OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

DEC 20 2019

FILED

BY

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BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **MATTHEW DOUGLAS SAXE, Bar No. 024951,** Respondent.	**PDJ 2019-9103** **COMPLAINT** [State Bar No. 19-1919]

Complaint is made against Respondent as follows:

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on December 19, 2006.

COUNT ONE (File no. 19-1919/Scholar)

2. Brent Scholar retained Respondent in 2016 for cases involving his former business associates and AMEX. Respondent filed an action on Scholar's behalf against Gemini Virgo Productions (GVP), Charles Ranck, and others, alleging fraud in connection with obtaining Scholar's investment in and employment by GVP, and GVP's fraudulent use of Scholar's credit and financial information for Ranck's personal benefit. AMEX sued Scholar for unpaid business credit card debt associated with GVP, and the matters were consolidated.

3. Respondent was administratively suspended on January 26, 2018 for failure to satisfy Mandatory Continuing Legal Education requirements, did not advise the client, and continued to practice during the period of suspension. Respondent made court appearances and filed documents in Scholar's case in 2018 after he was administratively suspended.

4. On March 19, 2018, the Court issued a default judgment in Scholar's favor and against GVP and others for ~$450,000. From March throughout May of 2018, Respondent claimed to have been drafting discovery requests, and communicating with AMEX's counsel about a potential settlement, all while he was suspended.

5. Beginning in May of 2018, Respondent was screened in three matters (18-1582, 18-2420, 18-2974) that ultimately resulted in an agreement for discipline by consent, which Respondent signed on December 17, 2018.

6. On May 9, 2018, Scholar texted Respondent, asking whether he could tell him anything about the case, because it had "consumed his entire life." Respondent responded that he had spoken with AMEX's counsel about settlement, "No money exchanged, case dismissed forever, no agreement that you will help them or otherwise later on." Scholar thanked Respondent for giving him the good news.

7. Respondent then assured Scholar on May 15, 2018 that he had sent the judgment against GVP, *et al* for recordation. (Respondent later sent a copy of the receipt for recording the judgment with the Maricopa County Recorder's website that reveals that it was recorded on September 14, 2018.)

8. Throughout May of 2018, Scholar and Respondent exchanged numerous texts wherein Scholar asked for updates and documents to review, and Respondent provided various excuses for not providing either. On May 22, 2018, Respondent texted:

My next 20 hours: I will deliver for your review finalized drafts of what i had already begun, and a finalized draft of the additional document identified today on my phone call.

I do not need further discussion on the partial drafts nor does it make sense to explain/discuss the additional document until you see it in a legible form.

Next major update: 12PM tomorrow you will have all documents in your inbox if you haven't already received a text that they are ready for review.

These few hours have been very useful and well used. Happy to discuss any of the above at 4 as planned, while I prefer to get back to work instead of the call before going offline for the evening.

9. Scholar expressed appreciation and asked to review the drafts. Respondent then wrote:

No problem. While reading, picture all of them getting this or a version of it - republic bank, pay pal, etc... not just AmEx.

Once AmEx responds, we compile a list of individuals to potentially subpoena/depose/depose by written question(saving money)....

10. Respondent then indicated that he had consulted with colleagues among whom the consensus was, "do nothing until they do anything." Respondent provided no draft documents to Scholar.

11. Respondent and Scholar continued to text and email over the summer of 2018. On August 31, 2018, Scholar texted Respondent that he should check his email, saying "I AM NOT HAPPY!"

12. Respondent responded, "Having not read your email, and having been

> **doing this for (literally) years now, I can say without hesitation that once we meet and I share what's been going on, you'll most likely offer a hug and smile and we will continue on course. Assuming you don't justifiably kill me first. Can we please meet for lunch Tuesday at 11:15 or anytime after so that I can fill in the blanks? Please know that I have in fact been working for you during this past week.**
>
> **I'll also state that I'll be providing a detailed update by 5 pm tomorrow, but that is not to detract from the importance of meeting in person Tuesday.**
>
> **I'll be at hospital remainder of today(everyone is ok- my oldest brother had himself a motorcycle accident that (literally) separated him from some bones. But that's not what I need to share the most. Please forgive the typos -this is unedited**

13. From August through December of 2018, they communicated numerous times about missed calls and meetings.

14. On December 11, 2018 Respondent sent Scholar an email with the subject line "Status Update." Respondent thanked Scholar for meeting him for lunch, suggested monthly update lunches, and wrote:

> As discussed, as our next step, let's haul, or attempt to haul them into my office for a judgment debtor's exam. I would like to begin anew the first week of the new year, with (1) complete drafts of what needs to be drafted and (2) a reasonable expectation (close estimation) of the timeline involved from the day those drafts are filed to the day you have a civil arrest warrant issued in your email inbox by 12 p.m., Thursday, 1/4/19. My intent for you to review and us to discuss these items sometime that following day. In the meantime, can you send whatever information regarding names & addresses you have (to be plugged in to the drafts upon completion).
>
> For what it's worth, I look forward to 2019 more than I've looked forward to a new year since 2011.
>
> Cheers,
>
> Matt

15. Respondent did not inform Scholar that he was currently administratively suspended, or that he had just negotiated a 90 day suspension by consent, which he signed 6 days later.

16. On January 18, 2019, the Presiding Disciplinary Judge accepted the agreement for discipline by consent by which Respondent was suspended for 90 days. Respondent failed to inform the client of this suspension, and remained counsel of record in the AMEX case.

17. On February 14, 2019, Scholar called Respondent and left a voice mail. On February 15, 2019, Respondent sent Scholar an email:

First, the conclusion/status update: we are 2 months further along in our "waiting" pattern, doing nothing while AmEx does nothing--to your benefit.

Backing up to the New Year, I had sent (or thought that I sent) you an email the day after New Years Day. It was Wednesday as I recall. In it, I explained that ordinarily my/our plan to move ahead with debtor(s) examinations would be perfectly appropriate. However, in our case, it would a very poorly timed move and frankly a boneheaded idea of mine, for one very simple reason: AmEx gets copies of anything we do (recall all of the default hearing mailings) because they are still a 'party.' In other words, we would be very likely waking a sleeping giant and causing them to take action. This would obviously defeat or at least threaten to defeat our plan of waiting to dismiss the case. I also advised that we'd sit tight while the clock ticked, and that unless I heard otherwise from you, we would keep silent. (admittedly, I should have realized such an open ended plan to wait would not sit well with you until we established an end point/check in point, whether 30 days, 60 days, or some other period, and because of that, I should have deduced you hadn't received any email from me)

I searched my outbox, sent & draft email folders and cannot find the email. I must have deleted it after drafting and before sending somehow. However, I do not see it in my deleted email folder either. I'd like to blame the egg nog.

We need to connect for a bit longer, less hurried call so that I can update you in more detail regarding my status, plan, future, etc... I can be available generally next week (not anymore today), and unless you tell me otherwise, I'll call you at 10 a.m. Monday (we probably need 20-25 minutes). Again, I should be able to connect any other time, please just let me know.

18. Again, Respondent failed to inform Scholar that he was suspended.

19. Respondent and Scholar had a meeting on February 20, 2019. After the meeting, Scholar sent Respondent an email summarizing their agreed-to plan for moving the cases forward. Scholar noted that they agreed that Respondent would (1) file a motion to dismiss AMEX's case, (2) commence collection proceedings against Scholar's judgment debtors, and (3) outline a comprehensive plan for these actions by 5:00 pm on February 25, 2019. Respondent still did not inform Scholar of his suspension.

20. Between February 20 and April 5, 2019, Scholar reached out multiple times by email and text to ask Respondent for the "deliverables" he had promised,

to no avail, except that Respondent provided multiple excuses. Respondent finally emailed:

> On Apr 5, 2019, at 3:31 PM, Matthew Saxe <mattsaxe@saxelaw.com> wrote:
>
> Hi Brent - it's friday afternoon and though this isn't a substantive update, I did want to poke my head in to let you know I'm active on our stuff and will have timelines/expectations to share next week.

21. More messages were exchanged in which Scholar asked for progress and details, until:

> On Apr 22, 2019, at 3:58 PM, Matthew Saxe <mattsaxe@saxelaw.com> wrote:
>
> Hi Brent.
>
> Beginning this week, I will focus research on the 'business' side of Ranck, ie the event company & any others). If we get lucky and he is still swindling people and/or other businesses, we may have an opportunity to freeze his interests in this funds, regardless how they are titled/deposited/characterized.
>
> I will similarly focus on Gonzales (and his family to some extent) and/or possible employer(s).
>
> Possibly more importantly, connecting businesses and/or any other potential targets and/or individuals will expand the web we will try to grow until we catch the fly.
>
> I'll begin with Spokeo, social media & the Az Corporation Commission. I will devote a week, provide an update & we'll determine how to proceed based on what I've got.
>
> We sit on AmEx until after China.

22. Scholar and Respondent emailed and texted numerous times between April and July of 2019, and Scholar repeatedly asked Respondent to provide him

with copies of filed documents, and other materials regarding his cases. They made appointments to meet in person, but Respondent would cancel at the last minute.

23. On July 30, 2019, Scholar texted Respondent that he wanted a copy of his file, so that he could "pick up where you dropped off the face of the earth." Scholar also texted Respondent a screen shot of the AZBAR.org website with Respondent's suspension noted. Respondent responded that Scholar's text about the "bar issue" was going to send him into a tailspin. Scholar responded, "I don't give a hoot about you and your tailspins. You get me my file and you can spin all you want."

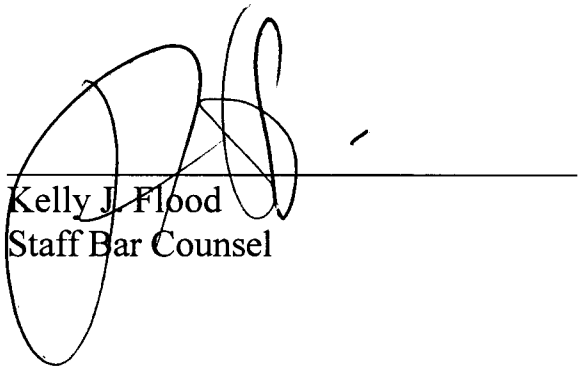
24. Scholar and Respondent continued to email each other and make appointments for Scholar to get his file, but Respondent was never prepared to provide it. Scholar submitted a charge to the Bar, and looped Respondent and ACAP counsel in on several emails requesting his file. Respondent did not provide it and stopped responding.

25. Bar Counsel sent Respondent a screening letter to his address of record on September 23, 2019, and a ten day reminder letter on October 25, 2019. Respondent did not respond to the screening investigation

26. Respondent violated Rule 42, Ariz.R.Sup.Ct, ERs 1.2, 1.3, 1.4, 3.2, 1.16, 5.5, 8.4(c), 8.4(d), 8.1(b), Rule 54(c), Rule 54(d), and Rule 72.

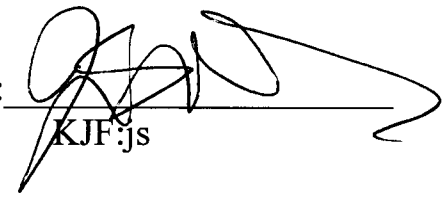
DATED this 20th day of December, 2019.

STATE BAR OF ARIZONA

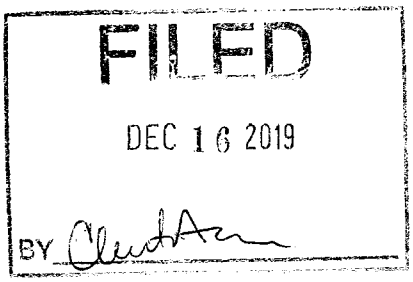


Kelly J. Flood
Staff Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 20th day of December, 2019.

by: 
KJF:js

BEFORE THE ATTORNEY DISCIPLINE PROBABLE CAUSE COMMITTEE OF THE SUPREME COURT OF ARIZONA



IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **MATTHEW DOUGLAS SAXE** **Bar No. 024951** Respondent.	No. 19-1919 **PROBABLE CAUSE ORDER**

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

By a vote of 8-0-1[1], the Committee finds probable cause exists to file a complaint against Respondent in File No. 19-1919.

IT IS THEREFORE ORDERED pursuant to Rule 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 13 day of December, 2019.

Lawrence F. Winthrop

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

[1] Committee member Walt Davis did not participate in this matter.

Original filed this 16th day
of December, 2019, with:

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

Copy mailed this 17th day
of December, 2019, to:

Matthew Douglas Saxe
Matthew D. Saxe PLC
709 E. Desert Park Ln.
Phoenix, Arizona 85020-4145
Respondent

Copy mailed this 17th day
of December, 2019, to:

Attorney Discipline Probable Cause Committee
Of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

By: _____

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **MATHEW DOUGLAS SAXE, Bar No. 024951** Respondent.	**PDJ 2019-9103** **DECISION AND ORDER IMPOSING SANCTIONS** State Bar No. 19-1919 **FILED MARCH 5, 2020**

SUMMARY

Mr. Saxe engaged in the unauthorized practice of law while summarily suspended for failing to comply with mandatory legal continuing education requirements. He did not inform his client of this suspension and subsequently stopped communicating with the client. He failed to provide the client a copy of his file despite repeated requests. He also failed to respond to the State Bar's investigation of this matter.

This matter proceeded to an aggravation/mitigation hearing before the Hearing Panel ("Panel"). Presiding Disciplinary Judge William J. O'Neil ("PDJ") was joined by volunteer attorney member Glen S. Thomas and volunteer public member Richard L. Westby. Kelly Flood represented the State Bar of Arizona. Mr. Saxe did not appear. Exhibits 1-16 were moved into evidence.

We find by clear and convincing evidence that Mathew Saxe violated ERs 1.2, 1.3, 1.4, 1.16, 3.2, 5.5, 8.1(b), 8.4(c), 8.4(d), Rule 54(c), (d), and Rule 72. He is ordered disbarred effective immediately.

PROCEDURAL HISTORY

The State Bar of Arizona ("SBA") filed its complaint on December 20, 2019 and properly served. Respondent signed for his receipt of the pleadings. (Exhibit 13.) Default was entered and was effective on February 6, 2020. Both parties were given notice of the aggravation and mitigation hearing scheduled for March 3, 2020, at 2:30 p.m., at the State Courts Building, 1501 West Washington, Phoenix, Arizona 85007-3231. On that date the Hearing Panel considered the evidence and heard argument.

FINDINGS OF FACT

The facts listed below are those set forth in the SBA's complaint and were deemed admitted by Respondent's default. A respondent against whom a default has been entered no longer has the right to litigate the merits of the factual allegations but retains the right to appear and participate in the hearing that will determine the sanctions. Respondent did not appear.

1. Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on December 19, 2006.

COUNT ONE (File no. 19-1919/ Judicial Scholar)

2. Brent Scholar retained Respondent to handle cases involving his former business associates and AMEX. Respondent filed an action on Scholar's behalf against various defendants alleging fraud in connection with obtaining Scholar's investment in and employment by GVP, and GVP's fraudulent use of Scholar's credit and financial information for Ranck's personal benefit. Scholar was sued for unpaid business credit card debt associated with the business, and those two matters were consolidated. (Complaint at ¶ 2; Ex. 1, Ex. 8, Bates 000082-89.)

3. Respondent was administratively suspended on January 26, 2018 because he had failed to satisfy Mandatory Continuing Legal Education requirements. He did not advise his client of his suspension. Instead he continued to practice law while suspended. Respondent made court appearances and filed documents in Scholar's case after he was administratively suspended. (Complaint at ¶ 3; Ex. 8, Bates 000083. Ex. 8a, Bates 000131.)

4. On March 19, 2018, the Court issued a default judgment in Scholar's favor and against GVP and others for $450,000. From March throughout May of 2018, Respondent claimed to have been drafting discovery requests, and communicating with AMEX's counsel about a potential settlement, all while he was suspended. (Complaint at ¶ 4; Ex. 8, Bates 000083, Ex. 5, Bates 000045-64.)

5. Beginning in May of 2018, Respondent was screened in three matters (18-1582, 18-2420, 18-2974) that ultimately resulted in an agreement for discipline

by consent, which Respondent signed on December 17, 2018. (Complaint at ¶ 5; Ex. 14, and Exs. 15 - 16.)

6. On May 9, 2018, Scholar texted Respondent, asking whether he could tell him anything about the case, because it had "consumed his entire life." Respondent told Scholar that he had spoken with AMEX's counsel about settlement, "No money exchanged, case dismissed forever, no agreement that you will help them or otherwise later on." Scholar thanked Respondent for giving him the good news. (Complaint at ¶ 6; Ex. 5, Bates 000050-51.)

7. Respondent then assured Scholar on May 15, 2018 that he had sent the judgment against GVP, *et al* for recordation. (Complaint at ¶ 7; Ex. 5, Bates 000053.) Respondent later sent a copy of the receipt for recording the judgment with the Maricopa County Recorder's website that reveals that it was not recorded until September 14, 2018. (Complaint at ¶ 7; Ex. 5, Bates 000067.)

8. Throughout May of 2018, Scholar and Respondent exchanged numerous texts wherein Scholar asked for updates and documents to review, and Respondent provided various excuses for not providing either. On May 22, 2018, Respondent texted:

> My next 20 hours: I will deliver for your review finalized drafts of what i had already begun, and a finalized draft of the additional document identified today on my phone call.
>
> I do not need further discussion on the partial drafts nor does it make sense to explain/discuss the additional document until you see it in a legible form.
>
> Next major update: 12PM tomorrow you will have all documents in your inbox if you haven't already received a text that they are ready for review.
>
> These few hours have been very useful and well used. Happy to discuss any of the above at 4 as planned, while I prefer to get back to work instead of the call before going offline for the evening.

(Complaint at ¶ 8; Ex. 5, Bates 000062.)

9. Scholar expressed appreciation and asked to review the drafts. Respondent then wrote:

> No problem. While reading, picture all of them getting this or a version of it - republic bank, pay pal, etc... not just AmEx.
>
> Once AmEx responds, we compile a list of individuals to potentially subpoena/depose/depose by written question(saving money)....

(Complaint at ¶ 9; Ex. 5, Bates 000063.)

10. Respondent then indicated that he had consulted with colleagues among whom the consensus was, "do nothing until they do anything." Respondent provided no draft documents to Scholar. (Complaint at ¶ 10; Ex. 5, Bates 000063.)

11. Respondent and Scholar continued to text and email over the summer of 2018. On August 31, 2018, Scholar texted Respondent that he should check his email, saying "I AM NOT HAPPY!" (Complaint at ¶ 11; Ex. 5, Bates 000065.)

12. Respondent responded, "Having not read your email, and having been

> doing this for (literally) years now, I can say without hesitation that once we meet and I share what's been going on, you'll most likely offer a hug and smile and we will continue on course. Assuming you don't justifiably kill me first. Can we please meet for lunch Tuesday at 11:15 or anytime after so that I can fill in the blanks? Please know that I have in fact been working for you during this past week.
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> I'll also state that I'll be providing a detailed update by 5 pm tomorrow, but that is not to detract from the importance of meeting in person Tuesday.
>
> I'll be at hospital remainder of today(everyone is ok- my oldest brother had himself a motorcycle accident that (literally) separated him from some bones. But that's not what I need to share the most. Please forgive the typos -this is unedited

(Complaint at ¶ 12; Ex. 5, Bates 000066.)

13. From August through December of 2018, they communicated numerous times about missed calls and meetings. (Complaint at ¶ 13; Ex. 5, Bates 000067-69.)

14. On December 11, 2018 Respondent sent Scholar an email with the subject line "Status Update." Respondent thanked Scholar for meeting him for lunch, suggested monthly update lunches, and wrote:

> As discussed, as our next step, let's haul, or attempt to haul them into my office for a judgment debtor's exam. I would like to begin anew the first week of the new year, with (1) complete drafts of what needs to be drafted and (2) a reasonable expectation (close estimation) of the timeline involved from the day those drafts are filed to the day you have a civil arrest warrant issued in your email inbox by 12 p.m., Thursday, 1/4/19. My intent for you to review and us to discuss these items sometime that following day. In the meantime, can you send whatever information regarding names & addresses you have (to be plugged in to the drafts upon completion).
>
> For what it's worth, I look forward to 2019 more than I've looked forward to a new year since 2011.
>
> Cheers,
>
> Matt

(Complaint at ¶ 14; Ex. 2, Bates 000033-34.)

15. Respondent did not inform Scholar that he was currently administratively suspended, or that he had just negotiated a 90-day suspension by consent, which he signed 6 days later. (Complaint at ¶ 15.)

16. On January 18, 2019, the Presiding Disciplinary Judge accepted the agreement for discipline by consent by which Respondent was suspended for 90 days. (Complaint at ¶ 16; Ex. 15.) Respondent failed to inform the client of this suspension, and remained counsel of record in the AMEX case. (Complaint at ¶ 16; Ex. 8a, Bates 000131.)

17. On February 14, 2019, Scholar called Respondent and left a voice mail. On February 15, 2019, Respondent sent Scholar an email:

First, the conclusion/status update: we are 2 months further along in our "waiting" pattern, doing nothing while AmEx does nothing--to your benefit.

Backing up to the New Year, I had sent (or thought that I sent) you an email the day after New Years Day. It was Wednesday as I recall. In it, I explained that ordinarily my/our plan to move ahead with debtor(s) examinations would be perfectly appropriate. However, in our case, it would a very poorly timed move and frankly a boneheaded idea of mine, for one very simple reason: AmEx gets copies of anything we do (recall all of the default hearing mailings) because they are still a 'party.' In other words, we would be very likely waking a sleeping giant and causing them to take action. This would obviously defeat or at least threaten to defeat our plan of waiting to dismiss the case. I also advised that we'd sit tight while the clock ticked, and that unless I heard otherwise from you, we would keep silent. (admittedly, I should have realized such an open ended plan to wait would not sit well with you until we established an end point/check in point, whether 30 days, 60 days, or some other period, and because of that, I should have deduced you hadn't received any email from me)

I searched my outbox, sent & draft email folders and cannot find the email. I must have deleted it after drafting and before sending somehow. However, I do not see it in my deleted email folder either. I'd like to blame the egg nog.

We need to connect for a bit longer, less hurried call so that I can update you in more detail regarding my status, plan, future, etc... I can be available generally next week (not anymore today), and unless you tell me otherwise, I'll call you at 10 a.m. Monday (we probably need 20-25 minutes). Again, I should be able to connect any other time, please just let me know.

(Complaint at ¶ 17; Ex. 2, Bates 000031.)

18. Again, Respondent failed to inform Scholar that he was suspended. (Complaint at ¶ 18.)

19. Respondent and Scholar had a meeting on February 20, 2019. After the meeting, Scholar sent Respondent an email summarizing their agreed-to plan for moving the cases forward. Scholar noted that they agreed that Respondent would (1) file a motion to dismiss AMEX's case, (2) commence collection proceedings against Scholar's judgment debtors, and (3) outline a comprehensive plan for these actions by 5:00 pm on February 25, 2019. Respondent still did not inform Scholar of his suspension. (Complaint at ¶ 19; Ex. 2, Bates 000026.)

20. Between February 20 and April 5, 2019, Scholar reached out multiple times by email and text to ask Respondent for the "deliverables" he had promised,

to no avail, except that Respondent provided multiple excuses. (Complaint at ¶ 20; Ex. 2, Ex. 5.) Respondent finally emailed:

> On Apr 5, 2019, at 3:31 PM, Matthew Saxe <mattsaxe@saxelaw.com> wrote:
>
> Hi Brent - it's friday afternoon and though this isn't a substantive update, I did want to poke my head in to let you know I'm active on our stuff and will have timelines/expectations to share next week.

(Complaint at ¶ 20; Ex. 2, Bates 000010.)

21. More messages were exchanged in which Scholar asked for progress and details, until:

> On Apr 22, 2019, at 3:58 PM, Matthew Saxe <mattsaxe@saxelaw.com> wrote:
>
> Hi Brent.
>
> Beginning this week, I will focus research on the 'business' side of Ranck, ie the event company & any others). If we get lucky and he is still swindling people and/or other businesses, we may have an opportunity to freeze his interests in this funds, regardless how they are titled/deposited/characterized.
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> I will similarly focus on Gonzales (and his family to some extent) and/or possible employer(s).
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> Possibly more importantly, connecting businesses and/or any other potential targets and/or individuals will expand the web we will try to grow until we catch the fly.
>
> I'll begin with Spokeo, social media & the Az Corporation Commission. I will devote a week, provide an update & we'll determine how to proceed based on what I've got.
>
> We sit on AmEx until after China.

(Complaint at ¶ 21; Ex. 2, Bates 000007-8.)

22. Scholar and Respondent emailed and texted numerous times between April and July of 2019, and Scholar repeatedly asked Respondent to provide him with copies of filed documents, and other materials regarding his cases. They made appointments to meet in person, but Respondent would cancel at the last minute. (Complaint at ¶ 22; Ex. 5, Bates 000071-75.)

23. On July 30, 2019, Scholar texted Respondent that he wanted a copy of his file, so that he could "pick up where you dropped off the face of the earth." Scholar also texted Respondent a screen shot of the AZBAR.org website with Respondent's suspension noted. Respondent responded that Scholar's text about the "bar issue" was going to send him into a tailspin. Scholar responded, "I don't give a hoot about you and your tailspins. You get me my file and you can spin all you want." (Complaint at ¶ 23; Ex. 5, Bates 000074.)

24. Scholar and Respondent continued to email each other and make appointments for Scholar to get his file, but Respondent was never prepared to provide it. Scholar submitted a charge to the Bar, and looped Respondent and ACAP counsel in on several emails requesting his file. Respondent did not provide it and stopped responding. (Complaint at ¶ 24; Ex. 5, Bates 000040-44, Ex. 2, Bates 000004-6, Ex. 4, Ex. 3, Ex. 6, Ex. 7, Ex. 8.)

25. Bar Counsel sent Respondent a screening letter to his address of record on September 23, 2019, and a ten-day reminder letter on October 25, 2019.

Respondent did not respond to the screening investigation. (Complaint at ¶ 25; Ex. 9, Ex. 10.)

CONCLUSIONS OF LAW

The Hearing Panel finds by clear and convincing evidence that Respondent violated the following: Rule 42, Ariz. R. Sup. Ct., specifically ER 1.2 ~ Scope, ER 1.3 ~ Diligence, ER 1.4 ~ Communication, ER 1.16 ~ Terminating Representation, ER 3.2 ~ Expediting litigation, ER 5.5~Unauthorized Practice of Law, ER 8.1(b) ~ Failure to Disclose, ER 8.4(c) ~ Dishonesty, Fraud, Deceit, or Misrepresentation, ER 8.4(d) ~ Conduct Prejudicial to the Administration of Justice, , Rule 54(c) ~ Violation of Court Rules and Orders, Rule 54(d) ~ Failure to Cooperate with a Disciplinary Authority, and Rule 72 ~Notice to Clients.

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 his clients by violating ER 1.2, ER 1.3, ER 1.4, ER 1.16, ER 3.2, ER 5.5, ER 8.4(c), ER 8.4(d), Rule 54(c), and Rule 72. Respondent violated his duty to the legal system by violating ER 1.16, ER 3.2, ER 5.5, ER 8.4(c), ER 8.4(d), ER 8.1(b), Rule 54(c), Rule 54(d), and Rule 72. Respondent also violated his duty owed as a professional by violating ER 3.4(c), ER 5.5, ER 8.4(c), ER 8.4(d), ER 8.1(b), Rule 54(c), Rule 54(d), and Rule 72.

Mental State and Injury:

Respondent violated his duty to clients, thereby implicating *Standard* 4.4 Diligence. *Standard* 4.41 states:

Disbarment is generally appropriate when:

(a) a lawyer abandons the practice and causes serious or potentially serious injury to a client;
(b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
(c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

Here, Respondent abandoned his practice after his suspension and failed to perform promised work for his client for over a year, all while falsely telling the client he was attending to the matter.

Respondent also demonstrated a lack of candor to the client, to which *Standard* 4.6 applies. Standard 4.61 calls for disbarment when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential injury to the client. Standard 4.62 provides for suspension when

a lawyer knowingly deceives a client and causes injury or potential injury to the client. Here, Respondent knowingly deceived the client by assuring him he was handling the client's case for over a year after he had been suspended. It is unclear whether Respondent intended this to benefit himself, but the client was harmed in having no work performed on his case.

Respondent also violated his duty to maintain personal integrity, implicating *Standard* 5.11. Respondent's violation of E.R.s 8.4(c) includes dishonesty in stringing his client along and telling him he was continuing to handle the case after he had been suspended. Standard 5.11(b) provides that disbarment is generally appropriate when a lawyer engages intentional conduct involving, e.g., dishonesty, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice. In failing to inform the client of his suspension, failing to withdraw, and in falsely assuring the client that he was continuing to handle the matter for over a year, Respondent's conduct demonstrates dishonesty, deceit, and misrepresentation that seriously adversely reflects on his fitness to practice.

Respondent violated his duty to the legal system, thereby implicating *Standard* 6.1. Standard 6.11 provides that disbarment is appropriate when a lawyer, with intent to deceive the court, makes a false statement or improperly withholds material information, and causes injury or potential injury to a party of the legal system. Here, Respondent continued to appear as counsel of record and filed

documents while he was suspended, and failed to provide Rule 72 notice and failed to withdraw. The trial court issued rulings, held a hearing, and issued a judgment based on Respondent's appearance and filings while suspended. (Ex. 8a.)

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 engaged in the practice of law while suspended, failed to notify his client, the court, or other parties, and failed to substantively respond to the SBA's investigation or participate in these proceedings. It is unclear who Respondent intended to benefit by these actions, but he caused harm to the system, the court, other parties, and the client.

Finally, Respondent intentionally and knowingly disobeyed this Court's prior disciplinary orders, constituting misconduct to which *Standard* 8.0 applies. Standard 8.1 provides for disbarment when a lawyer knowingly violates prior disciplinary orders and this causes injury or potential injury to the client, the public,

the legal system, or the profession. By knowingly failing to comply with this Court's order suspending Respondent and ordering him to comply with Rule 72, Respondent caused harm to the client, the public, the legal system, and the profession.

AGGRAVATING AND MITIGATING FACTORS

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

1. 9.22(a) prior disciplinary offences; Respondent was administratively suspended in January of 2018, and then suspended by consent agreement for ninety (90) days in January of 2019. (PDJ2018-9129)
2. 9.22(b) dishonest motive. Respondent falsely assured his client he was handling the client's case while suspended and doing nothing to protect the client. Dishonest motive to profit himself is also a factor.
3. 9.22(c) pattern of misconduct. Respondent's conduct here is similar to his conduct in PDJ2018-9129, wherein Respondent stopped performing work and had failed to inform the client, courts, or other parties of his suspension in January of 2018, and failed to protect his clients. The timing of the misconduct in PDJ2018-9129 overlaps with the misconduct in this case – i.e. it occurred over the entirety of 2018.
4. 9.22(d) multiple offenses. Respondent has violated many ethical rules, rules of court, and court orders in this matter.

5. 9.22(e) intentionally failing to comply with rules and orders of the disciplinary agency. Respondent failed to comply with this Court's suspension order and failed to comply with Rule 72.
6. 9.22(g) refusal to acknowledge wrongful nature of conduct. Respondent has failed to respond here, but the fact that the misconduct in this matter overlapped with and continued beyond the conduct in PDJ2018-9129 demonstrates that he has failed to acknowledge the wrongful nature of his conduct.
7. 9.22(i) substantial experience in the practice of law. Respondent was licensed in 2006.

The Hearing Panel finds the following mitigating factor applies:

1. None.

The Hearing Panel finds that disbarment is appropriate.

PROPORTIONALITY

In the past, the Supreme Court has consulted similar cases in an attempt to assess the proportionality of the sanction recommended. *See In re Struthers,* 179 Ariz. 216, 226, 887 P.2d 789, 799 (1994). The Supreme Court has recognized that the concept or proportionality review is "an imperfect process." *In re Owens,* 182 Ariz. 121, 127, 893 P.3d 1284, 1290 (1995). This is because no two cases "are ever alike." *Id.*

To have an effective system of professional sanctions, there must be internal consistency, and it is appropriate to examine sanctions imposed in cases that are factually similar. *See In re Peasley,* 208 Ariz. 27, 35, 90 P.3d 764, 772 (2004). However, the discipline in each case must be tailored to the individual case, as neither perfection nor absolute uniformity can be achieved. *Id.* at 208 Ariz. at ¶ 61, 90 P.3d at 778 (citing *In re Alcorn,* 202 Ariz. 62, 76, 41 P.3d 600, 614 (2002); *In re Wines*, 135 Ariz. 203, 207, 660 P.2d 454, 458 (1983)).

In *In Re Anderson*, (SB15-2866, et al), Anderson was disbarred for conduct that included abandoning clients without notice, failure to communicate, failure to have fee agreements, and other misconduct. Anderson violated ERs 1.2, 1.3, 1.4, 1.5, 1.8, 1.15, 1.16, 3.2, 3.4, 8.1, 8.4, and Rule 54(c) and (d), Ariz .R. Sup. Ct. Aggravating factors included prior discipline, dishonest of selfish motive, pattern of misconduct, multiple offenses, bad faith obstruction of discipline proceedings, refusal to acknowledge the wrongful nature of his conduct, and substantial experience in the practice of law. There were no mitigating factors.

In *In Re Drake*, (SB16-2232, 16-2682, 16-2683, 16-2726), Drake was disbarred for conduct including taking money from clients and failing to provide agreed-upon services. Drake also failed and refused to participate in the discipline proceedings. Drake violated ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16, 3.3, 8.1, 8.4, and Rule 54, Ariz. R. Sup. Ct. Aggravating factors included prior discipline, dishonest of

selfish motive, pattern of misconduct, multiple offenses, bad faith obstruction of discipline proceedings, refusal to acknowledge the wrongful nature of his conduct, and substantial experience in the practice of law. One mitigating factor of personal or emotional problems was given little weight.

This case is similar to the above in that they all involve, among other things, abandonment of the practice of law, dishonesty with his client, the courts, and other parties, failure to obey court orders and rules, failing to perform promised work, and failure to cooperate in these proceedings.

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. Based upon the above, the Hearing Panel orders as follows:

a. Respondent shall be Disbarred, effective immediately.

b. Respondent shall pay all costs and expenses incurred by the SBA.

A final judgment and order shall follow.

DATED this 3rd day of March 2020.

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

Glen S. Thomas
Glen S. Thomas, Volunteer Attorney Member

Richard L. Westby
Richard L. Westby, Volunteer Public Member

Copy of the foregoing emailed
this 5th day of March, 2020, to:

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by: BEnsign

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **MATTHEW DOUGLAS SAXE, Bar No. 024951** Respondent.	**PDJ-2019-9103** **FINAL JUDGMENT AND ORDER OF DISBARMENT** [State Bar No. 19-1919] **FILED MARCH 11, 2020**

On March 5, 2020, the hearing panel (Panel) rendered its decision and ordered the disbarment of Matthew Douglas Saxe. No notice of appeal or request for stay was filed under Rule 59, Ariz. R. Sup. Ct., and the time to appeal has expired. The State Bar filed its Statement of Costs and Expenses on March 6, 2020. No objection was filed.

Now Therefore,

IT IS ORDERED Respondent, **MATTHEW DOUGLAS SAXE, Bar No. 024951**, is disbarred from the State Bar of Arizona and his name is stricken from the roll of lawyers, effective March 5, 2020, as set forth in the Panel's Decision and Order Imposing Sanctions. Mr. Saxe is no longer entitled to the rights and privileges of a lawyer but remains subject to the jurisdiction of the Court.

IT IS FURTHER ORDERED Mr. Saxe shall immediately comply with the requirements relating to notification of clients and others and provide and/or file all notices and affidavits required by Rule 72, Ariz. R. Sup. Ct.

IT IS FURTHER ORDERED Mr. Saxe shall pay the costs and expenses of the State Bar of Arizona in the amount of $2,000.00 pursuant to Rule 60(b), Ariz. R. Sup. Ct. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge.

DATED this 11th day of March 2020.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
this 11th day of March 2020 to:

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by: MSmith