he never received informed consent in writing.

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, Ariz. R. Sup. Ct., specifically ERs 1.3, 1.4, 1.7, 1.13, 1.16, 2.1, 3.2, 8.4(d).

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss no allegations.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanction is appropriate:

Sixty (60) Day Suspension with One (1) Year of Probation upon Reinstatement.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide

guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

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

The parties agree that the following *Standards* are the appropriate *Standards* given the facts and circumstances of this matter:

ER 1.3:

Standard 4.42 Suspension is generally appropriate when a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

ER 1.13(g):

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.

ER 1.4:

Standard 4.42 Suspension is generally appropriate when a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

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 1.7:

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.

ER 1.16:

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 2.1:

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(d):

Standard 6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

The duty violated

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

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent knowingly violated ERs 1.13, 1.7, 1.16, 2.1 and 8.4(d) by engaging in the conduct listed above and negligently violated 1.3 and 1.4 by failing to comply with his diligence and communication obligations as set forth above. The parties further agree that Respondent's conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was actual harm to his client, the profession and the legal system as the client's legal rights were negatively impacted requiring unnecessary action from the court system.

Aggravating and mitigating circumstances

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

In aggravation:

Standard 9.22(a) prior disciplinary offenses.

- On September 3, 1996, Respondent received an informal reprimand for violation of ER 1.1, 1.4 and 8.4(d) for not participating in an ongoing trial.
- On December 1, 2004, Respondent was censured for violation of ER 8.4(d).

Standard 9.22(c) pattern of misconduct;

Standard 9.22(d) multiple offenses;

Standard 9.22(i) substantial experience in the practice of law.

- Respondent has been an Arizona attorney for 29 years

In mitigation:

Standard 9.32(e) full disclosure/cooperative attitude toward the proceedings;

Standard 9.32(m) remoteness of prior offenses (1996 and 2004).

Discussion

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This agreement was based on the following: Respondent was terminated by AOM and immediately relocated to New York thereby limiting his access to the necessary documents, computer information and court information necessary to fulfill his ethical responsibilities.


Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Sixty (60) Day Suspension with One (1) Year of Probation upon Reinstatement and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "B."

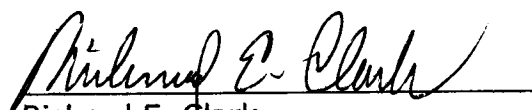
DATED this 24th day of September, 2012.

STATE BAR OF ARIZONA


Craig D. Henley
Staff 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 21st day of September, 2012.


Richard E. Clark
Respondent

Approved as to form and content

Maret Vessella

Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
this 25th day of September, 2012.

Copies of the foregoing mailed/emailed
this 25th day of September, 2012, to:

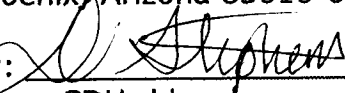
Richard E. Clark
8212 Whitman Way
Liverpool, NY 13090-6893
Email: rclark010@twcny.rr.com
Respondent

Copy of the foregoing emailed
this 25th day of September, 2012, to:

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

Copy of the foregoing hand-delivered
this 25th day of September, 2012, to:

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

By: 
CDH:dds

STANDARD PROBATION TERMS (including non-compliance language)

TEN DEADLY SINS LANGUAGE

Respondent shall contact State Bar of Arizona publications at 602-340-7318 to either obtain and listen to the CD or obtain and view the DVD entitled "The Ten Deadly Sins of Conflict" within thirty (30) days of the date of reinstatement. Respondent may alternatively go to the State Bar website (www.myazbar.org) and complete the self-study online version. Respondent shall provide Bar Counsel with evidence of completion by providing copies of handwritten notes. Respondent shall be responsible for the cost of the CD, DVD or online self-study.

LOMAP

Respondent shall contact the director of the State Bar's Law Office Management Assistance Program (LOMAP), at 602-340-7332, within 30 days of the date of reinstatement or return to the State of Arizona. Respondent shall submit to a LOMAP examination of his office's procedures, including, but not limited to, compliance with ERs 1.3, 1.4, 1.7, 1.13, 1.16, 2.1, 3.2, 8.4(d). The director of LOMAP shall develop "Terms and Conditions of Probation", and those terms shall be incorporated herein by reference. The probation period will commence upon reinstatement and will conclude one (1) year from that date. Respondent shall be responsible for any costs associated with LOMAP.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof is received by the State Bar of Arizona, Bar

Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

EXHIBIT "A"

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Richard E Clark, Bar No. 009052, Respondent

File No(s). 11-0210 and 11-1135

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

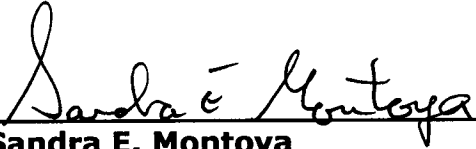
Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

05/24/11	Computer investigation reports	\$	37.44
08/18/11	Travel and mileage to pick up bankruptcy documents	\$	6.66
11/09/11	Computer investigation reports	\$	4.48
11/10/11	Computer investigation reports	\$	0.32
02/27/12	Computer investigation reports	\$	2.32
Total for staff investigator charges			\$ 51.22

TOTAL COSTS AND EXPENSES INCURRED

\$1,251.22



Sandra E. Montoya
Lawyer Regulation Records Manager

9-14-12

Date

EXHIBIT "B"

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

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

**Richard E. Clark
Bar No. 009052**

Respondent.

PDJ-2012-

FINAL JUDGMENT AND ORDER
[State Bar No. 11-0210, 11-1135]

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, **Richard E. Clark**, is hereby suspended for Sixty (60) Days for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective _____.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall be placed on probation for a period of one (1) year following reinstatement.

IT IS FURTHER ORDERED that,

TEN DEADLY SINS LANGUAGE

Respondent shall contact State Bar of Arizona publications at 602-340-7318 to either obtain and listen to the CD or obtain and view the DVD entitled "The Ten Deadly Sins of Conflict" within thirty (30) days of the date of reinstatement.

Respondent may alternatively go to the State Bar website (www.myazbar.org) and complete the self-study online version. Respondent shall provide Bar Counsel with evidence of completion by providing copies of handwritten notes. Respondent shall be responsible for the cost of the CD, DVD or online self-study.

LOMAP

Respondent shall contact the director of the State Bar's Law Office Management Assistance Program (LOMAP), at 602-340-7332, within 30 days of the date of reinstatement or return to the State of Arizona. Respondent shall submit to a LOMAP examination of his office's procedures, including, but not limited to, compliance with ERs 1.3, 1.4, 1.7, 1.13, 1.16, 2.1, 3.2, 8.4(d). The director of LOMAP shall develop "Terms and Conditions of Probation", and those terms shall be incorporated herein by reference. The probation period will commence upon reinstatement and will conclude one (1) year from that date. Respondent shall be responsible for any costs associated with LOMAP.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing

terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED that Respondent 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 \$ _____.

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

DATED this _____ day of _____, 2012.

The Honorable William J. O'Neil
Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of _____, 2012.

Copies of the foregoing mailed/emailed
this _____ day of _____, 2012, to:

Richard E Clark
8212 Whitman Way
Liverpool, NY 13090-6893
Email: rclark010@twcnny.rr.com
Respondent

Copy of the foregoing hand-delivered/emailed
this _____ day of _____, 2012, to:

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

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

By: _____

FILED

AUG 10 2012

STATE BAR OF ARIZONA

BY *Sandra E. Montoya*

**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**

**RICHARD E. CLARK
Bar No. 009052**

Respondent

Nos. 11-0210 and 11-1135

PROBABLE CAUSE ORDER

The Attorney Discipline Probable Cause Committee of the Arizona Supreme Court ("Committee") reviewed this matter on August 10, 2012, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation, and Respondent's Response.

By a vote of 6-0-3,¹ the Committee finds probable cause exists to file a complaint against Respondent in File Numbers 11-0210 and 11-1135.

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 10th day of August, 2012.

Daisy Flores/kmm

Daisy Flores, Vice Chair
Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona

¹ Committee members Judge Lawrence Winthrop, Ben Harrison and Ella Johnson did not participate in this matter.

Original of the foregoing filed this
10th day of August, 2012, with:

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

Copy mailed this 13th day
of August, 2012, to:

Richard E. Clark
8212 Whitman Way
Liverpool, New York 13090-6893
Respondent

Copy of the foregoing emailed
this 13th day of August, 2012, 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: *Shane C. Heller*