

Board of Disciplinary Appeals

IN THE MATTER OF §  
JOHN WILLIAM TINDER, II § CAUSE NO. 57703  
STATE BAR CARD NO. 24003060 §

John William Tinder, II - Petition for Reciprocal Discipline  
Page 1 of 4

the imposition of discipline pursuant to C.R.C.P. 251.5. Respondent has also violated Colo. RPC 1.1, 1.2(a), 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), 3.4(c), 3.4(d), 8.4(c).”

4. On or about January 26, 2016, an Order Approving Conditional Admission of Misconduct and Imposing Sanctions Pursuant to C.R.C.P. 251.22 (Exhibit 2) was entered in the Supreme Court, State of Colorado, before the Office of the Presiding Disciplinary Judge in a matter styled: *Complainant: The People of the State of Colorado, Respondent: John William Tinder, II*, in Case No. 15PDJ082, that states in pertinent part as follows:

...1. The stipulation is APPROVED. 2. JOHN WILLIAM TINDER, Attorney Registration Number 39915, is SUSPENDED from the practice of law for a period of ONE YEAR AND ONE DAY, subject to paying restitution as a condition of reinstatement, as set forth in paragraph 17 of the stipulation...

5. The Stipulation, Agreement and Affidavit Containing the Respondent's Conditional Admission of Misconduct established that Respondent violated the following Colorado Rules of Professional Conduct: Rule 1.1 A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation; Rule 1.2 (a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify; Rule 1.3 A lawyer shall act with reasonable diligence and promptness in representing a client; Rule 1.4(a)(3) A lawyer shall keep the client reasonably informed about the status of the matter; Rule 1.4.(a)(4) A lawyer shall promptly comply with reasonable requests for information; Rule 1.16(d) Upon termination

of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law; Rule 3.4(c) A lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists; Rule 3.4(d) A lawyer shall not in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party; Rule 8.4(c) It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

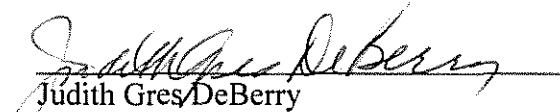
6. Certified copies of the Stipulation, Agreement and Affidavit Containing the Respondent's Conditional Admission of Misconduct and Order Approving Conditional Admission of Misconduct and Imposing Sanctions Pursuant to C.R.C.P. 251.22 are attached hereto as Petitioner's Exhibits 1 and 2, and made a part hereof for all intents and purposes as if the same were copied verbatim herein. Petitioner expects to introduce certified copies of Exhibits 1 and 2 at the time of the hearing in this case.

7. Petitioner prays that, pursuant to Rule 9.02, Texas Rules of Disciplinary Procedure, that this Board issue notice to Respondent, containing a copy of this Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why the imposition of the identical discipline in this state would be unwarranted. Petitioner further prays that upon trial of this matter that this Board enter a judgment imposing discipline identical with that imposed by the Supreme Court of the State of Colorado and that Petitioner have such other and further relief to which it may be entitled.

Respectfully submitted,

**Linda A. Acevedo**  
Chief Disciplinary Counsel

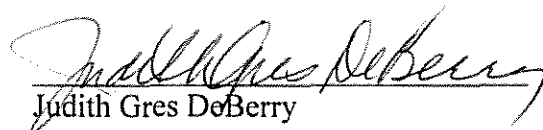
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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that upon receipt of the Order to Show Cause from the Board of Disciplinary Appeals, I will serve a copy of this Petition for Reciprocal Discipline and the Order to Show Cause on John William Tinder, II, by personal service.

John William Tinder, II  
8401 Priest River Drive  
Round Rock, Texas 78681

  
Judith Gres DeBerry

# INTERNAL PROCEDURAL RULES

## Board of Disciplinary Appeals

*Effective February 19, 2015*

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## **SECTION 1: GENERAL PROVISIONS**

### **Rule 1.01 Definitions**

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

### **Rule 1.02 General Powers**

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and

determining disciplinary proceedings. But TRDP 15.01 applies to the enforcement of a judgment of BODA.

### **Rule 1.03 Additional Rules in Disciplinary Matters**

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

### **Rule 1.04 Appointment of Panels**

- (a) BODA may consider any matter or motion by panel, except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.
- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

### **Rule 1.05 Filing of Pleadings, Motions, and Other Papers**

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.
  - (1) **Email Address.** The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.
  - (2) **Timely Filing.** Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA

for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.
- (4) **Exceptions.**
  - (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.
  - (ii) The following documents must not be filed electronically:
    - a) documents that are filed under seal or subject to a pending motion to seal; and
    - b) documents to which access is otherwise restricted by court order.
  - (iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.
- (5) **Format.** An electronically filed document must:
  - (i) be in text-searchable portable

document format (PDF);

- (ii) be directly converted to PDF rather than scanned, if possible; and
  - (iii) not be locked.
- (b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).
  - (c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:
    - (1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
    - (2) an electronic image or scanned image of the signature.
  - (d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.
  - (e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

## Rule 1.06 Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition may be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or



her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent's signature.

#### **Rule 1.07 Hearing Setting and Notice**

- (a) **Original Petitions.** In any kind of case initiated by the CDC's filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23, the hearing date must be at least 30 days from the date that the petition is served on the Respondent.
- (b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23, the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.
- (c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.
- (d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately

following the docket call, the Chair will set and announce the order of cases to be heard.

#### **Rule 1.08 Time to Answer**

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

#### **Rule 1.09 Pretrial Procedure**

- (a) **Motions.**
  - (1) **Generally.** To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.
  - (2) **For Extension of Time.** All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:
    - (i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;
    - (ii) if an appeal has been perfected, the date when the appeal was perfected;
    - (iii) the original deadline for filing the item in question;

- (iv) the length of time requested for the extension;
  - (v) the number of extensions of time that have been granted previously regarding the item in question; and
  - (vi) the facts relied on to reasonably explain the need for an extension.
- (b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.
- (c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.
- (d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:
  - (1) marked;
  - (2) indexed with the title or description of the item offered as an exhibit; and
  - (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

#### **Rule 1.10 Decisions**

- (a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

- (b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:
  - (1) as required by the TRDP; and
  - (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.
- (c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

#### **Rule 1.11 Board of Disciplinary Appeals Opinions**

- (a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.
- (b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.
- (c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

### **Rule 1.12 BODA Work Product and Drafts**

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA’s adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

### **Rule 1.13 Record Retention**

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

### **Rule 1.14 Costs of Reproduction of Records**

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

### **Rule 1.15 Publication of These Rules**

These rules will be published as part of the TDRPC and TRDP.

## **SECTION 2: ETHICAL CONSIDERATIONS**

### **Rule 2.01 Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases**

- (a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

- (b) A current BODA member must not serve as an expert witness on the TDRPC.
- (c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

### **Rule 2.02 Confidentiality**

- (a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.
- (b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.
- (c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction.

### **Rule 2.03 Disqualification and Recusal of BODA Members**

- (a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.
- (b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.
- (c) These rules do not disqualify a lawyer who is a member of, or associated with,

the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him- or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

### **SECTION 3: CLASSIFICATION APPEALS**

#### **Rule 3.01 Notice of Right to Appeal**

- (a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.
- (b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

#### **Rule 3.02 Record on Appeal**

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

### **SECTION 4: APPEALS FROM EVIDENTIARY PANEL HEARINGS**

#### **Rule 4.01 Perfecting Appeal**

- (a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the

appellate timetable under this section. To make TRDP 2.21 consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21.

- (b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21.

- (1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

- (2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

- (c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

- (d) **Time to File.** In accordance with TRDP 2.24, the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.
- (e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

#### **Rule 4.02 Record on Appeal**

- (a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.
- (b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.
- (c) **Responsibility for Filing Record.**
  - (1) Clerk's Record.
    - (i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.
    - (ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of

fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

- (iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk's record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk's record cannot be timely filed, and give the date by which he or she expects the clerk's record to be filed.

#### **(2) Reporter's Record.**

- (i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:
  - a) a notice of appeal has been filed;
  - b) a party has requested that all or part of the reporter's record be prepared; and
  - c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.
- (ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

#### **(d) Preparation of Clerk's Record.**

- (1) To prepare the clerk's record, the

evidentiary panel clerk must:

- (i) gather the documents designated by the parties' written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
  - (ii) start each document on a new page;
  - (iii) include the date of filing on each document;
  - (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
  - (v) number the pages of the clerk's record in the manner required by (d)(2);
  - (vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and
  - (vii) certify the clerk's record.
- (2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.
- (3) The table of contents must:
- (i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each

document begins;

- (ii) be double-spaced;
  - (iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;
  - (iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and
  - (v) if the record consists of multiple volumes, indicate the page on which each volume begins.
- (e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:
- (1) file each computer file in text-searchable Portable Document Format (PDF);
  - (2) create electronic bookmarks to mark the first page of each document in the clerk's record;
  - (3) limit the size of each computer file to 100 MB or less, if possible; and
  - (4) directly convert, rather than scan, the record to PDF, if possible.
- (f) **Preparation of the Reporter's Record.**
- (1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The

reporter's record must be certified by the court reporter for the evidentiary panel.

- (2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.
- (3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.
- (4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise appear.
- (5) A court reporter or recorder must not lock any document that is part of the record.
- (6) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.
- (g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.
- (h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record

that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

- (i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

#### **Rule 4.03 Time to File Record**

- (a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.
- (b) **If No Record Filed.**
  - (1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.
  - (2) If no reporter's record is filed due to appellant's fault, and if the clerk's

record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

- (i) the appellant failed to request a reporter's record; or
  - (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.
- (c) **Extension of Time to File the Reporter's Record.** When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.
- (d) **Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

#### **Rule 4.04 Copies of the Record**

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

#### **Rule 4.05 Requisites of Briefs**

- (a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after

the clerk's record or the reporter's record is filed, whichever is later.

- (b) **Appellee's Filing Date.** Appellee's brief must be filed within 30 days after the appellant's brief is filed.
- (c) **Contents.** Briefs must contain:
- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
  - (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
  - (3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;
  - (4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;
  - (5) a statement, without argument, of the basis of BODA's jurisdiction;
  - (6) a statement of the issues presented for review or points of error on which the appeal is predicated;
  - (7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;
  - (8) the argument and authorities;
  - (9) conclusion and prayer for relief;
  - (10) a certificate of service; and
  - (11) an appendix of record excerpts pertinent to the issues presented for review.
- (d) **Length of Briefs; Contents Included and Excluded.** In calculating the length of a document, every word and every part



of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer-generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

- (e) **Amendment or Supplementation.** BODA has discretion to grant leave to amend or supplement briefs.
- (f) **Failure of the Appellant to File a Brief.** If the appellant fails to timely file a brief, BODA may:
  - (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
  - (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
  - (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

#### **Rule 4.06 Oral Argument**

- (a) **Request.** A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to

timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

- (b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:
  - (1) the appeal is frivolous;
  - (2) the dispositive issue or issues have been authoritatively decided;
  - (3) the facts and legal arguments are adequately presented in the briefs and record; or
  - (4) the decisional process would not be significantly aided by oral argument.
- (c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

#### **Rule 4.07 Decision and Judgment**

- (a) **Decision.** BODA may do any of the following:
  - (1) affirm in whole or in part the decision of the evidentiary panel;
  - (2) modify the panel's findings and affirm the findings as modified;
  - (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
  - (4) reverse the panel's findings and

remand the cause for further proceedings to be conducted by:

- (i) the panel that entered the findings; or
  - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.
- (b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

#### **Rule 4.08 Appointment of Statewide Grievance Committee**

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

#### **Rule 4.09 Involuntary Dismissal**

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring

a response or other action within a specified time.

### **SECTION 5: PETITIONS TO REVOKE PROBATION**

#### **Rule 5.01 Initiation and Service**

- (a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23.
- (b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23, the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

#### **Rule 5.02 Hearing**

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

### **SECTION 6: COMPULSORY DISCIPLINE**

#### **Rule 6.01 Initiation of Proceeding**

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

#### **Rule 6.02 Interlocutory Suspension**

- (a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA may suspend the Respondent's license to

practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

- (b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

- (1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.
- (2) If the criminal sentence is not fully probated:
  - (i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or
  - (ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.
- (c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court

attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

## **SECTION 7: RECIPROCAL DISCIPLINE**

### **Rule 7.01 Initiation of Proceeding**

The Commission for Lawyer Discipline may initiate an action for reciprocal discipline by filing a petition with BODA under TRDP Part IX and these rules. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

### **Rule 7.02 Order to Show Cause**

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

### **Rule 7.03 Attorney's Response**

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

## **SECTION 8: DISTRICT DISABILITY COMMITTEE HEARINGS**

### **Rule 8.01 Appointment of District Disability Committee**

- (a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2),

or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

- (b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.
- (c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.
- (d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.
- (e) Should any member of the District Disability Committee become unable to serve, the BODA Chair may appoint a substitute member.

## **Rule 8.02 Petition and Answer**

- (a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service may be made in person or by certified mail, return receipt requested. If service is by certified mail, the return receipt with the Respondent's signature must be filed with the BODA Clerk.
- (b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.
- (c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

## **Rule 8.03 Discovery**

- (a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.
- (b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam

ordered by the District Disability Committee.

- (1) **Motion.** The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (2) **Report.** The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.
- (c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

#### **Rule 8.04 Ability to Compel Attendance**

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

#### **Rule 8.05 Respondent's Right to Counsel**

- (a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.
- (b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk

within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

#### **Rule 8.06 Hearing**

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

#### **Rule 8.07 Notice of Decision**

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

#### **Rule 8.08 Confidentiality**

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

### **SECTION 9: DISABILITY REINSTATEMENTS**

#### **Rule 9.01 Petition for Reinstatement**

- (a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.
- (b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms

or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

- (c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

### **Rule 9.02 Discovery**

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

### **Rule 9.03 Physical or Mental Examinations**

- (a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.
- (b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

- (d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.
- (e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

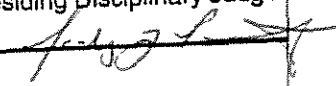
### **Rule 9.04 Judgment**

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

## **SECTION 10: APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS**

### **Rule 10.01 Appeals to the Supreme Court**

- (a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.
- (b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.
- (c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE PRESIDING DISCIPLINARY JUDGE 1300 Broadway, Suite 250 Denver, Colorado 80203</p>	<p><b>FILED</b></p> <p><b>JAN 22 2016</b></p> <p>PRESIDING DISCIPLINARY JUDGE SUPREME COURT OF COLORADO</p>
<p>Complainant: THE PEOPLE OF THE STATE OF COLORADO</p> <p>Respondent: JOHN WILLIAM TINDER II, # 39915</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case Number: 15PDJ082</p>
<p>Geanne R. Moroye, #17476 Assistant Regulation Counsel Attorneys for Complainant 1300 Broadway, Suite 500 Denver, Colorado 80203 Telephone: (303) 457-5800x7835 Fax No.: (303) 501-1141</p> <p>John William Tinder II, # 39915 Respondent Law Office Of John W. Tinder 11971 Quay Street Broomfield, CO 80020 Telephone: 720 375-6829 Fax No:</p>	<p><b>Supreme Court</b> State of Colorado Certified to be a full, true and correct copy</p> <p><b>MAY 12 2016</b></p> <p>Office of the Presiding Disciplinary Judge By </p>
<p><b>STIPULATION, AGREEMENT AND AFFIDAVIT CONTAINING THE RESPONDENT'S CONDITIONAL ADMISSION OF MISCONDUCT</b></p>	

On this 22<sup>nd</sup> day of January, 2016, Geanne R. Moroye, Assistant Regulation Counsel and attorney for the Complainant, and John William Tinder II, the Respondent in these proceedings, enter into the following Stipulation, Agreement, and Affidavit Containing Respondent's Conditional Admission of Misconduct ("Stipulation") and submit the same to the Presiding Disciplinary Judge for his consideration.

**RECOMMENDATION: One year and one day suspension, all served.**

1. The Respondent has taken and subscribed to the oath of admission, was admitted to the bar of this Court on June 23, 2008, and is registered as an attorney upon the official records of this Court, registration no. 39915. Respondent is subject to the jurisdiction of this Court and the Presiding Disciplinary Judge in these proceedings.

2. Respondent enters into this Stipulation freely and voluntarily. No promises have been made concerning future consideration, punishment, or lenience in the above-referenced matter. It is Respondent's personal decision, and Respondent affirms there has been no coercion or other intimidating acts by any person or agency concerning this matter.

3. This matter has not become public under the operation of C.R.C.P. 251.31(c) as amended. However, Respondent specifically acknowledges that, if the Presiding Disciplinary Judge should decide to accept this Stipulation, and impose the agreed-to discipline contained herein, then this Stipulation and the discipline imposed will be matters of public record.

4. Respondent is familiar with the rules of the Colorado Supreme Court regarding the procedure for discipline of attorneys and with the rights provided by those rules. Respondent acknowledges the right to a full and complete evidentiary hearing on the above-referenced complaint. At any such hearing, Respondent would have the right to be represented by counsel, present evidence, call witnesses, and cross-examine the witnesses presented by Complainant. At any such formal hearing, Complainant would have the burden of proof and would be required to prove the charges contained in the complaint with clear and convincing evidence. Nonetheless, having full knowledge of the right to such a formal hearing, Respondent waives that right.

5. Respondent and Complainant specifically waive the right to a hearing pursuant to C.R.C.P. 251.22(c)(1).

6. Respondent has read and studied the Complaint, a true and correct copy of which is attached as Exhibit 1, and is familiar with the allegations therein. With respect to the allegations contained in the complaint, Respondent affirms under oath that the following facts and conclusions are true and correct:

a. On November 13, 2013, the Complainant, Nancy Williamson, ("Ms. Williamson") hired Respondent to represent her in Adams County District Court case #13CV207. She paid him a retainer of \$2,000. Respondent's fee agreement defined Respondent's "duties" of representation as "*Cause No. 13C1912; defamation suit, Adams County.*" Respondent's fee agreement set his hourly fee at \$250. The \$2,000 was estimated to cover fees up to trial.

b. Ms. Williamson originally filed this case pro se against her neighbor, Lori Harmon, for forgery and other issues. Ms. Williamson filed the case after she began receiving magazines that she had not ordered. Ms. Williamson accused Lori Harmon of forging her name to order the magazines.

c. Ms. Williamson originally filed the matter in Adams County, County Court. Lori Harmon hired an attorney, had the case moved to District Court, and added counterclaims for abuse of process and defamation (*per se*) of character.

d. Respondent entered his appearance in Adams County District Court case #13CV207 on November 15, 2013.



e. Respondent stated to investigators that the strategy from the beginning was to get the Harmons to settle and to get Ms. Williamson out from under the counter-claims. Respondent stated to investigators that Ms. Williamson was a difficult client and he often had difficulty communicating with her.

f. Respondent was served with discovery requests from Lori Harmon on April 9, 2014. He provided the discovery requests to Ms. Williamson on April 20, 2014. On April 21, 2014, Ms. Williamson returned the discovery requests to Respondent with her answers.

g. In early May, 2014, Ms. Williamson began dealing with her dying brother. She asked Respondent to present a proposal for settlement in which both sides would drop their claims and pay their own attorney fees. Respondent replied that the opposing counsel would not consider any settlement that did not include payment to his client.

h. The discovery responses from Ms. Williamson were due on May 14, 2014. The responses were not filed by this date.

i. On May 22, 2014, opposing counsel filed a Motion to Deem Requests to Admit Admitted.

j. On June 2, 2014, Respondent filed a response to the motion along with Ms. Williamson's discovery answers. Respondent claimed in his response that Ms. Williamson had been distracted by the illness of her brother as an excuse for not filing the answers on time.

k. On June 2, 2014, Respondent had Ms. Williamson come to his office and sign the discovery responses he prepared. She did so without thoroughly reviewing them. Respondent did not provide her with a copy at that time. Respondent did not tell her that the answers were past due.

l. The discovery responses, filed on June 2, 2014, were twenty days late. Respondent told investigators he thought he calendared the due date but missed the notation on his calendar. Respondent had no explanation as to why he didn't file a request for an extension.

m. Ms. Williamson asked for, and received, a copy of the discovery answers on June 7, 2014. She contacted Respondent and told him that the answers needed to be changed as they were not accurate and not what she had provided him.

n. Request for admission #3 stated "Admit you were aware that the Defendant's insurance company settled a lawsuit brought by another individual. Respondent answered "Object as not relevant. Admitted." Ms. Williamson asserts that she told Respondent that she was unaware of this settlement.

o. Request for admission #4 stated "Admit that the filing of this lawsuit was

motivated by your knowledge that the Harmon's insurance company settled a lawsuit by another individual. Respondent answered "Object as not relevant. Admitted." Ms. Williamson asserts that she told Respondent that she had no knowledge of this lawsuit.

p. Ms. Williamson hired a handwriting expert to be called as a witness at trial and provided the information to Respondent along with the expert's fees for preparing a report and testifying. Ms. Williamson had previously sent the expert the documents in question and received her findings. On May 2, 2104, she asked Respondent to "please file whatever is needed with the court."

q. On June 10, 2014, Ms. Williamson asked Respondent if he had subpoenaed the handwriting expert for the trial scheduled for July 10, 2014. Respondent replied that it was too early to subpoena the expert. On June 18, 2014, Ms. Williamson again asked Respondent if he had subpoenaed the handwriting expert. He replied that he had. In truth, Respondent missed the deadline to disclose any experts. When asked why he told Ms. Williamson that he had subpoenaed the expert, he said "I was trying to do my best - I was just saying I'll do it. The simplest answer is yes - maybe it's not the complete truth."

r. On June 10, 2014, the court granted the Plaintiff's Motion to Deem Requests to Admit Admitted.

s. A status conference was scheduled for June 12, 2014. Respondent did not inform Ms. Williamson of the hearing as her attendance was not required. Ms. Williamson found out through other sources about the hearing and called Respondent to ask if she should attend. Respondent failed to respond, and Ms. Williamson appeared in court for the hearing. Respondent did not attend the hearing and sent another attorney, Alees Alles, ("Ms. Alles") to handle the matter.

t. Respondent filed his Trial Management Order on June 12, 2014, in which he listed witnesses, exhibits and the handwriting expert he planned on using at trial.

u. On June 16, 2014, the court issued an order instructing the parties to file a Joint Trial Management Order by June 19, 2014 and, if not filed by that time, the parties were to appear on June 20, 2014 at 8:30 a.m. to draft such order.

v. On June 17, 2014, opposing counsel filed motions in limine to exclude all of Ms. Williamson's witnesses and exhibits as they were not timely disclosed.

w. Respondent never responded to the motions in limine. He states that he was not required to file a response and as there was no valid defense, he did not file a response.

x. Respondent did not appear for the June 20, 2014, hearing at 8:30 a.m. The court called Respondent and he arrived several hours late. The court awarded opposing counsel three hours of attorney fees at \$295 per hour for a total of \$885 to be paid within 14 days by Ms. Williamson and Respondent.

y. Respondent asked Ms. Williamson to meet with him in order to discuss the rulings. Ms. Williamson asked Respondent to send her all of the documents filed in this matter. She had only received a copy of the discovery questions and answers. She had not been provided any filings from the opposing side.

z. The defendant's motions in limine were granted by the court on June 26, 2014. According to Respondent, the case was lost at this point.

aa. On June 26, 2014, Respondent informed Ms. Williamson that the court ruled to exclude all of her evidence because the disclosures were late. He also informed her that Respondent missed the trial management conference and therefore they had to pay attorney fees that were awarded to opposing counsel. Respondent told Ms. Williamson that he would pay half and she should pay half because she owed him attorney fees at that point.

bb. Ms. Williamson asked Respondent to file an appeal of the court's ruling excluding evidence and wanted an explanation as to why he did not show up to the trial management conference. She again asked for copies of all the paperwork associated with the court case.

cc. In reply, Respondent told Ms. Williamson that he would need more money if she was going to ask him to do additional work.

dd. Ms. Williamson authorized a credit card payment to be made to opposing counsel in the amount of \$442.50 and authorized \$585.50 to pay the balance of her bill.

ee. The trial was held on July 10, 2014.

ff. Prior to July 10, 2014, Respondent met with Ms. Alles, who had previously represented Ms. Williamson at the June 12, 2014 hearing. Respondent gave all the trial materials to Ms. Alles. According to Ms. Alles, Respondent informed her he might be late to the hearing as he had to appear in a different jurisdiction on the same morning of Ms. Williamson's trial. Respondent asked Ms. Alles to let the court know he would be late. Ms. Alles believed Respondent would appear to handle the trial.

gg. Respondent told investigators that he was in Douglas County Court on the morning of July 10, 2014. He stated he was handling a divorce case and did not have the option of not appearing.

hh. When Ms. Williamson's matter was called up, Ms. Alles informed the court that she was covering for Respondent who would appear as soon as he was finished in Douglas County. The court responded by asking Ms. Alles to give her opening statement. Ms. Alles waived opening remarks and opposing counsel moved for a directed verdict due to Ms. Williamson's admissions and the exclusion of Ms. Williamson's evidence. The court denied the motion for directed verdict noting the "very constraining previous orders of the court" but stating that he was not going to presume there was nothing Ms. Williamson could

testify about.

ii. Ms. Williamson asserts that she learned for the first time in open court that all of her evidence had been excluded. Ms. Williamson informed the court she was firing her attorney and asked for a continuance. The court denied the request.

jj. Ms. Williamson represented herself at the trial. The court granted her leeway to testify about the excluded evidence, over the objection of opposing counsel.

kk. Judgment was entered in favor of defendant, Lori Harmon, on all of Ms. Williamson's claims. Judgment was entered in favor of defendant and against Ms. Williamson on defendant's counterclaims. On the abuse of process claim, defendant was awarded her attorney fees and costs in the amount of \$13,135. On defendant's defamation of character claim, defendant was awarded \$1,000 in costs and fees to expunge defendant's criminal history and \$5,000 in punitive damages. The total amount of money damages awarded to defendant, to be paid by Ms. Williamson, was \$19,135.

ll. Ms. Williamson wrote to Respondent telling him she no longer wanted his services and asked when she could pick up her file.

mm. Respondent failed to return her entire file and threatened a lien against it. He told Ms. Williamson "You have indicated that you are out of funds and no longer desire to pursue any more litigation. If that is the case, then I am unsure why you would need all this paperwork for something that is now just a memory. Please advise if you desire to incur additional expenses for copying costs and for the balance of court paperwork which I will assert a lien upon if you desire me to do additional labor simply for bookkeeping efforts."

nn. Through Respondent's conduct described above, Respondent has engaged in conduct constituting grounds for the imposition of discipline pursuant to C.R.C.P. 251.5. Respondent has also violated Colo. RPC 1.1, 1.2(a), 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), 3.4(c), 3.4(d), 8.4(c).

7. Pursuant to C.R.C.P. 251.32, Respondent agrees to pay costs in the amount of \$91.00 (a copy of the statement of costs is attached hereto as Exhibit 2) incurred in conjunction with this matter within thirty-five (35) days after acceptance of the Stipulation by the Presiding Disciplinary Judge, made payable to Colorado Supreme Court Attorney Regulation Offices. Respondent agrees that statutory interest shall accrue from the date that the Presiding Disciplinary Judge accepts this Stipulation. Should Respondent fail to make payment of the aforementioned costs and interest within thirty-five (35) days, Respondent specifically agrees to be responsible for all additional costs and expenses, such as reasonable attorney fees and costs of collection incurred by Complainant in collecting the above stated amount. Complainant may amend the amount of the judgment for the additional costs and expenses by providing a motion and bill of costs to the Presiding Disciplinary Judge, which identifies this paragraph of the Stipulation and Respondent's default on the payment.

8. This Stipulation represents a settlement and compromise of the specific claims

and defenses pled by the parties, and it shall have no meaning or effect in any other lawyer regulation case involving another respondent attorney.

9. This Stipulation is premised and conditioned upon acceptance of the same by the Presiding Disciplinary Judge. If for any reason the Stipulation is not accepted without changes or modification, then the admissions, confessions, and Stipulations made by Respondent will be of no effect. Either party will have the opportunity to accept or reject any modification. If either party rejects the modification, then the parties shall be entitled to a full evidentiary hearing; and no confession, Stipulation, or other statement made by Respondent in conjunction with this offer to accept discipline of a suspension of one year and one day may be subsequently used. If the Stipulation is rejected, then the matter will be heard and considered pursuant to C.R.C.P. 251.18.

10. The Office of Attorney Regulation Counsel has notified or will notify shortly after the parties sign this agreement, the complaining witness in the matter of the proposed disposition.

### **PRIOR DISCIPLINE**

11. On April 10, 2014, Respondent was suspended for six months, all stayed upon the successful completion of a two-year period of probation with conditions including trust account school, taking and passing the Multistate Professional Responsibility Exam and payment of costs. Respondent engaged in conduct constituting grounds for the imposition of discipline for violating Colo. RPC 8.4(c) when he made multiple misrepresentations about the status of settlement funds in his trust account. On August 12, 2015, the People filed a Motion to Lift Stay and Impose Sanctions. On September 15, 2015, the court revoked Respondent's two-year probation and lifted the stay on Respondent's six-month suspension. The suspension began on October 6, 2015.

### **ANALYSIS OF DISCIPLINE**

12. The Colorado Supreme Court has observed that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases." *In re Attorney F*, 285 P.3d 322, 327 (Colo. 2012), citing *In re Rosen*, 198 P.3d 116, 121. (Colo. 2008). However, it is appropriate for the Hearing Board to consider prior Colorado Supreme Court decisions regarding the imposition of sanctions for attorney misconduct. *Id.* At 327. To arrive at a presumptive sanction, the misconduct first should be analyzed in terms of the duty violated, the attorney's mental state, and the extent of the actual or potential injury caused by the misconduct. Then, to arrive at the ultimate sanction, aggravating and mitigating factors should be taken into account. *Id.* At 326.

13. Pursuant to American Bar Association *Standards for Imposing Lawyer Sanctions* 1991 and Supp. 1992 ("ABA Standards"), §3.0, the Court should consider the following factors generally:

- a. The duties violated;

Respondent failed to provide competent representation to his client by failing to timely answer discovery requests and then filing incorrect answers. Respondent failed to pursue a settlement of the matter pursuant to his client's wishes and failed to consult with her concerning possible settlement.

Respondent failed to act with reasonable diligence and promptness by failing to respond to motions and discovery, failing to endorse witnesses timely, failing to appear in court and failing to keep his client informed about her case.

Respondent failed to keep the client reasonably informed about the status of the matter by failing to keep his client informed about her case, failing to provide his client with copies of pleading filed by the opposing party, and failing to timely inform his client of court rulings.

Respondent failed to protect his client's interest upon termination when he refused to return his client's entire file upon termination and threatened a lien against it.

Respondent violated his duty to the tribunal by failing to appear for a scheduled court hearing.

Respondent violated his duty of honesty by misrepresenting to his client that he had endorsed an expert witness. Respondent misrepresented to the court the reason discovery responses were filed late. He misrepresented to Ms. Alles that he would appear in court to conduct Ms. Williamson's trial.

b. The lawyer's mental state: knowing.

c. The actual or potential injury caused by the lawyer's misconduct: Respondent caused harm to his client by failing to communicate with her and failing to competently and diligently work on her case which resulted in the court excluding the client's evidence at trial. Respondent caused harm to his client and the system by failing to appear for a scheduled court hearing, and by failing to appear for the trial.

d. The existence of aggravating or mitigating factors: Factors in aggravation which are present include: prior disciplinary offense, dishonest or selfish motive, a pattern of misconduct, multiple offenses. *ABA Standards* §9.22(a),(b),(c),(d). Factors in mitigation include: cooperative attitude toward proceedings, imposition of other penalties or sanctions, remorse. *ABA Standards* §9.32(e), (k), (l).

14. Pursuant to *ABA Standard* § 4.42: 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; or (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client. Similarly, pursuant to *ABA 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. Pursuant to ABA *Standard* 4.62: Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.

15. Given Respondent's previous discipline and neglect of the case, compounded by misrepresentations to the client, suspension of one year and one day is appropriate. *People v. Smith*, 888 P.2d 248 (Colo. 1995); *People v. Genchi*, 849 P.2d 28 (Colo. 1993).

In *People v. Rishel*, 956 P.2d 542 (Colo. 1998), the Court suspended an attorney for one year and a day with special conditions for reinstatement for seriously neglecting two client matters.

The Colorado Supreme Court imposed a suspension for one year and one day when an attorney neglected to respond to discovery requests for almost a year, incompetently represented the client, failed to communicate with the client about the case's dismissal, and declined to return this client's file after the attorney client relationship terminated. *People v. Swan*, 893 P.2d 769, 769-70 (Colo. 1995).

16. Considering all of the factors described above, as applied to this case, suspension for one year and one day is an appropriate sanction.

#### **CONDITIONS**

17. Respondent stipulates that Ms. Williamson paid him fees totaling \$2,585.00. In addition, Ms. Williamson paid Respondent \$442.50 which amounted to half of the opposing counsel's attorney fees. Said fees were awarded by the court when Respondent appeared late to Court on June 20, 2014. Respondent shall pay restitution to Ms. Williamson in the amount of \$3,027.50 as a condition of reinstatement and submit evidence of the payment to the Office of Attorney Regulation Counsel.

#### **RECOMMENDATION FOR AND CONSENT TO DISCIPLINE**

Based on the foregoing, the parties hereto recommend that a one year and one day suspension, all served, with conditions as described above, be imposed upon Respondent. Respondent consents to the imposition of discipline of a one year and one day suspension, all served. The parties request that the Presiding Disciplinary Judge order that the effective date of such discipline be immediate. The parties recognize and agree that this sanction will begin prior to the completion of the suspension currently being served by Respondent.

John William Tinder II, Respondent, and Geanne R. Moroye, attorney for the Complainant, acknowledge by signing this document that they have read and reviewed the above and request the Presiding Disciplinary Judge to accept the Stipulation as set forth above.

*John W. Tinder II*

John William Tinder II  
11300 W. Parmer Ln. #830  
Cedar Park, TX. 78613  
Email: jnylaw10@gmail.com  
Respondent

STATE OF COLORADO )  
COUNTY OF Williamson )ss:

Subscribed and sworn to before me this 22<sup>ND</sup> day of January, 2016, by John William Tinder II, the Respondent.

Witness my hand and official seal.

My commission expires:

9/25/2017

Notary Public

*Geanne R. Moroye*

Geanne R. Moroye, #17476  
Assistant Regulation Counsel  
1300 Broadway, Suite 500  
Denver, CO 80203  
Telephone: (303) 457-5800x7856  
Attorney for the Complainant





COPY

SUPREME COURT, STATE OF COLORADO

ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE  
PRESIDING DISCIPLINARY JUDGE

1300 Broadway, Suite 250  
Denver, Colorado 80203

Complainant:  
THE PEOPLE OF THE STATE OF COLORADO

Respondent:  
JOHN WILLIAM TINDER II, # 39915

Geanne R. Moroye, #17476  
Assistant Regulation Counsel  
James C. Coyle, #14970  
Regulation Counsel  
Attorneys for Complainant  
1300 Broadway, Suite 500  
Denver, Colorado 80203  
Telephone: (303) 457-5800x7856  
Fax No.: (303) 501-1141  
Email: G.Moroye@csc.state.co.us

**FILED**

**SEP 16 2015**

PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF COLORADO

▲ COURT USE ONLY ▲

Case Number:

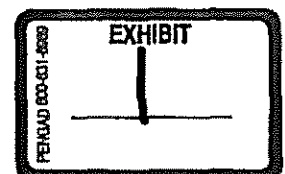
**15 PDJ 082**

**COMPLAINT**

THIS COMPLAINT is filed pursuant to the authority of C.R.C.P. 251.9 through 251.14, and it is alleged as follows:

**Jurisdiction**

1. Respondent has taken and subscribed the oath of admission, was admitted to the bar of this Court on June 23, 2008, and is registered upon the official records of this Court, registration no. 39915.
2. Respondent is subject to the jurisdiction of this Court in these disciplinary proceedings.
3. Respondent's registered business address is Law Office of John W. Tinder, 11971 Quay Street, Broomfield, CO 80020.



### General Allegations

4. On November 13, 2013, Nancy Williamson ("Ms. Williamson") hired Respondent to represent her in Adams County District Court case #13CV207.

5. Ms. Williamson paid Respondent a retainer of \$2,000.

6. Respondent's fee agreement defined Respondent's "duties" of representation as "*Cause No. 13C1912; defamation suit, Adams County.*"

7. Respondent's fee agreement set his hourly fee at \$250.

8. According to the fee agreement, the \$2,000 was estimated to cover fees up to trial.

9. Ms. Williamson originally filed this case pro se against her neighbor, Lori Harmon, for forgery and other issues in Adams County Court.

10. Ms. Williamson filed the case after she began receiving magazines that she had not ordered. Ms. Williamson accused Lori Harmon of forging her name to order the magazines.

11. Ms. Williamson and the Harmon family had a long history of disputes.

12. Lori Harmon hired an attorney, had the case moved to District Court, and added counterclaims for abuse of process and defamation (per se) of character.

13. Respondent entered his appearance in Adams County District Court case #13CV207 on November 15, 2013.

14. Respondent was served with discovery requests from Lori Harmon on April 9, 2014.

15. Respondent provided the discovery requests to Ms. Williamson on April 20, 2014.

16. On April 21, 2014, Ms. Williamson returned the discovery requests to Respondent with her answers.

17. Ms. Williamson asked Respondent to present a proposal for settlement in which both sides would drop their claims and pay their own attorney fees.

18. The discovery responses from Ms. Williamson were due on May 14, 2014.

19. The discovery responses were not filed by this date.

20. On May 22, 2014, opposing counsel filed a Motion to Deem Requests to Admit Admitted.

21. On June 2, 2014, Respondent filed a response to the motion along with Ms. Williamson's discovery answers.

22. Respondent claimed in his response that Ms. Williamson had been distracted by the illness of her brother as an excuse for not filing the answers on time.

23. On June 2, 2014, Respondent had Ms. Williamson come to his office and sign the discovery responses he prepared.

24. Ms. Williamson signed the discovery responses without thoroughly reviewing them.

25. Respondent did not provide her with a copy of the discovery responses at that time.

26. Respondent did not tell her that the answers were past due.

27. Respondent filed the discovery responses on June 2, 2014, twenty days late.

28. Respondent told OARC investigators he has no explanation as to why he didn't file a request for an extension.

29. Respondent asserted he was unaware of the date discovery responses were due or that the date to file the responses had past.

30. In an email dated June 5, 2014, Respondent told Ms. Williamson that opposing counsel would not consider any settlement proposal that did not include money paid to his client.

31. On information and belief, Respondent never communicated an offer to opposing counsel.

32. Ms. Williamson asked for, and received, a copy of the discovery answers on June 7, 2014.

33. Ms. Williamson contacted Respondent and told him that the answers needed to be changed as they were not accurate and not what she had provided him.

34. Request for admission #3 stated "Admit you were aware that the Defendant's insurance company settled a lawsuit brought by another individual." Respondent answered "Object as not relevant. Admitted."

35. Ms. Williamson told Respondent that she was unaware of this settlement.

36. Request for admission #4 stated "Admit that the filing of this lawsuit was motivated by your knowledge that the Harmon's insurance company settled a lawsuit by another individual." Respondent answered "Object as not relevant. Admitted."

37. Ms. Williamson told Respondent that she had no knowledge of this lawsuit.

38. Ms. Williamson hired a handwriting expert to be called as a witness at trial and provided the information to Respondent along with the expert's fees for preparing a report and testifying.

39. Ms. Williamson had previously sent the expert the documents in question and received her findings.

40. On May 2, 2014, she asked Respondent to "please file whatever is needed with the court."

41. On June 10, 2014, Ms. Williamson asked Respondent if he had subpoenaed the handwriting expert for the trial scheduled for July 10, 2014.

42. Respondent replied that it was too early to subpoena the expert.

43. On June 18, 2014, Ms. Williamson again asked Respondent if he had subpoenaed the handwriting expert.

44. Respondent replied that he had subpoenaed the expert.

45. Respondent had actually missed the deadline to disclose any experts.

46. On June 10, 2014, the court granted the Plaintiff's Motion to Deem Requests to Admit Admitted.

47. A status conference was scheduled for June 12, 2014.

48. Respondent failed to inform Ms. Williamson of the status conference.

49. Ms. Williamson found out about the status conference through other sources and called Respondent to ask if she should attend.

50. Respondent failed to respond to Ms. Williamson.

51. Ms. Williamson appeared in court for the hearing.

52. Respondent did not attend the hearing and sent another attorney, Alees Alles, ("Ms. Alles") to handle the matter.

53. Respondent filed his Trial Management Order on June 12, 2014, in which he listed witnesses, exhibits, and the handwriting expert he planned on using at trial.

54. On June 16, 2014, the court issued an order instructing the parties to file a Joint

Trial Management Order by June 19, 2014 and, if not filed by that time, the parties were to appear on June 20, 2014 at 8:30 a.m. to draft such order.

55. On June 17, 2014, opposing counsel filed motions in limine to exclude all of Ms. Williamson's witnesses and exhibits as they were not timely disclosed.

56. Respondent never responded to the motions in limine.

57. Respondent did not appear for the June 20, 2014, hearing at 8:30 a.m.

58. The court called Respondent and he arrived several hours late.

59. The court awarded opposing counsel three hours of attorney fees at \$295 per hour for a total of \$885 to be paid within 14 days by Ms. Williamson and Respondent.

60. Respondent asked Ms. Williamson to meet with him in order to discuss the rulings.

61. Ms. Williamson asked Respondent to send her all of the documents filed in this matter.

62. Ms. Williamson had only received a copy of the discovery questions and answers and had not been provided any filings from the opposing side.

63. The Defendant's motions in limine were granted by the court on June 26, 2014.

64. According to Respondent, the case was lost at this point.

65. On June 26, 2014, Respondent informed Ms. Williamson that the court ruled to exclude all of her evidence because the disclosures were late.

66. Respondent also informed her that he missed the trial management conference and therefore they had to pay attorney fees that were awarded to opposing counsel. Respondent told Ms. Williamson that he would pay half and she should pay half because she owed him attorney fees at that point.

67. Ms. Williamson asked Respondent to file an appeal of the court's ruling excluding evidence and wanted an explanation as to why he did not show up to the trial management conference.

68. Ms. Williamson again asked for copies of all the paperwork associated with the court case.

69. In reply, Respondent told Ms. Williamson that he would need more money "if you are going to make me work harder."

70. Ms. Williamson authorized a credit card payment to be made to opposing counsel in the amount of \$442.50 and authorized \$585.50 to pay the balance of her bill.

71. The trial was held on July 10, 2014.

72. Before July 10, 2014, Respondent met with Ms. Alles, who had previously represented Ms. Williamson at the June 12, 2014 hearing.

73. Respondent gave all the trial materials to Ms. Alles and told her he might be late to the hearing as he had to appear in a different jurisdiction on the same morning of Ms. Williamson's trial.

74. Respondent asked Ms. Alles to let the court know he would be late.

75. Ms. Alles believed Respondent would appear to handle the trial.

76. Respondent appeared in Douglas County District Court on the morning of July 10, 2014, case number 2012DR001199, and therefore could not attend the trial in the Williamson matter.

77. When Ms. Williamson's matter was called up, Ms. Alles informed the court that she was covering for Respondent who would appear as soon as he was finished in Douglas County.

78. The court responded by asking Ms. Alles to give her opening statement. Ms. Alles waived opening remarks and opposing counsel moved for a directed verdict due to Ms. Williamson's admissions and the exclusion of Ms. Williamson's evidence.

79. The court denied the motion for directed verdict noting the "very constraining previous orders of the court" but stating that he was not going to presume there was nothing Ms. Williamson could testify about.

80. Ms. Williamson asserts that she learned for the first time in open court that all of her evidence had been excluded.

81. Ms. Williamson informed the court she was firing her attorney and asked for a continuance.

82. The court denied the request for a continuance.

83. Ms. Williamson represented herself at the trial.

84. The court granted her leeway to testify about the excluded evidence, over the objection of opposing counsel.

85. Judgment was entered in favor of the defendant, Lori Harmon, on all of Ms.

Williamson's claims.

86. Judgment was entered in favor of the defendant and against Ms. Williamson on the defendant's counterclaims.

87. On the abuse of process claim, the defendant was awarded her attorney fees and costs in the amount of \$13,135.

88. On the defendant's defamation of character claim, the defendant was awarded \$1,000 in costs and fees to expunge the defendant's criminal history and \$5,000 in punitive damages.

89. The total amount of money damages awarded to the defendant, to be paid by Ms. Williamson, was \$19,135.

90. Ms. Williamson wrote to Respondent telling him she no longer wanted his services and asked when she could pick up her file.

91. Respondent failed to return her entire file and threatened a lien against it.

92. Respondent told Ms. Williamson "You have indicated that you are out of funds and no longer desire to pursue any more litigation. If that is the case, then I am unsure why you would need all this paperwork for something that is now just a memory. Please advise if you desire to incur additional expenses for copying costs and for the balance of court paperwork which I will assert a lien upon if you desire me to do additional labor simply for bookkeeping efforts."

**Claim I**  
**Colo. RPC 1.1 – Competence**

93. Paragraphs 1 through 92 are incorporated herein as if fully set forth.

94. Colo. RPC 1.1 requires a lawyer to provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

95. Respondent failed to provide competent representation to his client by failing to timely answer discovery requests and then filing incorrect answers.

96. Respondent also failed to provide competent representation by failing to respond to motions, failing to appear in court, failing to endorse witnesses timely and by failing to inform his client about the status of the case.

97. By such conduct, Respondent violated Colo. RPC 1.1.

98. Each of the above instances constitutes a violation of Colo. RPC 1.1, as do all of

them together.

WHEREFORE, Complainant prays at the conclusion hereof.

**Claim II**  
**Colo. RPC 1.2(a) – Scope of the Representation**

99. Paragraphs 1 through 92 are incorporated herein as if fully set forth.

100. Colo. RPC 1.2(a) requires a lawyer to abide by a client's decisions concerning the objectives of the representation and consult with the client as to the means by which they are to be pursued.

101. Respondent violated Colo. RPC 1.2(a) when he failed to pursue a settlement of the matter pursuant to his client's wishes and failed to consult with her concerning possible settlement.

WHEREFORE, Complainant prays at the conclusion hereof.

**Claim III**  
**Colo. RPC 1.3 – diligence**

102. Paragraphs 1 through 92 are incorporated herein as if fully set forth.

103. Colo. RPC 1.3 requires a lawyer to act with reasonable diligence and promptness in representing a client.

104. Respondent failed to act with reasonable diligence and promptness by failing to respond to motions and discovery, failing to endorse witnesses timely, failing to appear in court and failing to keep his client informed about her case.

105. Each of the above instances constitutes a violation of Colo. RPC 1.3 separately, as do all of them together.

WHEREFORE, Complainant prays at the conclusion hereof.

**Claim IV**  
**Colo. RPC 1.4(a)(3) – Communication**

106. Paragraphs 1 through 92 are incorporated herein as if fully set forth.

107. Colo. RPC 1.4(a)(3) requires a lawyer to keep the client reasonably informed about the status of a matter.

108. Respondent failed to keep the client reasonably informed about the status of the matter by failing to keep his client informed about her case, failing to provide his client with



copies of pleading filed by the opposing party, and failing to timely inform his client of court rulings.

109. All the above instances violated Colo. RPC 1.4(a)(3) separately, as do all of them together.

WHEREFORE, Complainant prays at the conclusion hereof.

**Claim V**  
**Colo. RPC 1.4(a)(4) – Communication**

110. Paragraphs 1 through 92 are incorporated herein as if fully set forth.

111. Colo. RPC 1.4(a)(4) requires a lawyer to promptly comply with reasonable requests for information.

112. Respondent violated Colo. RPC 1.4(a)(4) when he failed to provide his client with copies of pleadings filed by the opposing party, even after his client made a specific request for them.

WHEREFORE, Complainant prays at the conclusion hereof.

**Claim VI**  
**Colo. RPC 1.16(d) – Failure to Protect Client's Interests upon Termination**

113. Paragraphs 1 through 92 are incorporated herein as if fully set forth.

114. Colo. RPC 1.16(d) provides that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.

115. Respondent violated Colo. RPC 1.16(d) when he refused to return his client's entire file upon termination and threatened a lien against it.

WHEREFORE, Complainant prays at the conclusion hereof.

**Claim VII**  
**Colo. RPC 3.3(a)(1) – Candor to the Tribunal**

116. Paragraphs 1 through 92 are incorporated herein as if fully set forth.

117. Colo. RPC 3.3(a)(1) provides that a lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.

118. Respondent violated Colo. RPC 3.3(a)(1) when he filed a motion with the court stating that discovery responses were not filed timely due to his client being distracted by the illness of her brother, when in fact his client had returned the discovery responses timely to Respondent.

WHEREFORE, Complainant prays at the conclusion hereof.

**Claim VIII**

**Colo. RPC 3.4(c) – Obligations Under the Rules of a Tribunal**

119. Paragraphs 1 through 92 are incorporated herein as if fully set forth.

120. Colo. RPC 3.4(c) provides that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

121. Respondent violated Colo. RPC 3.4(c) by failing to appear for a scheduled court hearing.

WHEREFORE, Complainant prays at the conclusion hereof.

**Claim IX**

**Colo. RPC 3.4(d) – Compliance with Discovery Requests**

122. Paragraphs 1 through 92 are incorporated herein as if fully set forth.

123. Colo. RPC 3.4(d) provides that a lawyer shall not in pretrial procedure make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party.

124. Respondent violated Colo. RPC 3.4(d) by failing to respond to discovery requests in a timely manner even though his client had provided him with the necessary information to file the responses.

WHEREFORE, Complainant prays at the conclusion hereof.

**Claim X**

**Colo. RPC 8.4(c) – Dishonesty**

125. Paragraphs 1 through 92 are incorporated herein as if fully set forth.

126. Colo. RPC 8.4(c) prohibits a lawyer from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

127. Respondent violated Colo. RPC 8.4(c) by misrepresenting to his client that he had

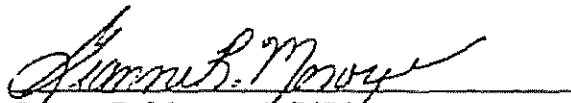
endorsed an expert witness. Respondent misrepresented to the court the reason discovery responses were filed late. He misrepresented to Ms. Alles that he would appear in court to conduct Ms. Williamson's trial.

128. Each of the above instances constitutes a violation of Colo. RPC 8.4(c) separately, as do all of them together.

WHEREFORE, the People pray that Respondent be found to have engaged in misconduct under C.R.C.P. 251.5 and the Colorado Rules of Professional Conduct as specified above; appropriately disciplined for such misconduct; be required to take any other remedial action appropriate under the circumstances; and be assessed the costs of this proceeding.

DATED this 16<sup>th</sup> day of September, 2015.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "G. Moroye", written over a horizontal line.

Geanne R. Moroye, #17476  
Assistant Regulation Counsel  
James C. Coyle, #14970  
Regulation Counsel

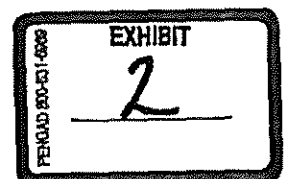
Attorneys for Complainant

**Statement of Costs**

**John W. Tinder**

**15PDJ082/14-2256**

<b>1/22/2016</b>	<b>Administrative Fee</b>	<b><u>91.00</u></b>
	<b>AMOUNT DUE</b>	<b>91.00</b>



COPY

SUPREME COURT, STATE OF COLORADO

ORIGINAL PROCEEDING IN DISCIPLINE BEFORE  
THE PRESIDING DISCIPLINARY JUDGE

1300 Broadway, Suite 250  
Denver, Colorado 80203

**FILED**

APR 09 2014

PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF COLORADO

Complainant:

THE PEOPLE OF THE STATE OF COLORADO

Respondent:

JOHN WILLIAM TINDER, # 39915

▲ COURT USE ONLY ▲

Case Number:

14 PDJ 032

Geanne R. Moroye, #17476  
Assistant Regulation Counsel  
Attorneys for Complainant  
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Telephone: 303-534-5722  
Fax No:

**STIPULATION, AGREEMENT AND AFFIDAVIT CONTAINING THE  
RESPONDENT'S CONDITIONAL ADMISSION OF MISCONDUCT**

On this 5<sup>th</sup> day of April, 2014, Geanne R. Moroye, Assistant Regulation Counsel, and John William Tinder, the Respondent who is represented by attorney Darren Randal Cantor in these proceedings, enter into the following Stipulation, Agreement, and Affidavit Containing Respondent's Conditional Admission of Misconduct ("Stipulation") and submit the same to the Presiding Disciplinary Judge for his consideration.

**RECOMMENDATION:** Six-month suspension, all stayed upon

successful completion of a two-year period of probation, with conditions including trust account school and taking and passing the Multistate Professional Responsibility Exam and costs.

1. The Respondent has taken and subscribed to the oath of admission, was admitted to the bar of this Court on June 23, 2008, and is registered as an attorney upon the official records of this Court, registration no. 39915. Respondent is subject to the jurisdiction of this Court and the Presiding Disciplinary Judge in these proceedings.

2. Respondent enters into this Stipulation freely and voluntarily. No promises have been made concerning future consideration, punishment, or lenience in the above-referenced matter. It is Respondent's personal decision, and Respondent affirms there has been no coercion or other intimidating acts by any person or agency concerning this matter.

3. This matter has not become public under the operation of C.R.C.P. 251.31(c) as amended. However, Respondent specifically acknowledges that, if the Presiding Disciplinary Judge should decide to accept this Stipulation, and impose the agreed-to discipline contained herein, then this Stipulation and the discipline imposed will be matters of public record.

4. Respondent is familiar with the rules of the Colorado Supreme Court regarding the procedure for discipline of attorneys and with the rights provided by those rules. Respondent acknowledges the right to a full and complete evidentiary hearing on the above-referenced complaint. At any such hearing, Respondent would have the right to be represented by counsel, present evidence, call witnesses, and cross-examine the witnesses presented by Complainant. At any such formal hearing, Complainant would have the burden of proof and would be required to prove the charges contained in the complaint with clear and convincing evidence. Nonetheless, having full knowledge of the right to such a formal hearing, Respondent waives that right.

5. Respondent and Complainant specifically waive the right to a hearing pursuant to C.R.C.P. 251.22(c)(1).

6. Respondent and Complainant stipulate to the following facts and conclusions:

- a. Respondent represented Mr. Majd in a bankruptcy proceeding 12-15764-HRT, which was filed on March 27, 2012.
- b. Respondent previously represented Mr. Majd and his family in numerous civil cases.
- c. Soon after the bankruptcy case was filed, Mr. Majd was charged with criminal offenses in Adams, Broomfield and Denver Counties. The complaints alleged theft and fraud. The criminal cases contained the same factual basis as the civil matters and involved many of the same individuals.
- d. On August 1, 2013 the Bankruptcy Court entered an order approving a settlement agreement in which Mr. Majd agreed to pay the trustee \$150,000 in two payments. The first payment, in the amount of \$105,000 was due on August 8, 2013. An executed promissory note for \$45,000 was due on October 30, 2013.
- e. On August 28, 2013 Complainant Mark Larson, counsel for the trustee, having not received the payment, notified Respondent that unless the payment was received by Friday, August 30, 2013, the trustee would move the court to object to Mr. Majd's discharge.
- f. On Friday, August 30, 2013 at about 4:17 p.m., Respondent called Complainant and left the following message:

Mr. Larson, This is John Tinder. I was calling in reference to the Estate of Ali Majd bankruptcy case. We have a deadline of 5:00 p.m. today for the \$105,000 settlement check. I have the funds and I've deposited them in the COLTAF account from different family members and friends and, um...I'm heading your way to drop off the ... uh...the COLTAF check. However, traffic is exceedingly difficult, so, uh, I wanted to make sure that you understood that I have the funds, they are going to be delivered to you. I do not know if it will be 5:00 p.m. or later when the check is delivered. Hopefully,

somebody is still there to [inaudible] they are directed towards you. They are verified funds because I put them in the COLTAF account. So if you could call me back on Monday or Tuesday I would appreciate it. 720-375-2869. Thanks.

g. At 5:26 p.m. Complainant emailed Respondent stating: "We have not yet received the funds as promised. Please let me know the status."

h. At 5:58 p.m. Respondent responded in writing: "I tyrned (sic) around because I could not get to you in time. I can turn around a few (sic) again or I can be (sic) there first thing Tuesday. John"

i. On Tuesday September 3, at 10:22 a.m., Complainant emailed Respondent, stating: "First thing Tuesday has come and gone with no funds delivered by you. I expect you to deliver funds before noon."

j. At about 11:39 a.m. Respondent left the following voicemail:

Hey Mark this is John Tinder. It's 11:40, uh, calling on the Estate of Lee Majd, um, I got your message and I apologize that we weren't able to get the, uh, the check to you this morning. I...I'm being very straight forward with you. I'm not trying to play games, uh, you know as an officer of the court I'm trying to...to honor the agreement. My problem this morning is that the bank has not released the funds and I'm a little bit worried about handing you the ...the COLTAF check. I know I was prepared to give it to you on Friday, and I'm still prepared to give it to you, it's just we deposited the 105 in cash and for some reason the, uh, the bank today, uh they told me the cash would be unavailable immediately, which is why I was on my way to bring it to you and, uh and now there is a hold on half of it and I'm trying



to get ahold of the bank manager to ask why there's a hold on cash. But, um, I...I'm expecting a call from him at any moment. I am downtown I'm...I'm out in front of the DA's office actually, at the corner of, uh, Colfax and 14<sup>th</sup>, so I'm right here and I have the check with me. So, um, I apologize I wanted to talk to you in person about this, but do give me a call back, I appreciate it. 720-375-6829. Like I said, I could bring the COLTAF check to you and I can deliver it to you it's just that right now that there's a hold on half of it. So...um...please call back. Thank you, bye.

k. In response to the voice mail, Complainant told Respondent that the check must be delivered to his office that day.

l. At about 4:48 p.m. Respondent left the following voice message on Complainant's phone:

Mr. Larson this is John Tinder. It is about 4:49. Um, I am driving back from Boulder I had a motions hearing it went long because we were doing expert qualifications, and anyhow, so I had Mr. Majd come and pick up the COLTAF check from my office and he's headed towards you guys right now. Um, I have confirmed with your secretary that somebody will be in the office...in your email you said that it was okay if we were past 5. He's there, it's I-25, it's kind of a parking lot right now. He said he is going to be 5 or 10 minutes late depending when traffic breaks up. He is not authorized to talk with you, so he shouldn't talk to you. He's just going to drop off the COLTAF check. I just also wanted to indicate that I have not received a phone call from Wells Fargo. I haven't had a chance to check the account to see if the cash is unfrozen, so...um...I will do that when I get back to

my office. Although, I don't know when I will get back to my office because the traffic coming up 36 is slowed down to a crawl at Broomfield as well. So...um...I'm gonna try and figure all this stuff out for you, but that check will be in your hands...um...hopefully in the next, uh, 30 minutes or less so that you know that we did write it out, and it is there, and I'm just waiting. Call back if you need to 720-375-6829. I will call you the moment I talk to the bank officials or when I find something out I'll call you back. Thanks.

m. Mr. Majd delivered the check to Mr. Larson's office at about 6:10 p.m. The check was written on Wells Fargo account number 973529157 titled "Law Office of John W. Tinder – COLTAF" in the amount of \$105,000.00 and written to Jeffrey A. Weinman, Chapter 7 Trustee - Estate Ali Majd. The check was signed by Respondent and dated August 30, 2013.

n. On Wednesday, September 4, 2013, the following email exchange took place:

1:19 p.m. Complainant – "Unless I hear otherwise, I am going to deliver this check to Jeff Weinman and he will deposit the check today." (Jeff Weinman is the Trustee in the bankruptcy matter).

1:23 p.m. Respondent – "let me call the bank again. I will e-mail you again/call you shortly."

4:23 p.m. Respondent – "Still no return call from the bank Mgr and still no lift on hold. I have an 8:30 tomorrow, then schedule clear. I am going to go into my Wells Fargo business branch tomorrow after court and find out why nobody is returning my call."

o. On Thursday September 5, 2013, Complainant emailed Respondent and informed him that the check had been delivered for deposit to Mr. Weinman's office.

- p. Respondent contacted Mr. Weinman's office on September 5 and requested the check not be deposited until Friday September 6, 2013.
- q. The check was deposited on Monday, September 9, 2013.
- r. On September 11, 2013, the Trustee was informed that the check was returned unpaid due to a stop payment order put in place by Respondent.
- s. Complainant contacted Respondent by email informing him that check was returned because of the stop payment order. Respondent did not respond to the email.
- t. When the August 30, 2013 extended deadline imposed by Complainant arrived, Mr. Majd had not provided the funds to Respondent and in fact never deposited the required funds into Respondent's COLTAF account.
- u. Respondent admits the information in his communications to Mr. Larson and the Trustee was untrue and that the funds were never placed in his COLTAF account. However, Respondent told investigators that when the funds were delivered to Mr. Larson on September 3, 2013, Mr. Majd had assured Respondent that the money had been deposited into Respondent's COLTAF account. Respondent admitted that he made no effort to confirm the deposit had actually been made until after the check had already been delivered to Mr. Larson. Respondent went on line during the evening of September 3, 2013 and discovered Mr. Majd had not made the deposit. Respondent made no efforts to notify Mr. Larson or Mr. Weinman that the required funds were not in his COLTAF account.
- v. On September 12, 2013, the Trustee filed a Complaint Objecting to the Debtor's Discharge. The Bankruptcy Court vacated the Settlement Agreement.
- w. On November 26, 2013, the Trustee filed a Complaint against Respondent alleging a violation of C.R.S. §13-21-109, Recovery of Damages for Checks, Drafts or Orders not Paid Upon Presentment.

The Trustee is seeking treble damages (\$315,000.00) plus interest, court costs and attorney fees. The matter is pending.

x. Through Respondent's conduct described above, Respondent has engaged in conduct constituting grounds for the imposition of discipline pursuant to C.R.C.P. 251.5. Respondent has also violated Colo. RPC 8.4(c).

7. Pursuant to C.R.C.P. 251.32, Respondent agrees to pay costs in the amount of \$91.00 (a copy of the statement of costs is attached hereto as Exhibit 1) incurred in conjunction with this matter within thirty-five (35) days after acceptance of the Stipulation by the Presiding Disciplinary Judge, made payable to Colorado Supreme Court Attorney Regulation Offices. Respondent agrees that statutory interest shall accrue from the date that the Presiding Disciplinary Judge accepts this Stipulation. Should Respondent fail to make payment of the aforementioned costs and interest within thirty-five (35) days, Respondent specifically agrees to be responsible for all additional costs and expenses, such as reasonable attorney fees and costs of collection incurred by Complainant in collecting the above stated amount. Complainant may amend the amount of the judgment for the additional costs and expenses by providing a motion and bill of costs to the Presiding Disciplinary Judge, which identifies this paragraph of the Stipulation and Respondent's default on the payment.

8. This Stipulation represents a settlement and compromise of the specific claims and defenses pled by the parties, and it shall have no meaning or effect in any other lawyer regulation case involving another respondent attorney.

9. This Stipulation is premised and conditioned upon acceptance of the same by the Presiding Disciplinary Judge. If for any reason the Stipulation is not accepted without changes or modification, then the admissions, confessions, and Stipulations made by Respondent will be of no effect. Either party will have the opportunity to accept or reject any modification. If either party rejects the modification, then the parties shall be entitled to a full evidentiary hearing; and no confession, Stipulation, or other statement made by Respondent in conjunction with this offer to accept discipline of a six-month stayed suspension may be subsequently used. If the Stipulation is rejected, then the matter will be heard and considered pursuant to C.R.C.P. 251.18.

10. The Office of Attorney Regulation Counsel has notified or will notify shortly after the parties sign this agreement, the complaining witness(es) in the

matter(s) of the proposed disposition.

11. Respondent's counsel, Darren Randal Cantor, hereby authorizes Respondent, John William Tinder, and the non-lawyer individual in the Office of Attorney Regulation Counsel who is responsible for monitoring the conditions set forth herein to communicate directly concerning scheduling and administrative issues or questions. Respondent's counsel will be contacted concerning any substantive issue which may arise.

### **PRIOR DISCIPLINE**

12. None.

### **ANALYSIS OF DISCIPLINE**

13. The Colorado Supreme Court has observed that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases." *In re Attorney F*, 285 P.3d 322, 327 (Colo. 2012), citing *In re Rosen*, 198 P.3d 116, 121. (Colo. 2008). However, it is appropriate for the Hearing Board to consider prior Colorado Supreme Court decisions regarding the imposition of sanctions for attorney misconduct. *Id.* at 327. To arrive at a presumptive sanction, the misconduct first should be analyzed in terms of the duty violated, the attorney's mental state, and the extent of the actual or potential injury caused by the misconduct. Then, to arrive at the ultimate sanction, aggravating and mitigating factors should be taken into account. *Id.* at 326.

14. Pursuant to American Bar Association *Standards for Imposing Lawyer Sanctions* 1991 and Supp. 1992 ("ABA Standards"), §3.0, the Court should consider the following factors generally:

a. The duty violated: Respondent violated his duty of candor to the public as well as duties to the legal profession.

b. The lawyer's mental state: Knowing.

c. The actual or potential injury caused by the lawyer's misconduct: Respondent caused harm to the public by repeatedly misrepresenting the possession of settlement funds in his COLTAF account. He exacerbated the harm

by placing a stop payment order on a check he had written to the Trustee. Respondent's actions caused serious harm to the reputation of the legal profession.

d. The existence of aggravating or mitigating factors: Factors in aggravation which are present include: Dishonest or selfish motive, a pattern of misconduct, multiple offenses; ABA *Standards* §9.22(b),(c),(d). Factors in mitigation include: Absence of a prior disciplinary record, full and free disclosure to disciplinary board and cooperative attitude toward proceedings, remorse; ABA *Standards* §9.32(a), (e), (l).

15. Pursuant to ABA *Standard* §5.13 reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit or misrepresentation and that adversely reflects on the lawyer's fitness to practice law.

16. *In re Rosen*, 198 P.3d 116, (Colo. 2008), the Colorado Supreme Court imposed a six-month stayed suspension with probation where Respondent continued to negotiate with an insurance company on behalf of his client, even though his client was deceased.

17. Considering all of the factors described above, including the repeated and overt misrepresentations made by the Respondent, a six-month suspension stayed for a probationary period of two years, with conditions, is an appropriate sanction. Respondent meets the eligibility requirements for probation set forth in C.R.C.P. 251.7(a).

## CONDITIONS

18. Probation. The parties stipulate that Respondent is eligible for probation pursuant to C.R.C.P. 251.7(a). Successful completion of all these terms shall stay the imposition of the six-month suspension.

- a. Respondent shall be on probation for a two-year period of time.
- b. Mandatory Rule Condition. During the period of probation, Respondent shall not engage in any further violation of the Colorado Rules of Professional Conduct. *See* C.R.C.P. 251.7(b) ("The conditions [of probation]...shall include no further violations

of the Colorado Rules of Professional Conduct”).

- c. Respondent shall attend and successfully pass the one-half day trust account school sponsored by the Office of Attorney Regulation Counsel within one year of the date this Stipulation is approved and pay the costs associated therewith. Respondent shall register and pay the costs of the trust account school within thirty-five (35) days of the date this Stipulation is approved. Attendance at the trust account school will count as 5 general CLE credits, including 5 ethics credits. Respondent may copy a registration form for the class on-line at [www.coloradosupremecourt.com](http://www.coloradosupremecourt.com). (Go to *Attorney Regulation Counsel*, then *Trust Account and Ethics Registration Forms*, and then *Trust Account School*.) Instructions for registering are on the registration form.
- d. During the period of probation, Respondent shall take and pass the Multistate Professional Responsibility Exam. A minimum scaled score of 85 is required to pass the exam.

19. **Violation of Conditions.** If, during the period of probation, the Office of Attorney Regulation Counsel receives information that any condition may have been violated, the Regulation Counsel may file a motion with the Presiding Disciplinary Judge specifying the alleged violation and seeking an order that requires the attorney to show cause why the stay should not be lifted and the sanction activated for violation of the condition. *See* C.R.C.P. 251.7(e). The filing of such a motion shall toll any period of suspension and probation until final action. *Id.* Any hearing shall be held pursuant to C.R.C.P. 251.7(e). When, in a revocation hearing, the alleged violation of a condition is Respondent's failure to pay restitution or costs, the evidence of the failure to pay shall constitute *prima facie* evidence of a violation. *Id.*

20. **Successful Completion of Conditions.** Within twenty-eight (28) days and no less than fourteen (14) days prior to the expiration of the period of probation, Respondent shall file an affidavit with the Regulation Counsel stating that Respondent has complied with all terms of probation and shall file with the Presiding Disciplinary Judge notice and a copy of such affidavit and application for an order showing successful completion of the period of probation. *See* C.R.C.P. 251.7(f). Upon receipt of this notice and absent objection from the Regulation Counsel, the Presiding Disciplinary Judge shall issue an order showing that the period of probation was successfully completed. *Id.* The order shall

become effective upon the expiration of the period of probation. *Id.*

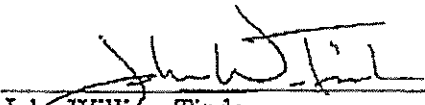
### **RECOMMENDATION FOR AND CONSENT TO DISCIPLINE**

Based on the foregoing, the parties hereto recommend that a six-month suspension, all stayed, with a two-year probationary period with conditions as described above, be imposed upon Respondent. Respondent consents to the imposition of discipline of a six-month suspension, all stayed, with a two-year probationary period with conditions as described above. The parties request that the Presiding Disciplinary Judge order that the effective date of such discipline be thirty-five (35) days after the date of entry of the order.

John William Tinder, Respondent; Darren Randal Cantor, attorney for Respondent; and Geanne R. Moroye, attorney for the Complainant, acknowledge by signing this document that they have read and reviewed the above and request the Presiding Disciplinary Judge to accept the Stipulation as set forth above.

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John William Tinder  
Law Office of John W. Tinder 11971 Quay  
Street  
Broomfield, CO 80020  
Telephone: 720 375-6829  
Respondent

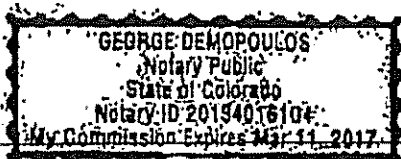
STATE OF COLORADO     )  
                                  ) ss:  
COUNTY OF Broomfield     )

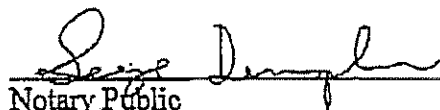
Subscribed and sworn to before me this 1<sup>st</sup> day of April, 2014,  
by John William Tinder, the Respondent.

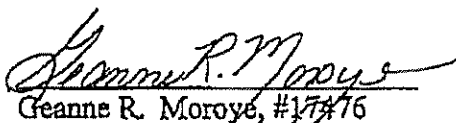
Witness my hand and official seal.


My commission expires:

3/11/17



  
Notary Public

  
Geanne R. Moroye, #17476  
Assistant Regulation Counsel  
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Attorney for the Complainant

  
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Telephone: 303-534-5722  
Attorney for the Respondent

Statement of Costs

John W. Tinder

14PDJ007/13-5936

4/9/2014	Administrative Fee	<u>91.00</u>
	Amount Due	\$ 91.00

Exhibit 1

<p style="text-align: center;">SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203</p>	
<p><b>Complainant:</b> THE PEOPLE OF THE STATE OF COLORADO</p> <p><b>Respondent:</b> JOHN WILLIAM TINDER</p>	<p>Case Number: <b>14PDJ032</b></p>
<p style="text-align: center;"><b>ORDER APPROVING CONDITIONAL ADMISSION OF MISCONDUCT AND IMPOSING SANCTIONS PURSUANT TO C.R.C.P. 251.22</b></p>	

This matter is before the Presiding Disciplinary Judge ("the Court") on a "Stipulation, Agreement and Affidavit Containing the Respondent's Conditional Admission of Misconduct" filed by Geanne R. Moroye, Office of Attorney Regulation Counsel ("the People"), and Darren R. Cantor, attorney for John William Tinder ("Respondent"), on April 9, 2014. In their stipulation, the parties waive their right to a hearing under C.R.C.P. 251.22(c).

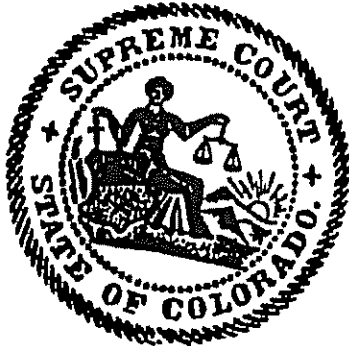
Upon review of the stipulation, the Court **ORDERS:**


1. The stipulation is accepted and approved.
2. **JOHN WILLIAM TINDER**, Attorney Registration Number 39915, is **SUSPENDED** from the practice of law for a period of **SIX MONTHS, ALL STAYED** upon the successful completion of a **TWO-YEAR** period of **PROBATION**, subject to the conditions set forth in paragraph 18 of the stipulation.
3. **Successful Completion of Conditions.** Within twenty-eight days and no less than fourteen days prior to the expiration of the period of probation, Respondent shall file an affidavit with the People stating that Respondent has complied with all terms of probation and shall file with the Court notice and a copy of such affidavit and application for an order showing successful completion of the period of probation. See C.R.C.P. 251.7(f). Upon receipt of this notice and absent objection from the People, the Court shall issue an order showing that the period of probation was successfully completed. *Id.* The order shall become effective upon the expiration of the period of probation. *Id.*
4. **Violation of Conditions.** If, during the period of probation, the People receive information that any condition may have been violated, the People may file a motion with the Court

specifying the alleged violation and seeking an order that requires the attorney to show cause why the stay should not be lifted and the sanction activated for violation of the condition. See C.R.C.P. 251.7(e). The filing of such a motion shall toll any period of suspension and probation until final action. *Id.* Any hearing shall be held pursuant to C.R.C.P. 251.7(e). When, in a revocation hearing, the alleged violation of a condition is the Respondent's failure to pay restitution or costs, the evidence of the failure to pay shall constitute *prima facie* evidence of a violation. *Id.*

5. Pursuant to C.R.C.P. 251.32, Respondent shall pay costs incurred in conjunction with this matter in the amount of \$91.00 within thirty-five days of the date of this order. Costs are payable to the Colorado Supreme Court Attorney Regulation Offices. Statutory interest shall accrue from the date of this order. Should Respondent fail to pay the aforementioned costs and interest within thirty-five days, he shall be responsible for all additional costs and expenses, including reasonable attorney's fees, incurred by the People in collecting the above-stated amount. The People may seek to amend the amount of the judgment for additional costs and expenses by providing a motion and bill of costs to the Court.

**THIS ORDER IS ENTERED THE 10<sup>th</sup> DAY OF APRIL, 2014. THE EFFECTIVE DATE OF THE PROBATION IS THE 15<sup>th</sup> DAY OF MAY, 2014.**



  
WILLIAM R. LUCERO  
PRESIDING DISCIPLINARY JUDGE

**Respondent's Counsel**

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Via Email

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Via Email

**Metro Lawyer Referral Service**

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Aurora, CO 80014  
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Via Email

**American Bar Association**

c/o Nadine Cignoni  
Office of Attorney Regulation Counsel  
1300 Broadway, Suite 500  
Denver, CO 80203  
n.cignoni@csc.state.co.us

Via Email

**Supreme Court of the United States**

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<p style="text-align: center;">SUPREME COURT, STATE OF COLORADO</p> <p style="text-align: center;">ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203</p>		
<p><b>Complainant:</b> THE PEOPLE OF THE STATE OF COLORADO</p> <p><b>Respondent:</b> JOHN WILLIAM TINDER</p>	<p><b>Case Number:</b> 14PDJ032</p>	
<p style="text-align: center;"><b>ORDER REVOKING PROBATION PURSUANT TO C.R.C.P. 251.7(e)</b></p>		

Before the Presiding Disciplinary Judge ("the Court") is a "Motion to Lift Stay and Impose Sanction Pursuant to C.R.C.P. 251.7(e)" filed on August 12, 2015, by Geanne R. Moroye, Office of Attorney Regulation Counsel ("the People"), alleging that John William Tinder ("Respondent") violated the terms of his probation. Respondent filed a response on September 2, 2015.

## I. BACKGROUND

On April 10, 2014, the Court approved a "Stipulation, Agreement and Affidavit Containing the Respondent's Conditional Admission of Misconduct," and suspended Respondent for six months, all stayed upon the successful completion of a two-year period of probation. The conditions of probation included that Respondent must not violate the Rules of Professional Conduct. The probation took effect May 15, 2014.

The People's pending motion asks the Court to find that Respondent violated the terms of his probation by contravening the following rules: Colo. RPC 1.1 (a lawyer shall provide competent representation to a client); Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.4(a)(4) (a lawyer shall promptly comply with reasonable requests for information); Colo. RPC 3.3(a)(1) (a lawyer shall not knowingly make a false statement of material fact or law to a tribunal); Colo. RPC 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal); Colo. RPC 3.4(d) (a lawyer shall not, in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with an opposing party's legally proper discovery request); and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

After finding that the People adequately alleged Respondent had violated his probationary conditions, the Court issued an "Order to Show Cause Pursuant to C.R.C.P. 251.7(e)" on August 13, 2015. Respondent filed his response on September 2, 2015, opposing revocation of his probation. Neither party requested a hearing under C.R.C.P. 251.7(e).

## II. LEGAL STANDARDS

If the People receive information indicating that an attorney may have violated a condition of probation, the People may ask the Court to order the attorney to show cause why the attorney's sanction should not be lifted under C.R.C.P. 251.7(e). The Court shall hold a hearing upon the motion of either party. Under C.R.C.P. 251.7(e), the People bear the burden of establishing by a preponderance of the evidence that the attorney violated a condition of probation.<sup>1</sup>

## III. FINDINGS OF FACT AND ANALYSIS

In his stipulation of misconduct, Respondent agreed to not engage in further violations of the Rules of Professional Conduct during his period of probation. The People contend that Respondent violated this condition while representing Nancy Williamson in Adams County District Court case number 13CV207.

On November 13, 2013, Williamson hired Respondent to represent her in the Adams County matter.<sup>2</sup> He entered his appearance two days later.<sup>3</sup> Respondent received discovery requests from the opposing party on April 9, 2014.<sup>4</sup> Respondent gave Williamson the discovery requests on April 20, and she returned her answers to him the next day.<sup>5</sup> Williamson's responses were not filed by the due date of May 14, 2014.<sup>6</sup> Respondent contends that Williamson cancelled a meeting he had scheduled to properly execute the discovery responses.<sup>7</sup> Respondent admits, however, that he failed to properly calendar the due date for the responses and that he failed to timely move for an extension of that due date.<sup>8</sup>

As noted above, Respondent's probation took effect on May 15, 2014.

On May 22, 2014, opposing counsel in the case moved to deem admitted the requests for admission.<sup>9</sup> On June 2, Williamson went to Respondent's office to sign the discovery

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<sup>1</sup> C.R.C.P. 251.7(e).

<sup>2</sup> Mot. ¶ 8; Resp. ¶ 8.

<sup>3</sup> Mot. ¶ 8; Resp. ¶ 8.

<sup>4</sup> Mot. ¶ 9; Resp. ¶ 9.

<sup>5</sup> Mot. ¶ 10; Resp. ¶ 10.

<sup>6</sup> Mot. ¶ 9; Resp. ¶ 9.

<sup>7</sup> Resp. ¶ 10.

<sup>8</sup> Resp. ¶ 12.

<sup>9</sup> Mot. ¶ 11; Resp. ¶ 11.

responses.<sup>10</sup> He did not tell her that the answers were past due, nor did he inform her of opposing counsel's motion.<sup>11</sup> That same day, Respondent filed a response to the motion, along with Williamson's discovery answers.<sup>12</sup> On June 10, the court granted the motion to deem admitted the requests for admission.<sup>13</sup>

Williamson hired a handwriting expert to be called as a witness at trial.<sup>14</sup> She sent the expert the relevant documents and obtained the expert's findings.<sup>15</sup> Williamson gave information about the expert to Respondent, and on May 2 asked Respondent to file whatever was needed with the court.<sup>16</sup> On June 10, Williamson asked Respondent if he had subpoenaed the expert for the trial scheduled for July 10, and he replied that it was too early to do so.<sup>17</sup> Respondent missed the deadline for disclosing experts.<sup>18</sup>

On June 17, 2014, opposing counsel moved to exclude all of Williamson's witnesses and exhibits on grounds that they were not timely disclosed.<sup>19</sup> Respondent did not respond to the motions.<sup>20</sup> According to Respondent, the court had indicated to him that he could respond if there were valid responses, but there were in fact no valid responses.<sup>21</sup> The court granted the motions on June 26.<sup>22</sup>

The court set a hearing for June 20 to draft a trial management order.<sup>23</sup> Respondent failed to appear on time, arriving several hours later after the court called him.<sup>24</sup> On this basis, the court awarded opposing counsel \$885.00 in attorney's fees.<sup>25</sup> Respondent contends that his associate did not calendar the appearance or notify him of the order to appear.<sup>26</sup>

Williamson's trial was held on July 10.<sup>27</sup> Respondent's associate appeared in Respondent's stead.<sup>28</sup> After a trial, the court entered judgment in the opposing party's favor on all claims.<sup>29</sup>

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<sup>10</sup> Mot. ¶ 13; Resp. ¶ 13.

<sup>11</sup> Mot. ¶ 13; Resp. ¶ 13.

<sup>12</sup> Mot. ¶ 12; Resp. ¶ 12.

<sup>13</sup> Mot. ¶ 19; Resp. ¶ 19.

<sup>14</sup> Mot. ¶ 17; Resp. ¶ 17.

<sup>15</sup> Mot. ¶ 17; Resp. ¶ 17.

<sup>16</sup> Mot. ¶ 17; Resp. ¶ 17.

<sup>17</sup> Mot. ¶ 18; Resp. ¶ 18.

<sup>18</sup> Mot. ¶ 18; Resp. ¶ 18.

<sup>19</sup> Mot. ¶ 21; Resp. ¶ 21.

<sup>20</sup> Mot. ¶ 22; Resp. ¶ 22.

<sup>21</sup> Resp. ¶ 22.

<sup>22</sup> Mot. ¶ 26; Resp. ¶ 26.

<sup>23</sup> Mot. ¶ 23; Resp. ¶ 23.

<sup>24</sup> Mot. ¶ 24; Resp. ¶ 24.

<sup>25</sup> Mot. ¶ 24; Resp. ¶ 24.

<sup>26</sup> Resp. ¶ 24.

<sup>27</sup> Mot. ¶ 31; Resp. ¶ 31.

<sup>28</sup> Mot. ¶ 32; Resp. ¶ 32.



In response to the People's allegation that he violated Colo. RPC 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 3.3(a)(1), 3.4(c), 3.4(d), and 8.4(c),<sup>30</sup> Respondent does not deny that he violated any of the Rules of Professional Conduct.<sup>31</sup> Instead, he admits in part and denies in part the People's allegation, arguing that not all of the alleged actions took place during the probationary period.<sup>32</sup> He asserts that "[t]he probative complained of acts, or failure to act, occurred prior to Respondent's being placed on probation. The remaining complained of acts were not dispositive to the result in her case, as the real damage had already been done."<sup>33</sup> He further argues that he has not engaged in any more recent misconduct, that he has only ten remaining clients and plans to retire from the practice of law by December 1, 2015, that he is negotiating a settlement of the Williamson matter with the People, and that suspending him would hurt his remaining clients. In addition, he cites several mitigating factors under the American Bar Association *Standards for Imposing Lawyer Sanctions* (1991 & Supp. 1992) (ABA Standards): he lacks prior disciplinary history, he has an excellent reputation, he lacks any selfish motive in seeking to retain his license, and he has been cooperative in these proceedings.

The Court concludes that Respondent's admissions establish violations of the Rules of Professional Conduct during his probationary period. The Court reaches this result for two reasons. First, in paragraphs 7 and 37(a) of his response, Respondent admits that he engaged in at least some misconduct. Second, the specific factual admissions in Respondent's response establish that he engaged in misconduct.

As noted above, the People assert that Respondent violated Colo. RPC 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 3.3(a)(1), 3.4(c), 3.4(d), and 8.4(c). At this juncture, based on the limited record and the factual disputes, the Court cannot find that Respondent engaged in all of the misconduct alleged by the People. Respondent's admissions do establish, however, that he violated at least Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client) and Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter) during his probationary period. Respondent violated Colo. RPC 1.3 when he missed the deadline to disclose Williamson's handwriting expert.<sup>34</sup> Respondent's failure to appear for the hearing scheduled on June 20 also was a violation of Colo. RPC 1.3. Respondent contravened Colo. RPC 1.4(a)(3) during his June 2 meeting with Williamson because he did not inform her that her discovery answers were past due, nor did he inform her of opposing counsel's motion to deem admitted the requests for admission.

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<sup>29</sup> Mot. ¶ 34; Resp. ¶ 34.

<sup>30</sup> Mot. ¶ 7.

<sup>31</sup> Resp. ¶ 7.

<sup>32</sup> Resp. ¶ 7.

<sup>33</sup> Resp. ¶ 37(a).

<sup>34</sup> The Court observes that this type of misconduct is often charged under Colo. RPC 1.3, but it is sometimes charged under Colo. RPC 1.1. The Court does not intend to take a position here as to the proper charging vehicle for any of Respondent's misconduct.

Respondent's defenses here are unavailing. Even though the most damaging misconduct in the Williamson matter may have taken place before Respondent's probation took effect, he did engage in substantial misconduct during his period of probation. That he plans to retire soon, that he may not have engaged in any additional misconduct, that he is working to settle this disciplinary matter, and that his clients may be adversely affected by his suspension are simply not relevant considerations under C.R.C.P. 251.7(e). Likewise, mitigating factors under the ABA *Standards* do not bear on the determination of whether Respondent violated a condition of probation—they instead govern the nature of discipline to be imposed after a disciplinary complaint is filed.

In sum, the Court concludes the People have demonstrated that Respondent violated a condition of his probation. As such, the Court finds that Respondent's probation should be revoked and the stay on his suspension should be lifted.

#### IV. ORDER

The Court hereby **REVOKES** Respondent's two-year period of probation, **LIFTS** the stay on Respondent's six-month suspension, and **SUSPENDS** Respondent from the practice of law for **SIX MONTHS, EFFECTIVE October 6, 2015**. Respondent **SHALL** promptly comply with C.R.C.P. 251.28(a)-(c), concerning winding up of affairs, notice to parties in pending matters, and notice to parties in litigation. Respondent **SHALL** file with the Court, on or before **October 20, 2015**, an affidavit complying with C.R.C.P. 251.28(d).

DATED THIS 15<sup>th</sup> DAY OF SEPTEMBER, 2015.



WILLIAM R. LUCERO  
PRESIDING DISCIPLINARY JUDGE



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SUPREME COURT, STATE OF COLORADO  ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203	
<b>Petitioner:</b> THE PEOPLE OF THE STATE OF COLORADO  <b>Respondent:</b> JOHN WILLIAM TINDER	<b>Case Number:</b> 14PDJ032
<b>ORDER AND NOTICE OF SUSPENSION</b>	

On September 15, 2015, the Presiding Disciplinary Judge ("the Court") issued an "Order Revoking Probation Pursuant to C.R.C.P. 251.7(e)," determining that John William Tinder ("Respondent") had violated a condition of his probation and revoking Respondent's probation, effective October 6, 2015.

Accordingly, the Court **ORDERS** that **JOHN WILLIAM TINDER, ATTORNEY REGISTRATION NUMBER 39915, IS SUSPENDED FROM THE PRACTICE OF LAW FOR A PERIOD OF SIX MONTHS, EFFECTIVE October 6, 2015.** This order **SUPERSEDES** the portion of the Court's "Order Approving Conditional Admission of Misconduct and Imposing Sanctions Pursuant to C.R.C.P. 251.22" dated April 10, 2014, that stayed Respondent's six-month suspension.

Should Respondent wish to resume the practice of law, Respondent will be required to submit to the People, within twenty-eight days prior to the end of his period of suspension, an affidavit complying with C.R.C.P. 251.29(b).

DATED THIS 15<sup>th</sup> DAY OF SEPTEMBER, 2015.

*William R. Lucero*  
 WILLIAM R. LUCERO  
 PRESIDING DISCIPLINARY JUDGE



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<b>SUPREME COURT, STATE OF COLORADO</b> <b>ORIGINAL PROCEEDING IN DISCIPLINE BEFORE</b> <b>THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE</b> 1300 BROADWAY, SUITE 250 DENVER, CO 80203		<b>MAY 12 2016</b>  Office of the Presiding Disciplinary Judge By <u><i>[Signature]</i></u>
<b>Complainant:</b> THE PEOPLE OF THE STATE OF COLORADO		<b>Case Number:</b> 15PDJ082
<b>Respondent:</b> JOHN WILLIAM TINDER II		
<b>ORDER APPROVING CONDITIONAL ADMISSION OF MISCONDUCT</b> <b>AND IMPOSING SANCTIONS PURSUANT TO C.R.C.P. 251.22</b>		

Before the Presiding Disciplinary Judge ("the Court") is a "Stipulation, Agreement and Affidavit Containing the Respondent's Conditional Admission of Misconduct" filed by Geanne R. Moroye, Office of Attorney Regulation Counsel ("the People"), and John William Tinder II ("Respondent") on January 22, 2016. Also before the Court is a "Motion to Vacate Hearing" filed by the People on January 22, 2016. In their stipulation, the parties waive their right to a hearing under C.R.C.P. 251.22(c).

Upon review of the case file and the stipulation, the Court **ORDERS**:

1. The stipulation is **APPROVED**.
2. **JOHN WILLIAM TINDER II**, Attorney Registration Number 39915, is **SUSPENDED** from the practice of law for a period of **ONE YEAR AND ONE DAY**, subject to paying restitution as a condition of reinstatement, as set forth in paragraph 17 of the stipulation.
3. To the extent applicable, Respondent **SHALL** promptly comply with the provisions of C.R.C.P. 251.28(a)-(d).
4. Should Respondent wish to resume the practice of law after serving his suspension, he must file a petition for reinstatement pursuant to C.R.C.P. 251.29(c).
5. Pursuant to C.R.C.P. 251.32, Respondent shall pay costs incurred in conjunction with this matter in the amount of \$91.00 within thirty-five days of the date of this order. Costs are payable to the Colorado Supreme Court Attorney Regulation Offices. Statutory interest shall accrue from the date of this order. Should Respondent fail to pay the aforementioned costs and interest within thirty-five days, he shall be

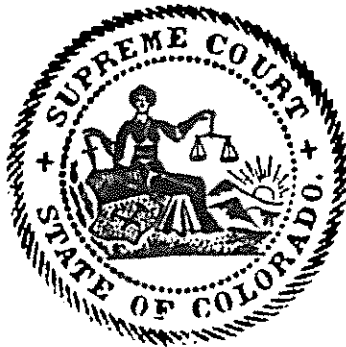
**EXHIBIT**


**2**

responsible for all additional costs and expenses, including reasonable attorney's fees, incurred by the People in collecting the above-stated amount. The People may seek to amend the amount of the judgment for additional costs and expenses by providing a motion and bill of costs to the Court.

6. The Court **GRANTS** the People's "Motion to Vacate Hearing" and **VACATES** the hearing scheduled for February 22-23, 2016.

**THIS ORDER IS ENTERED THE 26<sup>th</sup> DAY OF JANUARY, 2016. THE EFFECTIVE DATE OF THE SUSPENSION IS THE 26<sup>th</sup> DAY OF JANUARY, 2016.<sup>1</sup>**



  
WILLIAM R. LUCERO  
PRESIDING DISCIPLINARY JUDGE

---

<sup>1</sup> The Court notes that Respondent's suspension in this matter runs concurrent to the suspension he is serving in case number 14PDJ032.

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