

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

JESUS ROBERTO ROMO VEJAR,
Bar No. 011307

Respondent.

PDJ 2019-9089

**FINAL JUDGMENT
AND ORDER**

[State Bar No. 18-1472]

FILED DECEMBER 18, 2019

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

Accordingly:

IT IS ORDERED Respondent, **JESUS ROBERTO ROMO VEJAR BAR NO. 011307**, 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 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 or expenses incurred by the Presiding

Disciplinary Judge's Office in these disciplinary proceedings.

DATED this 18th day of December 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
This 18th day of December 2019, to:

Thomas A. Zlaket
Thomas A. Zlaket, PLLC
310 South Williams Blvd, Suite 170
Tucson, Arizona 85711-7700
Email: tom@zlaketlaw.com
Respondent's Counsel

James D. Lee
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: BEnsign

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

JESUS ROBERTO ROMO VEJAR,
Bar No. 011307

Respondent.

PDJ 2019-9089

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar No. 18-1472]

FILED DECEMBER 18, 2019

Under Rule 57(a), Ariz. R. S. Ct.,¹ an Agreement for Discipline by Consent (“Agreement”), was filed on December 4, 2019. A Probable Cause Order issued on September 20, 2019, but no formal complaint has been filed. The State Bar of Arizona is represented by Senior Bar Counsel James D. Lee and Mr. Romo Vejar is represented by Thomas A. Zlaket, Thomas A. Zlaket, PLLC.

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 If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding.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. Romo Vejar has voluntarily waived the right to an adjudicatory hearing, and waived

¹ Unless otherwise stated all Rule references are to the Ariz. R. Sup. Ct.

all 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 by email on October 22, 2019. No objection has been filed.

The Agreement details a factual basis to support the conditional admissions. It is incorporated by this reference. Mr. Romo Vejar admits he violated Rule 42, ER 1.7(a) (conflict of interest/current clients). The parties stipulate to a reprimand and the payment of costs of \$1,210.48 within 30 days from the date of this order.

For purposes of the agreement, the parties stipulate that, Mr. Romo Vejar failed to analyze a non-consentable conflict of interest created by his simultaneous representation of two clients in criminal matters. He represented the first client in a possession of dangerous drugs, marijuana for sale and possession of drug paraphernalia. Thereafter, that client was accused of domestic violence against the second client and Mr. Romo Vejar represented that client also. On appeal, the Court of Appeals concluded that Respondent provided ineffective assistance of counsel by denying the first client her constitutional right to conflict free counsel and the conviction and sentence were vacated.

The parties stipulate that Mr. Romo Vejar negligently violated his duties to his client and the legal system causing actual harm to clients and the legal system. The presumptive sanction is reprimand. *Standard 4.33, Failure to Avoid Conflicts of*

Interest, is applicable to Mr. Romo Vejas' violation of ER 1.7 and provides that reprimand is generally appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes injury or potential injury to a client.

The parties agree aggravating factors 9.22(a) prior disciplinary offenses, (h) vulnerability of victim, and (i) substantial experience in the practice of law are present. In mitigation are factors 9.32(b) absence of selfish or dishonest motive, (e), full and free disclosure and cooperative attitude towards proceedings, and (m) remoteness of prior offense.

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 18th day of December 2019.

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

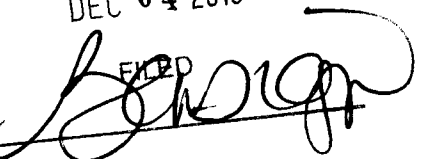
COPY of the foregoing e-mailed/mailed
on this 18th day of December 2019, to:

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

Thomas A. Zlaket
Thomas A. Zlaket, PLLC
310 S. Williams Blvd., Suite 170
Tucson, AZ 85711-7700
Email: tom@zlaketlaw.com
Respondent's Counsel

by: BEnsign

DEC 04 2019

BY  FILED

James D. Lee, Bar No. 011586
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone: (602) 340-7250
Email: LRO@staff.azbar.org

Thomas A. Zlaket, Bar No. 001819
Thomas A. Zlaket, PLLC
310 S Williams Blvd., Suite 170
Tucson, Arizona 85711-7700
Telephone: (520) 750-0250
Email: tom@zlaketlaw.com
Respondent's Counsel

BEFORE THE PRESIDING DISCIPLINARY JUDGE

In the Matter of a Member of
the State Bar of Arizona,

JESUS ROBERTO ROMO VEJAR,
Bar No. 011307,

Respondent.

PDJ-2019-9089

**AGREEMENT FOR DISCIPLINE
BY CONSENT**

[State Bar File No. 18-1472]

The State Bar of Arizona, and Respondent Jesus Roberto Romo Vejar, who is represented in this matter by counsel, Thomas A. Zlaket, hereby submit their *Agreement for Discipline by Consent* pursuant to Rule 57(a), Ariz. R. Sup. Ct.

A Probable Cause Order was entered by the Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona on September 26, 2019. 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), Ariz. R. Sup. Ct., notice of this agreement was provided to Complainant-attorneys Erin Sutherland and David Euchner by email on October 22, 2019. Complainants have been notified of the opportunity to file a written objection to the agreement with the State Bar within five business days of bar counsel's notice. Copies of Complainants' objections, if any, will be provided to the presiding disciplinary judge.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER 1.7(a). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand. 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.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on May 9, 1987.

COUNT ONE (File No. 18-1472/Sutherland and Euchner)

2. Illegal drugs and drug paraphernalia were found in an apartment that Jeanette Sainz leased with Oscar Quintanar, the father of her youngest child. Although Quintanar no longer lived in Sainz's apartment at that time, he had access to her apartment and continued to pay rent.
3. In June 2013, Sainz was indicted for possession of dangerous drugs and marijuana for sale and possession of drug paraphernalia (*State v. Sainz*, Pima County Superior Court No. CR-20131385).
4. The relationship between Sainz and Quintanar essentially ended in October 2012. Thereafter, Quintanar was accused of committing domestic violence against Sainz.

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.

5. Initially, Attorney Priscilla Frisby represented Sainz in her criminal proceeding.
6. Although criminal charges were not filed against Quintanar for an incident between he and Sainz that occurred on November 4, 2012, he nevertheless hired Respondent to represent him. On November 26, 2012, Sainz obtained an order of protection against Quintanar.
7. Respondent appeared with Sainz at a June 19, 2013 hearing. He informed the judge that Attorney Frisby would be representing Sainz and that she would file a notice of appearance. On June 20, 2013, Attorney Frisby filed a notice of substitution of counsel to replace the public defender assigned to represent Sainz.
8. While Sainz's criminal case was pending, Quintanar was arrested for an act of domestic violence against Sainz. Respondent filed a notice of appearance on Quintanar's behalf in that case on October 16, 2013. On February 21, 2014, Attorney Frisby signed and filed, on Respondent's behalf, a pretrial statement for Quintanar's domestic violence case.
9. Sainz rejected a plea offer in her criminal case and chose instead to proceed to trial. Sainz decided she wanted a more experienced attorney than Attorney Frisby, so she asked Respondent in February 2014 to represent her.

Respondent agreed to represent Sainz if she agreed to consent to the conflict of interest. The conflict of interest, however, was non-consentable. On February 25, 2014, Respondent filed a notice of appearance in Sainz's felony case, and he and Attorney Frisby filed a motion to continue her trial.

10. Respondent handled nearly all tasks at Sainz's trial, except the cross-examination of a minor witness. Although Quintanar's relationship with Sainz was grounds for asserting a third-party culpability defense, Respondent did not raise that defense in his disclosure to the County Attorney's Office or zealously argue that defense at trial. The conflict of interest in which Respondent found himself resulted in his failure to adequately defend Sainz by failing to zealously assert that Quintanar was likely responsible for the drugs and paraphernalia found in Sainz's apartment.
11. Sainz was convicted by a jury. When she learned that Respondent may have engaged in a conflict of interest, she discharged Respondent and Attorney Frisby and hired another attorney to represent her at sentencing.
12. During a period during which Respondent co-represented Sainz, he also represented Quintanar in domestic violence cases in which Sainz was the victim. Respondent eventually represented Quintanar between approximately November 4, 2012, and May 2014, when he entered a plea in one of the

domestic violence cases. Respondent's ethical duties to Sainz and Quintanar resulted in a non-consentable conflict of interest.

13. Sainz's petition for post-conviction relief was denied, so she filed a petition for review with the Arizona Court of Appeals. Sainz's counsel filed the only substantive document with the Court of Appeals. The Court of Appeals concluded that Respondent provided ineffective assistance of counsel by denying Sainz of her constitutional right to conflict-free counsel. Sainz's conviction and sentence were vacated.

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, Ariz. R. Sup. Ct., specifically ER 1.7(a).

CONDITIONAL DISMISSALS

There are no conditional dismissals.

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 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. 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, 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. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 4.33, Failure to Avoid Conflicts of Interest, is appropriate given the facts and circumstances of this matter. *Standard* 4.33 states, "Reprimand is generally appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes injury or potential injury to a client."

In this case, Respondent was negligent in failing to adequately analyze the conflict of interest created by his simultaneous representation of Jeanette Sainz and Oscar Quintanar, which resulted in his failure to determine that the conflict of interest was a non-consentable conflict of interest.

The duty violated

Respondent's conduct violated his duty to his client and the legal system.

The lawyer's mental state

Respondent was negligent in failing to adequately analyze the conflict of interest created by his simultaneous representation of Jeanette Sainz and Oscar Quintanar, which resulted in his failure to determine that the conflict of interest was a non-consentable conflict of interest.

The extent of the actual or potential injury

There was actual harm to the client and the legal system insofar as the non-consentable conflict of interest resulted in the Court of Appeals vacating Jeanette Sainz's conviction and sentence.

Aggravating and mitigating circumstances

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

In aggravation:

Standard 9.22(a): Prior disciplinary offenses (Respondent was (i) reprimanded (fka censure) and placed on probation in 2003 in File No. 03-0642 for violation of ER 1.3, ER 1.15, and Rules 43 and 44, Ariz. R. Sup. Ct.; (ii) admonished and placed on probation in 2010 in File No. 10-0509 for violation of ER 1.5(b) and 1.8(a); and (iii) admonished and placed on probation in 2012 in File No. 11-1061 for violation of ER 1.15(d));

Standard 9.22(h): Vulnerability of the victim; and

Standard 9.22(i): Substantial experience in the practice of law (Respondent was admitted to practice law in Arizona on May 9, 1987).

In mitigation:

Standard 9.32(b): Absence of a dishonest or selfish motive;

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

Standard 9.32(m): Remoteness of prior offenses.

Discussion

The parties conditionally agree that upon application of the aggravating and mitigating factors, the presumptive sanction is appropriate.

The parties conditionally agree that a greater or lesser sanction is not appropriate. This agreement is based on the following: Respondent's ethical lapse was negligent, which resulted in his simultaneous representation of clients with conflicting or potentially conflicting interests.

Based on the *Standards* and considering 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.

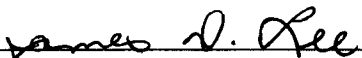
CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *In re Peasley*, 208 Ariz. 27 64 (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 the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

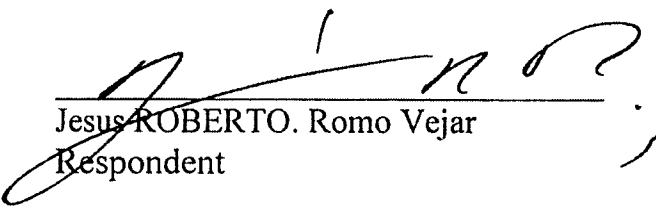
DATED this 4th day of ^{December}~~November~~, 2019.

STATE BAR OF ARIZONA


James D. Lee
Senior Bar Counsel

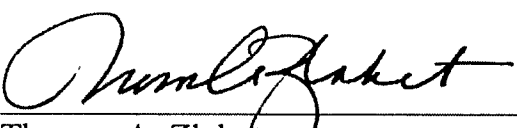
This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this 2nd day of ^{December}~~November~~, 2019.

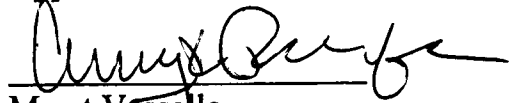

Jesus ROBERTO. Romo Vejar
Respondent

DATED this 3 day of ^{December}~~November~~, 2019.

Thomas A. Zlaket. PLLC


Thomas A. Zlaket
Counsel for Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 4th day of ~~November~~, 2019.
December

Copy of the foregoing emailed
this 4th day of ~~November~~, 2019, to:
December

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

Copy of the foregoing mailed/emailed
this 4th day of ~~November~~, 2019, to:
December

Thomas A. Zlaket
Thomas A. Zlaket, PLLC
310 South Williams Blvd, Suite 170
Tucson, Arizona 85711-7700
Email: tom@zlaketlaw.com
Respondent's Counsel

Copy of the foregoing hand-delivered
this 4th day of ~~November~~, 2019, to:
December

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 8 5016-6266

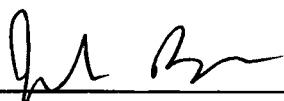
by: 
DL/jlb

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona
Jesus Roberto Romo Vejar, Bar No. 011307, Respondent

File No. 18-1472

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>	\$1,200.00
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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

11/14/19	Computer investigation reports: LexisNexis	\$ 10.48
Total for staff investigator charges		\$ 10.48

<u>TOTAL COSTS AND EXPENSES INCURRED</u>	<u>\$ 1,210.48</u>
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EXHIBIT B

BEFORE THE PRESIDING DISCIPLINARY JUDGE

In the Matter of a Member of
the State Bar of Arizona,

JESUS ROBERTO ROMO VEJAR,
Bar No. 011307,

Respondent.

PDJ-2019-_____

**FINAL JUDGMENT
AND ORDER**

[State Bar No. 18-1472]

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, **JESUS ROBERTO ROMO VEJAR**, 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 pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200 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/emailed
this _____ day of November, 2019, to:

Thomas A. Zlaket
Thomas A. Zlaket, PLLC
310 South Williams Blvd, Suite 170
Tucson, Arizona 85711-7700
Email: tom@zlaketlaw.com
Respondent's Counsel

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

James D. Lee
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

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

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 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,**

**JESUS ROBERTO ROMO VEJAR
Bar No. 011307**

Respondent.

No. 18-1472

PROBABLE CAUSE ORDER

FILED

SEP 26 2019

BY 

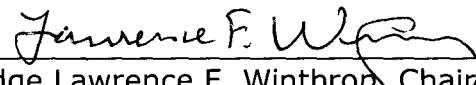
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on September 13, 2019, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Respondent's Response.

By a vote of 7-0-2¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 18-1472.

IT IS THEREFORE ORDERED pursuant to Rule 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 24 day of September, 2019.



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

¹ Committee members Jeffrey Pollitt and Charles Muchmore did not participate in this matter.

Original filed this 26th day
of September, 2019, with:

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

Copy mailed this 27th day
of September, 2019, to:

Thomas A. Zlaket
Thomas A. Zlaket PLLC
310 S. Williams Blvd., Ste 170
Tucson, Arizona 85711-7700
Respondent's Counsel

Copy mailed this 27th day
of September, 2019, 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 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

By: 