BEFORE THE PRESIDING DISCIPLINARY JUDGE OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A NON-MEMBER OF THE STATE BAR OF ARIZONA,	**PDJ-2013-9014**
Michael Strizic, (Allan Michael Strizic)	**REPORT AND ORDER IMPOSING SANCTIONS**
Respondent.	State Bar No. 11-1370

PROCEDURAL HISTORY

The State Bar of Arizona ("SBA") filed its complaint on February 1, 2013. On February 6, 2013, the complaint was served on Respondent by certified, delivery restricted mail, as well as by regular first class mail, pursuant to Rules 47(c) and 58(a) (2), Ariz. R. Sup. Ct. The complaint was served by mail sent to Respondent's address of record according to the Membership Records Department of the State Bars of Wisconsin and Illinois, as well as the last known address of Respondent and his company, The Tax Edge. The Presiding Disciplinary Judge ("PDJ") was assigned to the matter. A notice of default was properly issued on March 5, 2013, given Respondent's failure to file an answer or otherwise defend. Respondent did not file an answer or otherwise defend against the complainant's allegations and default was properly entered on March 21, 2013, at which time a notice of aggravation and mitigation hearing was sent to all parties notifying them the aggravation mitigating hearing was scheduled for April 10, 2013, at 9:30 a.m. at 1501 West Washington, Room 109, Phoenix, Arizona 85007-3231. On April 10, 2013, the Hearing Panel,

composed of attorney member Judge Cecil B. Patterson, Jr. (retired), and public member Nance A. Daley heard argument.

FINDINGS OF FACT

COUNT ONE (File no. 11-1370/Vance)

1. Respondent is a lawyer who is not licensed to practice law in the state of Arizona.

2. Respondent is admitted to practice law in Wisconsin as Michael Strizic, bar no. 1016504, but he is currently suspended for noncompliance with "dues/CLE." His address of record with the State Bar of Wisconsin is 13610 N. 51st Ave., #143, Glendale, Arizona 85304-1412.

3. Respondent is also admitted to practice law in Illinois as Allan Michael Strizic, but his name has been removed from the roll of attorneys and he is not authorized to practice for failure to comply with CLE requirements. His address of record with the State Bar of Illinois is 9032 W. Cielo Grande, Denver, Colorado 85383-1406.

4. At all relevant times, Respondent operated a company called "The Tax Edge." The documents prepared by this company identify the legal document preparer as "Michael Strizic, JD, LLM." The address for the company is listed as 8472 E. San Bernardo, Scottsdale, Arizona 85258. There is no listing for "The Tax Edge" with the Arizona Corporation Commission. Further, according to the records of the Arizona Supreme Court, Respondent has never been a certified legal document preparer.

5. On March 3, 2007, Cathy J. Pascal (Decedent) executed a Last Will and Testament. The document does not reflect who prepared it, but Respondent notarized the signatures of the witnesses to its execution.

6. Also on that date, Decedent executed a Revocable Living Trust. The Trust was prepared by Respondent and "The Tax Edge."

7. Article Nine, Section 2(c) of the Trust provides for the distribution of Trust Share to Respondent: "I bequeath and require that my Trustee transfer ownership of the Condominium I own located at Sun Valley Casitas, Unit 124, Mesa, Arizona, . . . my horse named "JET", and my horse trailer that does not have living quarters and my pick-up trucks, should I still own them, to Beth Anne Strizic [Respondent's ex-wife], as Trustee, in trust for ALLAN MICHAEL STRIZIC, . . ."

8. Respondent notarized Decedent's signature on the Trust.

9. On April 27, 2008, Decedent executed a document identified as "The First Amendment to the Cathy J. Pascal Trust dated March 3rd, 2007." The document does not reflect who prepared it, but Respondent notarized Decedent's signature.

10. Decedent passed away on July 25, 2010, and an informal probate was opened in the Maricopa County Superior Court, PB 2010-070047.

11. On or about December 9, 2010, Complainant filed a Petition for Removal of Trustees and Co-Personal Representatives in an effort to recover property of the Decedent's estate to which Complainant believed she was entitled.

12. According to Complainant, Decedent's sister, the Respondent took advantage of the Decedent, who suffered from Multiple Sclerosis and was an

alcoholic, so that he could write himself into Decedent's trust documents as a beneficiary.

13. On May 3, 2011, the Maricopa County Superior Court approved a settlement agreement and agreement to modify and terminate trust entered into between the parties.

14. SBA Investigator Mike Fusselman found an internet listing for Respondent with an attorney profile that listed an address in Denver, Colorado. He was unable to locate an attorney with Respondent's name in the Colorado State Bar records.

15. On June 28, 2011, Bar Counsel sent a screening letter to Respondent at the address set forth on the Trust, 13610 N. 51st Ave., #143, Glendale, Arizona 85304-1412. The letter was returned as not deliverable as addressed and unable to forward.

16. On July 3, 2011 and August 9, 2011, Bar Counsel sent additional screening letters to Respondent at 8472 E. San Bernardo, Scottsdale, Arizona 85258. The letters were not returned to the SBA. Respondent has never responded to the SBA's inquiries.

17. Respondent violated E.R. 1.8(c) [Conflict of Interest: Current Clients]. Respondent prepared on behalf of a client to whom he was not related an instrument giving the lawyer or a person related to the lawyer a substantial gift. Respondent committed a conflict of interest by preparing the Decedent's trust documents and including himself as a beneficiary under the trust.

18. Respondent violated E.R. 5.5 (b)(2) [Unauthorized Practice of Law]. Respondent, a lawyer who is not admitted to practice in this jurisdiction, held

himself out to the public and otherwise represented that he was admitted to practice law in this jurisdiction. Rule 31(a)(2)(B)(2) provides that unauthorized practice of law includes using the designations "J.D." or other equivalent words by any person who is not authorized to practice law in this state, the use of which is reasonably likely to induce others to believe that the person is authorized to engage in the practice of law in this state. Respondent violated this rule by operating as "The Tax Edge" and using the designations "J.D." and "LLM."

19. Respondent violated Rule 54(d)(2), Ariz.R.Sup.Ct. [Grounds for Discipline]. Grounds for discipline of a non-member include the failure to furnish information or respond promptly to any inquiry or request from bar counsel. Respondent did not respond to the screening letters sent to 13610 N. 51st Ave., #143, Glendale, Arizona 85304-1412 and 8472 E. San Bernardo, Scottsdale, Arizona 85258, which letters were not returned undelivered.

CONCLUSIONS OF LAW

Respondent failed to file an answer or otherwise defend against the allegations in the SBA's complaint. Default was properly entered and the allegations are therefore deemed admitted pursuant to Rule 58(d), Ariz. R. Sup. Ct. Based upon the facts deemed admitted, the Hearing Panel finds by clear and convincing evidence that Respondent violated the following: Rule 42, Ariz. R. Sup. Ct., specifically E.R.s 1.8(c), 5.5(b)(2), and Rule 54(d).

ABA STANDARDS ANALYSIS

The American Bar Association's *Standards for Imposing Lawyer Sanctions ("Standards")* are a "useful tool in determining the proper sanction." *In re Cardenas*, 164 Ariz. 149, 152, 791 P.2d 1032, 1035 (1990). In imposing a

sanction, the following factors should consider: (1) the duty violated; (2) the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating factors. *Standard* 3.0.

Duties violated:

Respondent violated his duty to a client by violating E.R. 1.8(c). Respondent also violated his duty owed as a professional by violating E.R. 5.5(b)(2), as well as Rule 54(d).

Mental State and Injury:

Respondent violated his duty to a client, thereby implicating *Standard* 4.3 [Failure to Avoid Conflicts of Interest].

Standard 4.31 states: Disbarment is generally appropriate when a lawyer, without the informed consent of client(s): (a) engages in representation of a client knowing that the lawyer's interests are adverse to the client's with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to the client.

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

In this matter, Respondent prepared a Revocable Living Trust, which named Respondent as a beneficiary of the client's trust. After the client's death, Respondent acquired certain of the client's assets through the operation of the trust. Therefore, *Standard 4.31* is applicable.

Respondent also violated his duty owed as a professional, which implicates *Standard* 7.0. *Standard* 7.1 states, "Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system." *Standard* 7.2 states, "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."

In this matter, Respondent failed to substantively respond to the SBA's investigation. Further, Respondent's actions were taken with the intent to obtain a personal benefit. *Standard* 7.1, therefore, is applicable.

The Panel determined that disbarment is the presumptive sanction. However, because Respondent is not a member of the State Bar of Arizona, the Panel is limited to the sanction of reprimand. *See In the Matter of a Non-Member Practicing Law in the State of Arizona, K. David Olsen,* 180 Ariz. 5, 7, 881 P.2d 338, 339 (1994) (disbarment warranted, however respondent is not a member of the State Bar of Arizona and therefore, the only sanction that can be imposed is censure [now a reprimand]).

AGGRAVATING AND MITIGATING FACTORS

The Hearing Panel finds the following aggravating factors are present in this matter:

- *Standard* 9.22(b) - dishonest or selfish motive: Respondent prepared the client's trust documents and named himself as a beneficiary under those documents. Upon the client's death, Respondent acquired certain of the client's

assets. Respondent also failed to substantively respond to the SBA's investigation to cover up his misdeeds.

- *Standard* 9.22 (e) - bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency: Respondent did not respond to the SBA's investigation. "Failure to cooperate with disciplinary authorities is a significant aggravating factor." *Matter of Pappas*, 159 Ariz. 516, 527, 768 P.2d 1161, 1172 (1988).

- *Standard* 9.22(h) – vulnerability of victim. Respondent's client suffered from Multiple Sclerosis and was an alcoholic.

The Hearing Panel finds the following mitigating factor applies:

- *Standard* 9.32(a) absence of a prior disciplinary record: The Hearing Panel considered this factor however, Respondent is not licensed in Arizona and although there has been no prior discipline as a non-member, the Hearing Panel gave this factor little weight.

The Hearing Panel finds the sole mitigating factor does not outweigh the aggravating factors. The State Bar is seeking only a reprimand in this case because Respondent is a non-Arizona attorney.

CONCLUSION

The Supreme Court "has long held that 'the objective of disciplinary proceedings is to protect the public, the profession and the administration of justice and not to punish the offender.'" *Alcorn*, 202 Ariz. at 74, 41 P.3d at 612 (2002) (quoting *In re Kastensmith*, 101 Ariz. 291, 294, 419 P.2d 75, 78 (1966). It is also the purpose of lawyer discipline to deter future misconduct. *In re Fioramonti*, 176 Ariz. 182, 859 P.2d 1315 (1993). It is also a goal of lawyer regulation to protect

and instill public confidence in the integrity of individual members of the SBA. *Matter of Horwitz*, 180 Ariz. 20, 881 P.2d 352 (1994).

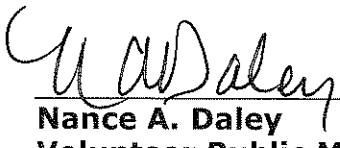
The Hearing Panel has made the above findings of fact and conclusions of law. The Hearing Panel has determined the appropriate sanction using the facts deemed admitted, the *Standards*, the aggravating factors, the mitigating factor, and the goals of the attorney discipline system. If Respondent had been an Arizona attorney, the Hearing Panel would have ordered disbarment, however, for the reasons stated above,

IT IS ORDERED:

1. Respondent shall be reprimanded.
2. Respondent shall pay all costs and expenses incurred by the SBA and the Office of the Presiding Disciplinary Judge in this proceeding.
3. A final judgment and order will follow.

DATED this 10th day of April, 2013.

Honorable William J. O'Neil
Presiding Disciplinary Judge



Nance A. Daley
Volunteer Public Member

Judge Cecil B. Patterson, Jr. (retired)
Volunteer Attorney Member

Original filed with the Disciplinary Clerk
Of the Office of the Presiding Disciplinary Judge
Of the Supreme Court of Arizona
this 10th day of April, 2013.

Copies of the foregoing mailed
this 10th day of April, 2013, to:

Michael Strizic
8472 E. San Bernardo
Scottsdale, AZ 85258
Respondent

Michael Strizic
13610 N. 51st Ave., #143
Glendale, AZ 85304-1412
Respondent

Michael Strizic
9032 W. Cielo Grande
Denver, CO 85383-1406
Respondent

Copy of the foregoing emailed
this 10th day of April, 2013, to:

Stacy L.Shuman
Bar Counsel
State Bar of Arizona
4201 N. 24th St., Suite 100

Copy of the foregoing hand-delivered
this 10th day of April, 2013, to:

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

by: Laura L. Hopkins

BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A NON-MEMBER OF THE STATE BAR OF ARIZONA, **MICHAEL STRIZIC,** **(ALLAN MICHAEL STRIZIC)** Respondent.	**PDJ-2013-9014** **AMENDED** **FINAL JUDGMENT AND ORDER** [State Bar File No. 11-1370]

This matter having come on for an aggravation/mitigation hearing before a Hearing Panel of the Supreme Court of Arizona and a decision in this matter having been duly rendered on March 11, 2013; and no appeal having been filed and the time for appeal having passed, now accordingly:

IT IS HEREBY ORDERED that Respondent, **MICHAEL STRIZIC,** is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, effective the date of this Order.

IT IS FURTHER ORDERED that no further disciplinary action shall be taken in reference to the matters that are the subject of the charges upon which this Judgment and Order of reprimand are based.

IT IS FURTHER ORDERED that Respondent, **MICHAEL STRIZIC** shall pay the costs and expenses of the State Bar of Arizona, which are approved in the amount of $2,016.95, within thirty (30) days from the date of service of this Order. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 7th day of May, 2013.

William J. O'Neil, Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 7th day of May, 2013.

Copies of the foregoing mailed/emailed
this 7th day of May, 2013, to:

Michael Strizic
8472 E. San Bernardo
Scottsdale, AZ 85258
Respondent

Michael Strizic
13610 N. 51st Ave., #143
Glendale, AZ 85304-1412
Respondent

Michael Strizic
9032 W. Cielo Grande
Denver, CO 85383-1406
Respondent

Stacy L. Shuman
Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: lro@staff.azbar.org

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

by: