

**BEFORE A HEARING OFFICER
OF THE SUPREME COURT OF ARIZONA**

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

VICTORIA M. STEVENS,
Bar No. 014060,

Respondent.

File Nos. 07-0960, 07-1466, 07-1467,
07-1590, 08-0238, 08-0353,
08-0410, 08-0435, 08-0448,
08-0472, 08-0589, 08-0605,
08-0646, 08-0693, 08-1126,
08-1234, 08-1338, 08-1575

HEARING OFFICER REPORT

(Assigned to Hearing Officer 9J
Mark S. Sifferman)

PROCEDURAL HISTORY

The Complaint in this matter was filed September 30, 2008. The Complaint was served October 3, 2008, by certified mail - restricted delivery to Respondent (a) at the address of record provided by Respondent to the Membership Records Department of the State Bar of Arizona and (b) at the last known residential address for Respondent. Respondent failed to answer the Complaint within the time frame set forth in the Rules. On October 29, 2008, a Notice of Default was filed. A Default was entered November 18, 2008.

By a Notice filed and mailed November 25, 2008, an aggravation and mitigation hearing was scheduled for January 9, 2009. Notice of the hearing was provided to Respondent. At the hearing, the State Bar appeared through its counsel, Amy Rehm. Respondent did not appear at the hearing and no counsel appeared for Respondent.

FINDINGS OF FACT

Based upon the whole record submitted to the Hearing Officer, and based upon the effect of the default entered against Respondent, this Hearing Officer finds:

RESPONDENT'S BACKGROUND

1. Respondent was admitted to practice law in this State on October 26, 1991. Complaint, ¶ 1.

2. On July 28, 2008, the Supreme Court of Arizona suspended Respondent on an interim basis. As of the date of the aggravation and mitigation hearing in this matter, Respondent had not been reinstated to the practice of law in the State of Arizona. Complaint, ¶ 2.

COUNT ONE (FILE NO. 07-0960)

3. On or about February 13, 2007, Jim and April Stieglitz consulted with Respondent about defending them in a civil lawsuit with which they had recently been served concerning a credit card debt. Respondent agreed to the representation, and charged these clients \$1,000.00 as legal fees which they paid. *Complaint*, ¶¶ 3 – 34.

4. At the initial consultation, these clients informed Respondent that an answer

to the complaint was due by February 17, 2007, which Respondent acknowledged.

Respondent indicated that she would file a timely answer. *Id.*

5. On February 18, 2007, Mr. Stieglitz telephoned Respondent for a status report as to the filing of the answer. Respondent told Mr. Stieglitz that she was filing an answer that day as the 17th was a holiday. She stated that she would email him a copy of the answer. *Id.* After not receiving an email from Respondent, the Stieglitzes again telephoned her several days later to request a status update. They left a message for Respondent to return their call. Respondent failed to do so. *Id.*

6. Thereafter, for weeks, either or both Mr. and Mrs. Stieglitz telephoned Respondent numerous times and left messages for her requesting a status update. They also sent several email requests for her information. Respondent failed to respond to any of these telephone calls or email messages, and otherwise failed to communicate with the clients. *Id.*

7. On or about March 2007, the Plaintiff in the lawsuit filed an Application for Entry of Default as no answer had been filed on behalf of Mr. and Mrs. Stieglitz. This Application was served on the clients as Respondent had not filed a Notice of Appearance in the matter. *Id.*

8. In late April 2007, Mrs. Stieglitz finally reached Respondent by telephone. Ms. Stieglitz asked Respondent to immediately send them a copy of the answer filed on their behalf, which Respondent agreed to do. Ms. Stieglitz then specifically asked

Respondent when the Answer had been filed, to which the Respondent had replied “ages ago.” This statement was false as no answer had been filed. Respondent knew, at the time, that she had not filed the Answer. *Id.*

9. The clients submitted a Bar charge against Respondent dated June 4, 2007, indicating that they could not reach Respondent and that an Application for Default had been filed in the case. This Bar charge was sent to Respondent on June 21, 2007. Even after the time of the Bar charge, Respondent did not contact the clients, and took no action to prevent the entry of a Default Judgment. *Id.* A Default Judgment was entered against the Stieglitzes on August 3, 2007. *Id.*

10. By a letter dated August 27, 2007, Respondent responded to the Bar charge. In her response, Respondent stated that she had not filed a timely answer because she was negotiating with opposing counsel, who had given her an open extension to answer. Respondent presented a letter that she had purportedly written and sent to Plaintiffs’ counsel confirming the open extension. *Id.*

11. The State Bar asked for further information from the Respondent as the letterhead on the letter she provided to the State Bar which was purportedly sent to Plaintiff’s counsel showed an address for Respondent to which she had not yet moved as of the date of that letter. *Id.*

12. In response, Respondent indicated that she had included a copy of that letter in her response “in error” as a result of simply printed from her computer on her new

letterhead. She then included the purported “original” letter. Respondent also provided a copy of the Motion to Set Aside Default that she had filed on August 5, 2007, with an attached copy of the erroneous letter. Respondent did not consult with the clients about the Motion to Set Aside the Default prior to filing it. *Id.*

13. The Superior Court granted the motion to set aside default and dismissed the case based in part on Respondent’s contention that she had an open extension of time to answer from the Plaintiff. Plaintiff’s counsel, in fact, had not provided Respondent with an open extension of time with which to answer and had never even spoken to the Respondent. Plaintiff’s counsel never received a copy of the letter from Respondent confirming the purported open extension. *Id.* Respondent’s statement to the State Bar that Plaintiff’s counsel had provided an open extension for time to answer were false and Respondent knew they were false. Respondent’s statements to the Court that Plaintiff’s counsel had provided an open extension of time to answer were false and Respondent knew they were false. *Id.*

14. The Superior Court granted Respondent’s Motion to Set Aside the Default Judgment and dismissed the case based on the Respondent’s false statements. *Id.*

15. Subsequently, Plaintiff’s counsel filed a Motion for Relief from a final order and to set aside dismissal of the case as she had never received the Respondent’s motion. Meanwhile, a court commissioner, apparently unaware of the Court’s dismissal, granted summary judgment in favor of the Plaintiff against the clients. *Id.* On or about

February 1, 2008, the Superior Court ruled on the Motion to Set Aside Dismissal, granted the motion, and affirmed the judgment against the clients. *Id.*

COUNT TWO (FILE NO. 07-1466)

16. On or about April 23, 2007, Larry DeMik of Supershear, LLC retained Respondent to assist his company in recovering uncollected receivables from a customer. *Complaint*, ¶¶ 37 – 66.

17. On or about April 8, 2007, Mr. DeMik wired Respondent a retainer of \$5,000.00 for the legal work. On that same day, Mr. DeMik supplied the Respondent with the customer's past due invoices and other related paperwork for the case. *Id.*

18. On or about May 25, 2007, Mr. DeMik corresponded with Respondent by email about the status of the matter. At that time, Respondent informed Mr. DeMik that she would have a demand letter ready to send to the customer within a few days. *Id.*

19. On or about June 11, 2007, Respondent and Mr. DeMik reviewed a draft of the demand letter. After it was finalized, the Respondent informed Mr. DeMik that the letter would be hand-delivered to the customer the following week. *Id.*

20. On or about June 22, 2007, Mr. DeMik phoned Respondent for an update. She informed him that they should give it some more time to see if the customer would respond to the demand letter. *Id.*

21. On or about July 3, 2007, Respondent emailed Mr. DeMik and informed him that she had been in contact with the customer's attorney and that they were playing

“phone tag.” *Id.*

22. On or about August 8, 2007, Respondent informed Mr. DeMik that the next step was to file a lawsuit. Respondent told him that she would have the Complaint prepared and ready to file on August 10, 2007. Thereafter, Mr. DeMik was unable to contact Respondent. Although Mr. DeMik made numerous attempts to contact Respondent, she failed to respond to his attempts at communication. *Id.*

23. On or about August 17, 2007, Mr. DeMik sent Respondent a Federal Express letter demanding a response and a refund of his fees. Respondent failed to timely respond to his request. *Id.*

24. Mr. DeMik filed a Bar charge against Respondent dated August 31, 2007. By a letter dated September 13, 2007, Respondent was sent a copy of Mr. DeMik’s Bar charge, along with a letter requiring her to submit a written response within 20 days. By telephone, Respondent was granted an extension of time within which to respond to the Bar charge, with the extension until November 16, 2007. Respondent failed to submit a response to the Bar charge by the extended deadline. *Id.*

25. Respondent sent an email to Bar counsel on November 30, 2007, requesting additional time. In her email, Respondent based her request on the hospitalization of her mother in Michigan and indicated that she was traveling home to Michigan. By return email, Bar counsel indicated that the response was already overdue, but the file would be held until December 14, 2007, for disposition. Respondent did not submit a response by

December 14, 2007. *Id.*

26. By letter dated January 22, 2008, Respondent was asked once again to provide specific information relating to the Bar charge within 10 days of the date of that letter. Respondent did not submit a timely response, but did submit a response dated February 15, 2008. That untimely response did not include all the information requested by Bar counsel. *Id.*

27. Respondent was also asked to present documentation that she had traveled to Michigan as stated in her earlier email. In response, Respondent indicated that she had not, in fact, traveled out of state. In her response, Respondent also stated that she had drafted a Complaint for Mr. DeMik and mailed it to him on or about August 13, 2007. *Id.*

28. Mr. DeMik never received the Complaint the Respondent claimed to have mailed. Respondent's statement that she sent a copy to Mr. DeMik for review was false. *Id.*

29. Respondent also submitted a letter to the State Bar that she purportedly sent to Mr. DeMik on or about August 17, 2007, with an accounting and further discussing the Complaint. Mr. DeMik never received the August 17, 2007 letter or any other communication from Respondent regarding the matter. Respondent's statement that she sent the August 17, 2007 letter to Mr. DeMik was false. *Id.*

30. Even after receiving the Bar charge, Respondent made no attempt to contact Mr. DeMik. *Id.*

COUNT THREE (FILE NO. 07-1467)

31. In April 2005, Dustin Bowen retained Respondent to represent him in responding to a Notice of Written Deposition in a matter in which Mr. Bowen was a potential witness. The matter involved the collection of a civil judgment which had been entered against Mr. Bowen's father. The written deposition questions were standard, and all involved questions about whether Mr. Bowen shared any assets with his father. Mr. Bowen paid Respondent a retainer of \$5,000.00 which was to be billed against at \$250.00 per hour. *Complaint*, ¶¶ 67 – 90.

32. In June 2005, Mr. Bowen met with Respondent to answer the written deposition questions. The meeting lasted for approximately 40 minutes. *Id.*

33. Respondent submitted Mr. Bowen's written deposition answers in June 2005. For each answer, Mr. Bowen, through Respondent, answered either "does not exist" or "does not possess" or the like. After submitting the answers to the deposition questions, Respondent notified Mr. Bowen that she had incurred approximately \$700.00 fees to date in her representation of him. *Id.*

34. In December 2006, Mr. Bowen learned that he would not be called as a witness in this case. After that time, Mr. Bowen contacted Respondent for a refund of the unused portion of the retainer. Respondent informed Mr. Bowen that she would review the file and issue a refund. Thereafter, Mr. Bowen was unable to contact Respondent about the refund, despite numerous attempts to do so. *Id.*

35. Mr. Bowen submitted a Bar charge dated August 25, 2007. By letter dated September 13, 2007, Respondent was sent a copy of Mr. Bowen's Bar charge, along with a letter requiring her to submit a written response within 20 days. By telephone, Respondent was granted an extension of time in which to respond to Mr. Bowen's Bar charge with the extension until November 16, 2007. Respondent failed to submit a response to the Bar charge by the deadline. *Id.*

36. Respondent sent an email to Bar counsel on November 30, 2007, requesting additional time, basing her request on the hospitalization of her mother in Michigan and indicating that she was traveling home to Michigan. *Via* email, Bar counsel indicated that the response was already overdue but that the file would be held until December 14, 2007, for disposition. Respondent did not submit a response by December 14, 2007. *Id.*

37. By letter dated January 22, 2008, Respondent was asked to provide specific information relating to the Bar charge within 10 days of the date of the letter. Respondent did not submit a timely response, but did submit a response dated February 15, 2008. That Response did not include all information requested by Bar counsel. *Id.*

38. Respondent was asked to present documentation showing that she had traveled to Michigan as stated in her earlier email. In response, Respondent admitted that she had not, in fact, traveled out of state. *Id.*

39. In addition, in the response to the bar charge, Respondent indicated that she had spoken with Mr. Bowen in 2006 and informed him that the retainer had been used.

She further indicated that she spoke to Mr. Bowen again after he had contacted the State Bar and again informed him that the retainer had been used. Respondent did not, in fact, speak to Mr. Bowen about the fees on the two occasions, and never informed him that the retainer had been used. Respondent's statements in her response to the bar charge were false and Respondent knew they were false. *Id.*

COUNT FOUR (FILE NO. 07-1590)

40. In approximately 1999, Communication Ventures Inc. ("CVI") filed for bankruptcy. Respondent was retained to represent CVI in that bankruptcy matter. *Complaint*, ¶¶ 91 – 115.

41. On or about August 3, 2000, Respondent received a check from Winbeam, Inc. in the amount of \$10,000.00 which related to a pending transaction with CVI which was approved by the bankruptcy court. The \$10,000.00 check was purportedly deposited into Respondent's IOLTA Account and held there pending the close of the transaction. *Id.*

42. In approximately September 2006, Respondent was replaced in the CVI bankruptcy matter by another attorney. This substitution was due to CVI's problems in communicating with Respondent. *Id.*

43. On or about March 10, 2007, the transaction with Winbeam Inc. closed and the \$10,000.00 could be released to CVI. Thereafter, CVI and its new attorneys repeatedly requested that Respondent release the \$10,000.00 to them. Respondent failed to release the funds. Respondent contended that the \$10,000.00 was held in a separate

escrow account for CVI, and that she provided that information to CVI's new attorney.

Id.

44. On or about March 15, 2007, a check in the amount of \$15,000.00 from Multi-Micro, Inc., to Respondent on behalf of CVI cleared the Multi-Micro account. This check was to be applied to any court approved attorneys' fees relative to the CVI's bankruptcy case. *Id.*

45. Despite numerous requests from both CVI and its new attorneys, Respondent has not submitted a payment request to the bankruptcy court nor refunded the money. Respondent claims that the \$15,000.00 has been held in her client trust account and that she has simply been dilatory in requesting payment authorization from the Court. *Id.*

46. Russell Ritchie, on behalf of CVI, submitted a bar charge dated April 20, 2007. By letter dated October 2, 2007, Respondent was sent a copy of Mr. Ritchie's bar charge, together with a letter requiring her to submit a written response within 20 days. By telephone, Respondent was granted an extension of time until November 16, 2007, in which to respond. Respondent failed to submit a response to the bar charge by that deadline. *Id.*

47. Respondent sent an email to bar counsel on November 30, 2007, requesting additional time to respond. In the email, Respondent based her request on the hospitalization of her mother in Michigan and indicated that she was traveling to

Michigan. In a responsive email, bar counsel indicated that the response to the bar charge was already overdue but that the file would be held until December 14, 2007 for disposition. Respondent did not submit a response by December 14, 2007. *Id.*

48. By a letter dated January 22, 2008, Respondent was asked to provide specific information relating to the bar charge within 10 days of the date of the letter. Respondent did not submit a timely response, but did submit a response dated February 16, 2008. This response did not include all of the information requested by bar counsel. *Id.*

49. Respondent was also asked to present documentation that she had traveled to Michigan as stated in her earlier email. In response, Respondent indicated that she had not, in fact, traveled out of state. *Id.*

50. Respondent was later asked to provide trust account documentation showing that the \$15,000.00 had been deposited and held in her trust account. Respondent was unable to furnish complete trust account documentation. Based upon trust account documents provided by Respondent, along with further trust account documents obtained from the relevant bank, the Respondent did not hold the funds in Trust for CVI. *Id.*

COUNT FIVE (FILE NO. 08-0238)

51. In approximately October 2007, Cory Anderson retained Respondent to represent him in a legal action to recover his car which he alleged had been stolen by a

repair shop. Mr. Anderson, and his father Stacey Anderson, met with Respondent in her office for the initial consultation, at which time Mr. Anderson provided Respondent with paperwork regarding the matter. *Complaint*, ¶¶ 116 – 136.

52. Mr. Anderson and Respondent agreed that the retainer for the work would be \$2,500.00. At the initial consultation, Respondent agreed to send Mr. Anderson a written fee agreement. Mr. Anderson delivered a check for \$2,500.00 as a retainer, but the check did not initially clear. Respondent's office contacted Mr. Anderson a number of times concerning the retainer check, which subsequently was honored. *Id.*

53. Mr. Anderson never received a written fee agreement from Respondent. *Id.*

54. Mr. Anderson received no further communication from Respondent regarding the case. Both Mr. Anderson and his father made numerous attempts to communicate with Respondent, leaving both emails and phone messages to which no response occurred. *Id.*

55. Respondent provided no legal work to Mr. Anderson. *Id.*

56. Mr. Anderson filed a lawsuit in Justice Court to recover the retainer paid to Respondent. Respondent failed to answer the Complaint, and a judgment was entered against Respondent in favor of Mr. Anderson in the amount of \$5,000.00. Respondent failed to pay the judgment or otherwise return the moneys to the Andersons. *Id.*

57. On or about February 6, 2008, Mr. Anderson submitted a bar charge against Respondent. By letter dated February 28, 2008, the State Bar sent Mr. Anderson's bar

charge to Respondent along with a letter requiring her to submit a written response within 20 days. Respondent did not submit a response to the bar charge until after the issuance of an order for probable cause. *Id.*

58. In the June 22, 2008 response, Respondent claimed that she drafted a complaint for Mr. Anderson and mailed it to him for review in November 2007. Mr. Anderson never received the complaint. Respondent's statement that she mailed Mr. Anderson the complaint in November 2007 was false and she knew it was false. *Id.*

COUNT SIX (FILE NO. 08-0353)

59. On or about December 6, 2007, Penelope and Joseph Julian consulted with Respondent about representing them in connection with problems with creditors. The Julians formally retained Respondent on or about December 13, 2007. The Julians made three separate payments to Respondent totaling \$2,000.00 for legal fees. *Complaint*, ¶¶ 138 – 152.

60. The Julians believed that the Respondent was to contact their creditors to stop abusive collection practices and to negotiate settlement of their debts. When the Julians met with Respondent on December 13, 2007, they provided Respondent with relevant paperwork, including pending judgments against them. *Id.*

61. Thereafter, the Julians had no contact with Respondent. The Julians made numerous attempts to telephone Respondent and left numerous messages. Respondent failed to return the messages or to otherwise communicated with the Julians. *Id.*

62. Respondent failed to return to the Julians any unused retainer and/or their original documentation. Respondent did not perform any substantive work on behalf of the Julians. *Id.*

63. On or about February 28, 2008, the Julians submitted a bar charge against Respondent. By letter dated March 12, 2008, the State Bar sent the Julians' bar charge to Respondent together with a letter requiring the Respondent to submit a written response within twenty days. *Id.*

64. Respondent did not submit a response to the bar charge until after the issuance of the Order of Probable Cause. Respondent never contacted the Julians. *Id.*

COUNT SEVEN (FILE NO. 08-0410)

65. On or about August 27, 2007, Steven Christian Bowen retained Respondent on behalf of his business, Flowtech Pump and Service, Inc., to handle an appeal of a civil action. Mr. Bowen paid Respondent a retainer of \$15,000.00 for the legal work. *Complaint*, ¶¶ 153 – 180.

66. At the outset of the representation, Mr. Bowen requested that Respondent provide him with copies of the Opening Brief and any other motions or pleadings prior to filing with the Court. Respondent agreed to this request. *Id.*

67. Respondent filed the Opening Brief on behalf of the client on or about December 21, 2007. The Respondent did not provide Mr. Bowen a copy of the Opening Brief prior to filing it. *Id.*

68. After the due date of the brief, Mr. Bowen made numerous attempts to contact Respondent in order to obtain a copy of the Opening Brief from her. Respondent did not respond to Mr. Bowen's request. *Id.*

69. On or about January 16, 2008, Mr. Bowen went to the Court of Appeals himself to obtain a copy of the Opening Brief. On the same day Respondent mailed him a copy of the brief. The Opening Brief filed by Respondent contained numerous errors, and omitted some arguments that Mr. Bowen had requested be included. *Id.*

70. The opposing party filed its Response Brief on or about February 1, 2008. After reviewing that Answering Brief, Mr. Bowen discovered that Respondent had failed to cause a copy of the records to be delivered to the Court in support of the Opening Brief. *Id.*

71. Mr. Bowen met with Respondent on or about February 15, 2008. During that meeting, they discussed issues that Respondent agreed to address in the Reply Brief which was due February 26, 2008. During that same meeting, Respondent promised to forward Mr. Bowen a draft of the Reply Brief prior to filing it. *Id.*

72. Mr. Bowen did not receive a draft copy of the Reply Brief prior to its due date. Mr. Bowen repeatedly left messages to Respondent inquiring as to the status of the matter. Respondent failed to respond to those messages. *Id.*

73. Mr. Bowen contacted the Court on March 3, 2008 and learned that no Reply Brief had been filed on his behalf. After failing in his attempts to contact Respondent,

Mr. Bowen filed a *pro se* request with the Court of Appeals for an extension of time in which to obtain new counsel and file a Reply Brief. The Court of Appeals granted the request and extended the Reply Brief due date to April 30, 2008. Thereafter, Mr. Bowen attempted to find substitute counsel, but was unsuccessful. *Id.*

74. Mr. Bowen went to Respondent's office to obtain his file. At that time, he met with Respondent and she agreed to file the Reply Brief. Respondent filed the Reply brief on or about April 30, 2008. The Respondent failed to send a draft of the Reply Brief to Mr. Bowen for his review prior to its filing. *Id.*

75. By letter dated June 5, 2008, Respondent was informed by the Court of Appeals that Respondent had failed to pay the filing fee of \$140.00 for the filing of the appeal. *Id.*

76. On or about March 7, 2008, Mr. Bowen submitted a bar charge against Respondent. By a letter dated May 19, 2008, the State Bar sent Mr. Bowen's bar charge to Respondent along with a letter requiring Respondent to submit a written response within ten days. Respondent did not submit a timely response, but did submit a response after the issuance of an Order of Probable Cause. *Id.*

COUNT EIGHT (FILE NO. 08-0435)

77. On or about September 1, 2007, Julie Pentico and her husband retained Respondent to represent them in a lawsuit filed by Dex Media. The clients paid Respondent a retainer in the amount of \$15,000.00. *Complaint*, ¶¶ 181 – 202.

78. At the time the clients retained Respondent, they informed her about the pending lawsuit. At that time, Respondent had 10 days to file an Answer to the lawsuit on behalf of the clients. Respondent knew of the deadline at the time of her retention and indicated that she would file a timely answer on behalf of the clients. The clients made numerous attempts to contact the Respondent during the following several days, but the Respondent failed to return any of their calls. *Id.*

79. Shortly thereafter, the Penticos began receiving paperwork from Dex Media indicating that a default judgment had been entered in favor of Dex Media and against them. Again, the Penticos attempted to telephone Respondent about the default judgment. Respondent failed to return the phone calls. The Penticos then sent Respondent an email about the default judgment. The Respondent sent a responsive email indicating that she had answered the Complaint and that the information about the default judgment was simply a mix-up. Respondent had not, in fact, filed an Answer. *Id.*

80. Subsequently, again the Penticos had difficulty communicating with Respondent. When they finally reached Respondent by email, Respondent indicated that the case was ongoing and that she was exploring settlement options. Again subsequently, Respondent would not respond to additional requests for information from the Penticos. *Id.*

81. Ms. Pentico then went to the Superior Court to ascertain the true status of the case. Review of the court file revealed that (a) Respondent had filed an Answer on

behalf of the Penticos, but the Answer was not timely, (b) the answer filed by Respondent was not only after the time deadline, but also after Respondent was served with a Notice of Default and was filed after the deadline provided to cure the default, (c) the opposing party filed a motion to strike the late Answer, (d) the court denied the motion to strike, (e) a Court Commissioner entered a default judgment on the case, and (f) the opposing party was attempting to enforce garnishments against the Penticos to secure payment of the judgment which was in excess of \$400,000.00. *Id.*

82. Respondent failed to inform the Penticos of any of the above actions in the case. *Id.*

83. Respondent claimed she earned between \$2,000.00 and \$3,000.00 in fees during her representation of the Penticos. Respondent has not refunded any unearned fees to the Penticos. Respondent failed to keep the unearned fees belonging to the Penticos in her client trust account and misappropriated those monies. *Id.*

84. On or about March 12, 2008, Ms. Pentico filed a bar charge against Respondent. By letter dated March 19, 2008, the State Bar sent Ms. Pentico's bar charge to Respondent along with a letter requiring her to submit a written response within 10 days. Respondent did not submit a timely response, but submitted a response after the entry of an Order of Probable Cause. *Id.*

COUNT NINE (FILE NO. 08-0448)

85. In approximately October 2007, Alberto Gutier retained Respondent to

represent him as a Plaintiff in an ongoing civil action filed in Maricopa County Superior Court. Respondent filed her Notice of Appearance in the matter on or about October 31, 2007. *Complaint*, ¶¶ 203 – 218.

86. At the time Respondent appeared in the matter, discovery was ongoing and there were motions for summary judgment pending against Mr. Gutier to which no response had yet been filed. *Id.*

87. Respondent filed responses to the motions for summary judgment. The motions were thereafter granted in part and denied in part, with the case proceeding towards trial which was set for March 2008. *Id.*

88. Respondent informed Mr. Gutier that she would set and conduct witness depositions prior to the trial. From late 2007 through early 2008, Mr. Gutier made numerous attempts to contact Respondent. Mr. Gutier left approximately 50 phone messages for Respondent to which Respondent failed to respond. Respondent failed to communicate with Mr. Gutier in addition to failing to respond to phone messages. *Id.*

89. Respondent failed to conduct any witness depositions. *Id.*

90. A final pretrial management conference was held in the matter on or about March 14, 2008. Respondent failed to appear at the conference, and failed to notify the court or the client that she would not appear. At the pretrial conference, the Court vacated the trial date in part due to Respondent's failure to appear or communicate with the client. Mr. Gutier then obtained substitute counsel. *Id.*

91. On or about March 12, 2008, Mr. Gutier submitted a bar charge against Respondent. By a letter dated March 19, 2008, the State Bar sent the bar charge to Respondent along with a letter requiring her to submit a written response within 20 days. Respondent did not submit a response to the bar charge until after the issuance of the Order of Probable Cause. *Id.*

COUNT TEN (FILE NO. 08-0472)

92. James Moser is the President and Chief Executive Officer of a consulting corporation known as James Moser, Inc. In June, 2007, Mr. Moser received a request from a California law firm, Landau and Berger, who represented the bankruptcy trustee for one of Mr. Moser's company's customers, APX Logistics, to repay \$14,825.62 paid to the company within the 90-day preference period prior to the bankruptcy filing date. *Complaint*, ¶¶ 219 – 240.

93. On or about June 12, 2007, Mr. Moser met with and retained Respondent to assist him with this matter. Mr. Moser paid Respondent \$2,000.000 to begin the Representation. At the time Mr. Moser retained the Respondent, he provided her with a copy of the request for settlement letter from Landau and Berger. That letter specified a response date of June 18, 2007. *Id.*

94. On or about June 18, 2007, Mr. Moser phoned Respondent for a status update. At that time, she informed him that she had spoken with Landau and Berger and obtained a 2-week extension to respond to the letter. Respondent's statement was false.

Id.

95. On or about July 2, 2007, Mr. Moser emailed Respondent for a status update. She responded, stating that she had been in phone contact with Landau and Berger and would send Mr. Moser a draft document that day for his review . Respondent's statement about being in contact with Landau and Berger was false. Respondent did not send a draft document to Mr. Moser. *Id.*

96. Thereafter, Mr. Moser made several attempts to contact Respondent with no Response. *Id.*

97. On or about March 5, 2008, Mr. Moser received a summons to appear in Bankruptcy Court regarding the referenced matter. Again Mr. Moser made numerous attempts to contact Respondent with no success. *Id.*

98. On or about March 17, 2008, Mr. Moser submitted a bar charge against Respondent. By letter dated March 20, 2008, the State Bar sent Mr. Moser's bar charge to Respondent along with a letter requiring a response within 10 days. Respondent did not submit a timely response but submitted a response after the entry of an Order of Probable Cause. *Id.*

99. In the untimely response, Respondent submitted an accounting that indicated that she had several contacts with Landau and Berger. Rodger Landau was in charge of the matter, and he had no contact with Respondent, telephonic or otherwise. *Id.*

100. Subsequent to the bar charge, Mr. Moser contacted Mr. Landau and settled

the matter with him directly. *Id.*

101. In June of 2008, after the matter had settled, Respondent phoned Mr. Landau about the case and was informed that the matter had been settled. Respondent never refunded unearned fees to Mr. Moser. *Id.*

COUNT ELEVEN (FILE NO. 08-0589)

102. In October of 2007, Brooke Peltzer retained Respondent to represent her in a personal injury case which was ongoing. Ms. Peltzer's father paid a retainer of \$2,000.00 to begin the case. *Complaint*, ¶¶ 236 – 252.

103. Prior to Respondent's involvement in the matter, Ms. Peltzer had already filed a civil complaint in Maricopa County Superior Court against several defendants. That Complaint was filed in January of 2007. *Id.*

104. On or about October 16, 2007, Respondent filed a Notice of Appearance in the case. Within 2 weeks of the beginning of the representation, Ms. Peltzer provided Respondent with numerous documents pertaining to her case including photographs and medical reports. *Id.*

105. Thereafter, Ms. Peltzer made numerous attempts to contact Respondent by telephone and email. Respondent failed to respond to the communication or otherwise communicate with Ms. Peltzer about the case. *Id.*

106. In early 2008, Respondent phoned Ms. Peltzer's father and requested advance cost monies in the amount of \$20,000.00 to \$25,000.00 in order to retain an

expert. Ms. Peltzer's father refused the request. *Id.*

107. Respondent failed to contact Ms. Peltzer either before or after Respondent's contact with Ms. Peltzer's father. Ms. Peltzer never received any contact from Respondent about her case. *Id.*

108. Ms. Peltzer's case was dismissed by the Court in 2008. Respondent failed to inform Ms. Peltzer of the dismissal. *Id.*

109. On or about March 31, 2008, Ms. Peltzer submitted a bar charge against Respondent. By letter dated April 10, 2008, the State Bar sent Ms. Peltzer's bar charge to the Respondent along with a letter requiring a written response within 20 days. Respondent did not submit a timely response to the bar charge but submitted an untimely response after the entry of the Order of Probable Cause. *Id.*

110. Respondent later returned Ms. Peltzer's documents to her, and promised a refund of the \$2,000.00. To date Respondent has not refunded any monies to Ms. Peltzer. *Id.*

COUNT TWELVE (FILE NO. 08-0605)

111. In December of 2007, John Muehling retained Respondent to assist him in a legal matter involving the closing of his business known as M2M Partners. Specifically Mr. Muehling retained Respondent to contact the creditors of the business, inform them of the closing, and handle inquiries about business debts. Mr. Muehling paid Respondent a \$250.00 fee for the initial consultation and \$1,500.00 flat fee for the representation.

Complaint, ¶¶ 254 – 267.

112. On or about December 17, 2007, Mr. Muehling provided Respondent with all the relevant information about the creditors. Thereafter, Mr. Muehling made numerous attempts to contact Respondent to ascertain the status of the matter. Respondent failed to respond to all but one of those attempts at communication. *Id.*

113. On or about December 28, 2007, Mr. Muehling was able to contact Respondent. She told him that at that time she was working on the letters, but that she had not yet sent them out. Respondent did not send any letters to creditors on behalf of the client. *Id.*

114. Thereafter Respondent failed to communicate with Mr. Muehling regarding the matter. Respondent never accounted for nor refunded any of the fees. *Id.*

115. On or about April 4, 2008, Mr. Muehling submitted a bar charge against Respondent. By a letter dated April 17, 2008, the State Bar sent Mr. Muehling's bar charge to Respondent along with a letter requiring her to submit a written response within 10 days. Respondent did not submit a timely response to the bar charge, but submitted an untimely response to the bar charge after the entry of the Order of Probable Cause. *Id.*

COUNT THIRTEEN (FILE NO. 08-0646)

116. In approximately August 2006, Kyra Locnikar and her husband retained Respondent to represent them in an ongoing Chapter 7 bankruptcy case. The Locnikars paid Respondent \$5,000.00 as a flat fee for the representation. *Complaint*, ¶¶ 268 – 280.

117. Respondent filed a Notice of Appearance in the case on or about August 28, 2006. Respondent failed to appear for the first meeting of creditors and that meeting had to be rescheduled. *Id.*

118. Respondent did perform some work on the bankruptcy, but the Locnikars were unable to reach Respondent in spite of numerous telephone messages and emails over a period extending more than a year. *Id.*

119. Ms. Locnikar contacted the attorney for the bankruptcy trustee, who informed her that he had not heard from Respondent since April 2007. *Id.*

120. Respondent has never accounted for her fees to either the Locnikars or the Bankruptcy Court. *Id.*

121. On or about August 11, 2008, Ms. Locnikar submitted a bar charge against Respondent. By letter dated April 22, 2008, the State Bar sent Ms. Locnikar's bar charge to Respondent along with a letter requiring her to submit a written response to the charge within 10 days. Respondent did not submit a response to the bar charge until after the issuance of an Order of Probable Cause. *Id.*

COUNT FOURTEEN (FILE NO. 08-0693)

122. On or about March 15, 2007, Pinkie and James Judie retained Respondent to represent them regarding a debt they owed on a mobile home. The clients paid Respondent \$2,000.00 for the representation. At the time of the representation, a default judgment had been already entered against the Judies. *Complaint*, ¶¶ 283 – 303.

123. Respondent eventually filed a motion to set aside the default, which was denied by the Court. A debtors' exam was scheduled for the clients. The Respondent indicated that she would file a motion to continue the debtors' exams, but Respondent failed to timely do so resulting in the issuance of a bench warrant for Ms. Judie's arrest. Later Respondent filed a motion to quash the bench warrant which was granted by the court. *Id.*

124. Respondent did not adequately communicate with the Judies regarding the status of their matter and their options going forward. *Id.*

125. Subsequently, the Judies were unable to contact Respondent despite numerous attempts. They attempted to contact Respondent at her office and subsequently learned that she had moved office locations without informing them. *Id.*

126. The Judies then filed for bankruptcy with the assistance of a document preparer. Subsequently, the Judies located Respondent and paid Respondent an additional \$500.00 to assist them regarding their bankruptcy. The clients are unaware of what work was done on the bankruptcy by Respondent. *Id.*

127. Respondent subsequently sent the clients a letter terminating her representation of them. *Id.*

128. On or about April 22, 2008, Ms. Judie submitted a bar charge against Respondent. By a letter dated April 25, 2008, the State Bar sent Ms. Judie's bar charge to Respondent along with a letter requiring her to submit a written response within 10 days.

Respondent did not submit a response to the bar charge until after the issuance of an Order of Probable Cause. *Id.*

COUNT FIFTEEN (FILE NO. 08-1226)

129. In early June 2008, Ken McLeod retained Respondent to defend him in a foreclosure action. Respondent was paid \$5,000.00 to begin the representation. Respondent was also provided by the client with records relating to the representation. *Complaint*, ¶¶ 304 – 315.

130. Since retaining Respondent, Mr. McLeod has made numerous attempts to communicate with Respondent, including leaving voice mail and email messages. Respondent failed to return those messages or otherwise communicate with Mr. McLeod. *Id.*

131. Respondent failed to perform any work on Mr. McLeod's case. Respondent failed to return any of Mr. McLeod's fees or documents. *Id.*

132. On or about July 18, 2008, Mr. McLeod submitted a bar charge against Respondent. *Id.*

133. By a letter dated July 23, 2008, the State Bar sent Mr. McLeod's bar charge to Respondent along with a letter requiring her to submit a written response within 10 days. Respondent did not submit a response to the bar charge. *Id.*

COUNT SIXTEEN (FILE NO. 08-1234)

134. In April 2006, Joe Vick retained Respondent to represent him and his

company, Texas Energy Group, Ltd., in a civil matter. Mr. Vick paid Respondent a total of \$7,000.00 in fees for the representation. Initially, Respondent informed Mr. Vick that she would file a lawsuit on his behalf no later than May 5, 2006. *Complaint*, ¶¶ 316 – 343.

135. Despite numerous phone calls and an office visit, Respondent did not file suit in the matter until September 6, 2006. *Id.*

136. Respondent then promised to set a deposition in the case in October of 2006. Again, despite numerous inquiries from Mr. Vick, Respondent did not set the deposition until mid-December, 2006. Mr. Vick flew from out-of-state to be present for the December 18, 2006 deposition. However, neither defendants nor their attorneys appeared for the deposition. *Id.*

137. Thereafter, for approximately 3 months, Mr. Vick attempted to get Respondent to set another deposition or file a Motion to Compel, with no success. *Id.*

138. In April 2007, Mr. Vick sent Respondent a termination letter requesting a refund of fees and the return of his documents. On or about April 20, 2007, Mr. Vick met with Respondent in her office about the termination. At that time, Respondent agreed to continue handling the case for a total fee of the \$7,000.00 already paid, and agreed to file a Motion to Compel on that date. Although Respondent did file the Motion to Compel, the Respondent did not move the case forward after that point. *Id.*

139. The Defendant in the case filed a motion to reconsider. Respondent

informed Mr. Vick that she had filed a response to that motion. That statement was false.

Id.

140. Thereafter again, Respondent failed to set up depositions in the case. Several times, Respondent purportedly set the depositions, but cancelled or continued them at the last moment. *Id.*

141. On one occasion, Respondent informed Mr. Vick that the depositions were set for December 3, 2007. On November 30, 2007, Respondent sent Mr. Vick an email stating that she had cancelled all depositions as her mother had had a heart attack and Respondent was leaving town. Mr. Vick was skeptical and appeared at Respondent's office on December 3, 2007. At that time Mr. Vick found Respondent at her office. *Id.*

142. Respondent moved office locations in March, 2007, but failed to notify Mr. Vick of the move. Mr. Vick later learned that his case had been continued on the inactive calendar for 8 months but that Respondent's latest attempt to continue it again had been denied by the Court. *Id.*

143. The case was dismissed by the Court in March of 2008. Respondent failed to inform Mr. Vick of the dismissal. *Id.*

144. Mr. Vick then again terminated Respondent's services and requested a refund. No refund has been provided. *Id.*

145. On or about July 16, 2008, Mr. Vick submitted a bar charge against Respondent. By letter dated July 23, 2008, the State Bar sent Mr. Vick's bar charge to

Respondent along with a letter requiring a written response within 10 days. Respondent did not submit a Response to the bar charge. *Id.*

COUNT SEVENTEEN (FILE NO. 08-1338)

146. On or about March 28 2008, Iris and Gerald Ruhlman retained Respondent to file a bankruptcy for them. The Ruhlman's paid Respondent \$2,350.00 for her services. *Complaint*, ¶¶ 344 – 353.

147. Since the time of retention, the Ruhlman's have had little contact with Respondent. Respondent has not returned their phone messages or otherwise communicated with them. *Id.*

148. Respondent did not file the bankruptcy for the Ruhlman's. *Id.*

149. Respondent did not refund any fees to the Ruhlman's. *Id.*

150. On or about August 4, 2008, the Ruhlman's submitted a bar charge against Respondent. By a letter dated August 7, 2008, the State Bar sent the Ruhlman's' bar charge to the Respondent along with a letter requiring her to submit a written response within 20 days. Respondent did not submit a response to the bar charge. *Id.*

COUNT EIGHTEEN (FILE NO. 08-1575)

151. In April 2008, Ziad Khaled met and retained Respondent to represent his company, A Wise Move, in a dispute with Dex Media. Mr. Khaled paid Respondent a retainer of \$1,000.00 to begin work on his case. *Complaint*, ¶¶ 354 – 363.

152. Since the initial consultation, Mr. Khaled has been unable to contact

Respondent, Mr. Khaled left a large number of messages for Respondent with no response. *Id.*

153. Respondent did not perform any legal services for Mr. Khaled. *Id.*

154. Respondent failed to refund any unearned fees to Mr. Khaled. *Id.*

155. Respondent failed to inform Mr. Khaled that she suspended from the practice of law. *Id.*

156. On or about September 9, 2008, Mr. Khaled filed a bar charge against Respondent. By letter dated September 15, 2008, the State Bar sent Mr. Khaled's bar charge to Respondent along with a letter requiring her to submit a written response to the charge within 7 days of the date of the letter. Respondent did not submit a response to the bar charge. *Id.*

CONCLUSION

Based upon the complete record generally and the foregoing facts specifically, this Hearing Officer concludes:

1. Respondent was properly served with the Complaint in this matter.

Considering Respondent's contacts with the State Bar and Respondent's active involvement in File No. 08-0467 which resulted in the Arizona Supreme Court's Order of Interim Suspension, Respondent was aware her conduct was the subject to State Bar investigation.

2. As to Count One, Respondent violated Rule 42, Ariz.R.S.Ct., specifically,

ERs 1.2, 1.3, 1.4, 3.3, 8.1(a), 8.4(c) and 8.4(d).

3. As to Count Two, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.16(d), 8.1(a), 8.1(b), 8.4(c) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

4. As to Count Three, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.4, 1.15, 1.16(d), 8.1(a), 8.1(b), 8.4(c) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

5. As to Count Four, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.3, 1.4, 1.15, 1.16(d), 8.1(b) and 8.4(d), plus Rules 43, 44, 53(d) and 53(f), Ariz.R.S.Ct.

6. As to Count Five, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.15, 1.16(d), 8.1(a), 8.1(b), 8.4(c) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

7. As to Count Six, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.15, 1.16(d), 8.1(b) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

8. As to Count Seven, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 8.1(b) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

9. As to Count Eight, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b), 8.4(c) and 8.4(d), plus Rules 53(d) and 53(f),

Ariz.R.S.Ct.

10. As to Count Nine, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 8.1(b) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

11. As to Count Ten, Respondent violated Rule 42 Ariz.R.S.Ct., specifically, ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b), 8.4(c) and 8.4(d), plus Rules 53(d) and 53(f) Ariz.R.S.Ct..

12. As to Count Eleven, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

13. As to Count Twelve, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(d) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

14. As to Count Thirteen, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

15. As to Count Fourteen, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

16. As to Count Fifteen, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b) and 8.4(d), plus Rules 53(d) and

53(f), Ariz.R.S.Ct.

17. As to Count Sixteen, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b), 8.4(c) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

18. As to Count Seventeen, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b) and 8.4(d), plus Rules 53(d) and 53(f), Ariz.R.S.Ct.

19. As to Count Eighteen, Respondent violated Rule 42, Ariz.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b) and 8.4(d), plus Rules 53(d), 53(f) and 72, Ariz.R.S.Ct.

20. The following aggravating circumstances exist: multiple offenses, pattern of misconduct, dishonest motive, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency, submission of false statements during the disciplinary process, refusal to acknowledge wrongful nature of conduct, indifference to making restitution, and substantial experience in the law.

21. In mitigation, Respondent had no disciplinary history prior to these matters. Considering the magnitude of Respondent's ethical misconduct and the harm caused to clients, this mitigating factor is given no weight. The State Bar candidly notes that in file number 08-0467 in which the Supreme Court issued the Order of Interim

Suspension, Respondent provided some information regarding physical and emotional issues which possibly were affecting her practice. *State Bar's Aggravation and Mitigation Brief*, pg. 61. The mitigating factor of personal or emotional problems is not found because the Respondent has provided no evidence here explaining those alleged problems.

RECOMMENDATION

CONSIDERATION OF THE ABA STANDARDS

In determining the appropriate sanction, the American Bar Association's Standards for Imposing Lawyer Sanctions are to be considered. *In re Clark*, 207 Ariz. 414, 87 P.3d 827 (2004); *In Re Peasley*, 208 Ariz. 27, 90 P.3d 764 (2004). The Standards are designed to promote consistency by identifying relevant factors which should be considered in determining a sanction, and then applying those factors to situations in which lawyers have engaged in misconduct. STANDARD 1.3, COMMENTARY. In applying the Standards, four criteria should be considered: (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 and/or mitigating factors. *In Re Peasley*, supra; *In re Spear*, 160 Ariz. 545, 555, 774 P.2d 1335, 1345 (1989).

Where the matter involves findings of multiple misconduct, the ultimate sanction should be at least consistent with the sanction for the most serious instance of misconduct among the number of violations. The other acts of misconduct should be treated as

aggravating factors. Therefore, where multiple acts of misconduct are found, the sanction generally should be greater than the sanction for the most serious individual misconduct.

In Re Redeker, 177 Ariz. 305, 868 P.2d 318 (1994); *In re Cassali*, 173 Ariz. 372, 843 P.2d 654 (1992).

The most serious misconduct involved the duties owed to clients. ABA STANDARD 4.0. The most applicable standard in this case is ABA Standard 4.4, Lack of Diligence. As to the lack of diligence violations, Respondent's mental state was knowing. Disbarment is the presumptive sanction. *Standards* 4.41.

Respondent on numerous occasions failed to provide the legal services for which she was retained. Not only did she fail to provide such services, Respondent failed to communicate with the clients about the status of their matters which resulted in prejudice to numerous clients. In addition, there is clear and convincing evidence that Respondent received advance payments from clients which funds Respondent pocketed without providing the promised legal services. Respondent's conduct is abhorrent, warranting the most serious sanction.

The Respondent's failure to respond to the State Bar's inquiries and to participate in these proceedings is likewise telling. If Respondent is incapable of or unwilling to comply with the duties she owes in this disciplinary proceeding (including providing some explanation for her conduct), it is logical to conclude that Respondent is incapable or unwilling to fulfill any of the obligations owed to clients, the public and the State Bar.

Respondent poses a present and continuing threat to clients and to the public. Considering the dangers posed, and in light of the overwhelming aggravating circumstances, this Hearing Officer believes disbarment is necessary and warranted.

PROPORTIONALITY ANALYSIS

The purpose of professional discipline is twofold: (1) to protect the public, the legal profession, and the justice system, and (2) to deter others from engaging in similar misconduct. *In re Neville*, 147 Ariz. 106, 116, 708 P.2d 1297, 1307 (1985); *In re Swartz*, 141 Ariz. 266, 277, 686 P.2d 1236, 1247 (1984). Disciplinary proceedings are not to punish the attorney. *In re Peasley*, 208 Ariz. 27, 39, 90 P.3d 764, 776 (2004); *In re Beren*, 178 Ariz. 400, 874 P.2d 320 (1994).

The discipline in each situation must be tailored to the individual facts of the case in order to achieve the purposes of discipline. *In re Wines*, 135 Ariz. 203, 660 P.2d 454 (1983); *In re Wolfram*, 174 Ariz. 49, 847 P.2d 94 (1993). To have an effective system of professional sanctions, there must be internal consistency and it is therefore appropriate to examine sanctions imposed in cases that are factually similar: *In re Shannon*, 179 Ariz. 52 (1994); *In re Pappas*, 159 Ariz. 516, 768 P.2d 1161 (1988).

The sanction recommended by this Hearing Officer is consistent with the discipline ordered in the following similar cases: David Apker (SB-04-0094), Alexander Sierra (SB-04-0074), George Brown (SB-05-0054), David Son (SB-05-0173), Cindy L. Wagner (SB-05-0175), Beskind (SB-07-0155) and Coe (SB-06-0154). These cases

involved attorneys who knowingly failed to diligently represent clients, and where many of the aggravating circumstances found in this case were present. These cases also involved a default being taken against the respondent attorney who did not cooperate in disciplinary proceedings. In these cases, disbarment was ordered by the Disciplinary Commission, with the Supreme Court declining review.

RESTITUTION

Based upon the evidence, this Hearing Officer believes that the Respondent should be ordered to make the following restitution:

Count 1	April Stieglitz	\$1,000.00
Count 2.	Larry DeMik	\$5,000.00
Count 3	Dustin Bowen	\$4,300.00
Count 4	Communications Ventures, Inc.	\$25,000.00
Count 5	Stacey Anderson	\$2,500.00
Count 6	Penelope and Joseph Julian	\$2,000.00
Count 7	No restitution.	
Count 8	Julie and Daniel Pentico	\$15,000.00
Count 9	No restitution.	
Count 10	James Moser	\$2,000.00
Count 11	Brooke Peltzer	\$2,000.00

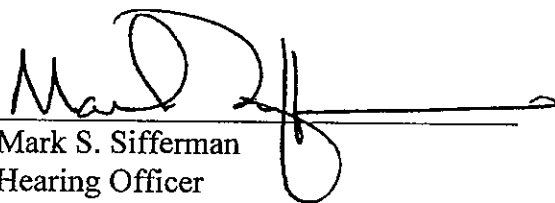
Count 12	John Muehling	\$1,750.00
Count 13	Kyra Locnikar	\$5,000.00
Count 14	Pinkie and James Judie	\$500.00
Count 15	No Restitution.	
Count 16	Joe Vick	\$7,000.00
Count 17	Iris and Gerald Ruhlman	\$2,350.00
Count 18	Ziad Khaled	\$1,000.00

CONCLUSION

Upon consideration of the facts, application of the Standards, including aggravating and mitigating factors, and a proportionality analysis, this Hearing Officer recommends that:

1. Respondent be disbarred;
2. the cost and expenses of this proceeding be taxed against Respondent; and
3. Respondent provide the restitution set forth in the preceding paragraph.

DATED this 11th day of January 2009.


 Mark S. Sifferman
 Hearing Officer

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Disciplinary Clerk of the
Supreme Court of Arizona
this 21st day of January 2009,
and copy mailed to:

Amy K. Rehm
Staff Bar Counsel
STATE BAR OF ARIZONA
4201 N. 24th Street, Suite 200
Phoenix, AZ 85016-6288

Victoria M. Stevens
Post Office Box 25014
Phoenix, AZ 85002-5014

Victoria M. Stevens
114 West Adams Street, Apt. 804
Phoenix, AZ 85003

