

JAN 07 2020

BY

FILED
L. J. Sison

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Senior Bar Counsel
State Bar of Arizona
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BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**CARLIE OWSLEY WALKER,
Bar No. 022255,**

Respondent.

PDJ 2020-9001

COMPLAINT

[State Bar No. 19-1849]

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 October 24, 2013.

COUNT ONE (File no. 19-1849/Maiorana)

2. In May of 2017, Anthony Maiorana hired Respondent for representation in his divorce. (FC2013-090595). He paid Respondent approximately \$7,000 during the course of the representation.

3. Respondent filed her notice of appearance on September 25, 2017.

4. On January 10, 2018, Respondent filed Father's Proposed Resolution Statement for Resolution Management Conference set for January 17, 2018 (a two-page document).

5. At 10:18 a.m. on the day of the hearing, Respondent filed an emergency motion to appear telephonically. In the motion, she stated that she had "a young child who has been ill since before Christmas. Counsel recently found out the child could only been see (sic) at 11:45 a.m. on January 17, 2018. As such, Counsel will be unable to physically make it to the Southeast Courthouse by 1:30."

6. The court denied Respondent's request to appear telephonically, vacated the resolution management conference, and rescheduled it for March 8, 2018.

7. On February 28, 2018, Respondent re-filed the same Proposed Resolution Statement that she filed on January 10, 2018.

8. On March 8, 2018, Respondent called Mr. Maiorana 20 minutes before the scheduled hearing and told him that she couldn't come to court due to emergency flooding in her home. She called the court and the court allowed her to appear telephonically.

9. Respondent failed to timely comply with the discovery and exhibit deadline of June 29, 2018. Respondent also failed to comply with the provision of the order requiring the parties to confer on or before June 29, 2018.

10. On July 19, 2018, Respondent failed to appear for a scheduled meeting that Mr. Maiorana drove one hour to attend at Respondent's office. The meeting was conducted by Respondent's non-attorney assistant of whom Mr. Maiorana asked questions concerning an upcoming hearing. The assistant was unable to provide an explanation as to why Respondent was not present for the meeting.

11. On August 14, 2018, Respondent filed a motion to reset an upcoming hearing scheduled for October 4, 2018.

12. On September 10, 2018, the court denied Respondent's request to reset the October 4, 2018 hearing and ordered "the parties to confer before September 21, 2018 to properly discuss and exchange any and all discovery and disclosure."

13. The parties scheduled a September 18, 2018 meeting at the East Mesa Superior Court to comply with the above order.

14. On September 18, 2018, Respondent failed to appear for the meeting.

15. The day of the meeting, Mr. Maiorana received a phone call from Respondent's assistant indicating that Respondent would not be able to appear. She asked Mr. Maiorana to drive to Respondent's office prior to the meeting to pick-up paper work and deliver it to the court house. He was unable to do so. As a result, his wife spent approximately one hour in the law library printing the documents.

16. During the meeting, Mr. Maiorana and his ex-wife drafted a hand-written one-page custody agreement and filed it with the court.

17. Concerning the above meeting and hand-written agreement, Mr. Maiorana stated in his bar charge:

I felt like so much time and money has been wasted due to Ms. Walker-Owsley's lack of representing me. I felt I had no other choice but to come to an agreement with Cortney Lamb, giving into her request of her full custody. I felt I was in a no win situation at that point with lack of representation from Ms. Walker-Owsley. I did not have endless amounts of money available to keep continuing the circle of nonsense. It was obvious that my case was not a priority to Ms. Walker-Owsley.

18. On September 19, 2018, Mr. Maiorana emailed Respondent a copy of the agreement.

19. By email of April 25, 2019, he requested a full refund and set out the various reasons that he found Respondent's representation to be deficient.

20. On April 29, 2019, he emailed Respondent again noting her lack of a response to his email. He stated that he had given her "ample time for a response back. Since you have failed to acknowledge my email, I will be presenting this situation to the State Bar of Arizona."

21. That afternoon, Respondent's assistant emailed Mr. Maiorana and indicated that the firm was willing to go over the billing statements in the case. He declined indicating that Respondent had "wasted enough" of his time.

22. On August 26, 2019, bar counsel requested a copy of Respondent's fee agreement.

23. Respondent's assistant emailed a copy of an unsigned fee agreement containing several empty blanks for Mr. Maiorana's signature.

24. On September 3, 2019, bar counsel emailed Respondent and asked for a copy of the executed agreement. Respondent did not respond.

25. On September 5, 2019, bar counsel emailed Respondent again noting the lack of response. Respondent did not respond.

26. In engaging in the above conduct, Respondent violated ERs 1.3, 1.4, 1.5, 5.3, 8.4(d), and Rule 54(d).

DATED this 7th day of January, 2020.

STATE BAR OF ARIZONA



Hunter F. Perlmeter
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 7th day of January, 2020.

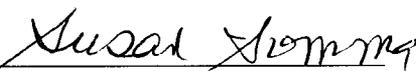
by: 
HFP/ss

Exhibit A

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

FILED
DEC 16 2019
BY *Clayton*

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

No. 19-1849

**CARLIE OWSLEY WALKER
Bar No. 022255**

PROBABLE CAUSE ORDER

Respondent.

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 and the Respondent's Response.

By a vote of 8-0-1¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 19-1849.

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.

12th
Original filed this ___ 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 19th day
of December, 2019, to:

Carlie Owsley Walker
The Owsley Law Firm, PLLC
13517 W. Denton St.
Litchfield Park, Arizona 85340-3303
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: A Susan Homing

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**CARLIE OWSLEY WALKER,
Bar No. 022255**

Respondent.

PDJ 2020-9001

**DECISION AND ORDER
IMPOSING SANCTIONS**

State Bar No. 19-1849

FILED APRIL 6, 2020

PROCEDURAL HISTORY

The State Bar of Arizona (“SBA”) filed its complaint on January 7, 2020. On January 8, 2020, the complaint was served on Ms. Walker by certified, delivery restricted mail, and also by regular first-class mail, under Rules 47(c) and 58(a) (2), Ariz. R. Sup. Ct.

All of the SBA’s exhibits were admitted into evidence without objection during the March 23, 2020 telephonic aggravation/mitigation hearing. Exhibit 8 is a January 30, 2020 email from the State Bar’s Legal Secretary to Ms. Walker. It acknowledges that the State Bar’s Notice of Service of Complaint mailed to Ms. Walker on January 8, 2020 was subsequently returned to their office as “unclaimed.” The email was directed to Ms. Walker asking her to “provide us with an alternate

address if the information provided to the Member Services Division of the State Bar is incorrect.”

Exhibit 10 is Ms. Walker’s 12:30 p.m. February 3, 2020 response to the State Bar Legal Secretary. It states, “There was (sic) mitigating documents I need to get together after speaking with Hunter.” At 12:34 p.m., the Legal Secretary sent Ms. Walker a responsive email, stating: “Okay. I suggest you talk to Hunter about an extension. Thank you.”

Exhibit 9 is Ms. Walker’s 12:35 p.m., February 3, email to Senior Bar Counsel Hunter Perlmeter, stating “I wanted to request an extension to get my answer in as I wanted to get together all the mitigating documents that we discussed. Would you please advise?” Mr. Perlmeter responded by email at 12:47 p.m. stating that Ms. Walker would “need to file something in the disciplinary court. I don’t have authority to grant extra time to answer.”

Exhibit 10 is the 12:48 p.m. email that Ms. Walker sent to the SBA Legal Secretary on February 3, 2020, stating, “Hunter said I needed to request it through your office [;] he doesn’t have the authority to grant an extension.” At 12:50 p.m. Ms. Walker, in an email response, stated that “If it’s due today I wouldn’t even know how to request something other than contacting the bar.” The SBA’s Legal Secretary properly referred Ms. Walker to the Disciplinary Clerk.

Mr. Perlmeter on February 3, 2020, at 1:27 p.m., sent an email to Ms. Walker, stating, “Let me clarify [Legal Secretary] Susan’s last email. That is the Clerk’s number, but my guess is that they’re going to ask you to file something in writing.” At 1:30 p.m. that day, the Legal Secretary notified Mr. Perlmeter, “Will do. Karen told me to give her that number. Sorry.” He, in turn, responded, “No worries.” [Id.] Default was entered on February 5, 2020.”

Supreme Court Rule 58(d) provides that a default is not effective for ten business days after service of the notice of default by the Disciplinary clerk. The hearing panel was not impressed by the undisputed fact that the State Bar failed to inform Ms. Walker that the Rules afford a respondent with over two weeks of additional time to file an answer before the default becomes effective. Had Ms. Walker been provided with such information it can reasonably be presumed that she would have either submitted the claimed mitigation-related documents or, alternatively, continued to fail to do anything. In either case, the hearing panel would have had relevant information going to her state of mind on the matter.

The Disciplinary Clerk, however, was not informed that the mail of Ms. Walker was unclaimed but that she nevertheless had been responding to the SBA’s emails. Unaware of these material facts, however, the Disciplinary Clerk sent a notice of the entry of default only by mail to Ms. Walker. That unclaimed notice would have unmistakably informed Ms. Walker that her default was not effective

for ten business days, and that an answer filed prior to that date would be accepted as timely.

Ms. Walker informed the hearing panel that she practiced in Family Law for 20 years. Ms. Walker therefore knew or should have known that under the Family Law Rules, a default is also not effective for ten business days. *See* Family Law Rule 44(a)(4). Hence undisputed failure to take any steps to protect her personal interests (such as calling the Disciplinary Clerk at SBA Bar Counsel's recommendation) regarding a time extension to respond to the SBA's complaint is relevant to the very issue of whether she has the present ability to effectively, competently and ethically practice law and protect the interests of clients. In any event, an effective default was entered February 25, 2020, at which time a notice of aggravation and mitigation hearing was sent to all the parties, notifying them of the scheduled aggravation mitigating hearing.

The Chief Justice by Administrative Order 2020-47 with later amendments authorized and directed the limitations of certain court operations during a public health emergency. These included the authorization of this judge to use technologies to eliminate or limit in-person contact in the conduct of court business. After notice to the parties, an audio recorded telephonic aggravation/mitigation hearing of approximately 40 minutes was heard on March 23, 2020.

Senior Bar Counsel Perlmeter and Respondent Carlie Owsley Walker appeared telephonically. The hearing panel also appeared telephonically. It was comprised of Volunteer Attorney Member Richard Brooks, Volunteer Public Member Howard Weiske, and PDJ William J. O’Neil. No exhibits were disclosed or offered by Ms. Walker who was the only witness.

The hearing panel found Ms. Walker to be, to her credit, a credible witness who claimed that mitigating factors existed, then gave some supporting facts. For example, Ms. Walker testified that the Family Law matter involving the charging party was actually complicated and contentious. Despite having had the opportunity to elaborate with specific details, however, she failed to provide the hearing panel with any information connecting her conclusion with her multiple ethical breaches.

Ms. Walker admitted via her testimony that:

- (a) She has practiced as a trial attorney in Family Law matters for 20 years;
- (b) She has served as a “Judge Pro Tem” for three years (without further explanation).
- (c) She did not feel it mattered to respond to the Bar’s filings (including, default filings).

In support of mitigation, however, Ms. Walker provided the hearing panel with unsupported testimony that:

- (d) She has been subject to “stressors” – specifically,
 - (i) people broke into her home;

- (ii) she's been divorced after a 16-year marriage but receives no support from her ex-husband;
- (iii) she's undergone psychiatric evaluation;
- (iv) she's been the victim of a criminal stalker;
- (v) the practice of law is the only way she can support her children;
- (vi) she had/has no money to refund to client; and
- (vii) she has largely stopped practicing law.

The hearing panel is not unsympathetic with the challenges Ms. Walker was facing, assuming her testimony to be true. The hearing panel, nonetheless, is also cognizant of the fact that Ms. Walker admittedly filed no answer to SBA's complaint, then submitted no support for mitigation beyond her unsupported testimony. Absent objective disclosed mitigation evidence, the hearing panel is unable to give more than little weight to her statements.

At the end of the hearing the State Bar requested a three (3) years suspension. For the reasons set forth herein, however, the hearing panel believes that a lesser sanction is more appropriate to protect the public at this time.

FINDINGS OF FACT

The facts listed below are based upon the contents of the entered exhibits and those facts alleged in the SBA's complaint as deemed to have been admitted as a

result of Ms. Walker's default. We independently review the exhibits, however, to verify the accuracy of the allegations

1. Ms. Owsley Walker is a lawyer licensed to practice law in Arizona, having been first admitted to practice in Arizona on October 24, 2003. [Complaint allegation 1.] The exhibits reflect her law practice was conducted under the name of the *Owsley Law Firm*.

2. The complaint states that on May of 2017, Ms. Walker was hired by Anthony Mariorana (the "client") to represent him in his divorce. (FC2013-090595). [Complaint allegation 2.] The hearing panel accepts the averment by the State Bar that client hired Ms. Walker to represent him in his divorce which, by the Court's cases number, had apparently been pending since 2013. The hearing panel was provided with no exhibits from the divorce case or even the Superior Court Case Index. Bar Counsel took the position that the client is entitled to full restitution of \$7,000 on the ground that Ms. Walker "did nothing." Given the concerns that are stated infra regarding the exhibits the SBA introduced to support the allegations of the complaint, we decline to order restitution.

The "Approximate" Payments by the Client

3. The complaint states that client paid Ms. Walker "approximately \$7,000 during the representation." [Id.] Because "approximately" is an indefinite term we turn to the exhibits. Exhibits 1-7 offered by the State Bar reflect various

payments and some corresponding debits yet appear to undermine the State Bar argument that no services were rendered by Ms. Walker. These exhibits appear to be partial records and seem to omit more than they report.

4. Exhibit 1 is a single page from the Utah Credit Union account of Shawna Sleight. It indicates that it was she who paid \$3,500, on August 30, 2017 to the Owsley firm, not the client. We can only assume that this may have been paid on the client's behalf, in which case any reimbursement would necessarily have to be paid directly to Shawna Sleight, not the client.

5. Ex. 2 shows that a payment of \$800 was made from the account of client on March 2, 2018 from his bank account.

6. Exhibit 3 is a March 9, 2018 invoice no. 17823 from the Owsley law firm reflecting that this same \$800 was deposited into the Walker trust account on March 2, 2018. However, only one page of the two-page invoice was offered. The exhibit lists four charges for services rendered March 8, 2018 totaling \$332.50 but has a concluding subtotal of \$1,890 under "Current billing cycle time spent." These evidences work claimed to be performed, billed for, and paid.

7. Exhibit 4 is only one page of the two-page August 6, 2018 invoice no. 17955 from the Owsley law firm. It shows that a deposit of \$1,500 was made into the firm's trust account on June 27, 2018. As with foregoing Exhibit 3, this exhibit does not contain the document's first page. The total on page 2 shows charges for

work that was claimed to have been performed and billed for in the sum of \$2,067.50 from which \$1,547.50 was paid, hence leaving a balance of \$520.

8. Exhibit 5 is only one page of the two-page invoice 17981 dated September 19, 2018. As with foregoing exhibits 3 and 4, this exhibit does not include the invoice's first page. The invoice reflects that \$500. was deposited into the firm's trust account on August 13, 2018, and that \$200. was deposited into the trust account on September 19, 2018. This exhibit shows charges for work that was claimed to have been performed and billed for in the sum of \$945. A payment for that amount was apparently transferred from the trust account into the firm's operating account.

9. Exhibit 6 is appears to be a single page from the client's July 14 to August 15, 2018 bank statement. It confirms that an August 13, 2018 payment of \$500. was paid to the "Owsley Law Firm." It also states that the client paid \$520. to "Carlie *Oswley* Walker" on that same day, misspelling her name. Why this payment may have been made to Carlie *Oswley* Walker or what the payment was for is unclear and was not explained. The payment was also not reflected in the invoice of the Owsley law firm, nor is it even clear that the payment was received.

10. Exhibit 7 appears to be a single page from the client's September 13-October 15, 2018 bank statement. It confirms, as shown on the foregoing Exhibit 5 invoice, that on August 13, 2018 a payment of \$200. was paid to the "Owsley Law Firm." But as with Exhibit 6, it also states that the client also paid \$520. once again

to “Carlie *Oswley* Walker on that same day, misspelling her name. Why this payment may have been made to Carlie *Oswley* Walker, or what the payment is for, is unclear. The payment was not reflected in the invoice of the Owsley law firm, nor is it even clear that the payment was received.

The Facts Deemed Admitted but Not Supported by the Exhibits

None of the following have support by the exhibits. The complaint’s allegations that the client made certain statements are facts that we accept unequivocally and rely on them heavily. Notwithstanding the absence of any exhibits from the Family Law case, or of the emails stated mentioned above, or the factual allegations of the client’s Bar Charge, we accept the other allegations as deemed admitted and quote the allegations within the complaint.¹

11. Respondent filed her notice of appearance on September 25, 2017. [Complaint allegation 3.]

12. On January 10, 2018, Respondent filed Father’s Proposed Resolution Statement for Resolution Management Conference set for January 17, 2018 (a two-page document). [Complaint allegation 4.]

13. At 10:18 a.m. on the day of the hearing, Respondent filed an emergency motion to appear telephonically. In the motion, she stated that she had “a young child

¹ Some complaint allegations are bracketed within the symbols (). Our comments are bracketed within the symbols [].

who has been ill since before Christmas. Counsel recently found out the child could only be seen (sic) at 11:45 a.m. on January 17, 2018. As such, Counsel will be unable to physically make it to the Southeast Courthouse by 1:30.” [Complaint allegation 5.]

14. The court denied Respondent’s request to appear telephonically, vacated the resolution management conference, and rescheduled it for March 8, 2018. [Complaint allegation 6.]

15. On February 28, 2018, Respondent re-filed the same Proposed Resolution Statement that she filed on January 10, 2018. [Complaint allegation 7.]

16. On March 8, 2018, Respondent called client 20 minutes before the scheduled hearing and told him that she couldn’t come to court due to emergency flooding in her home. She called the court and the court allowed her to appear telephonically. [Complaint allegation 8.]

17. Respondent failed to timely comply with the court’s discovery and exhibit deadline of June 29, 2018. Respondent also failed to comply with the court’s order requiring the parties to confer by June 29, 2018. [Complaint allegation 9.]

18. On July 19, 2018, Respondent failed to appear for a scheduled meeting that client drove one hour to attend at Respondent’s office. The meeting was conducted by Respondent’s non-attorney assistant of whom client asked questions

concerning an upcoming hearing. The assistant was unable to provide an explanation as to why Respondent was not present for the meeting. [Complaint allegation 10.]

19. On August 14, 2018, Respondent moved to reset an upcoming hearing scheduled for October 4, 2018. [Complaint allegation 11.]

20. On September 10, 2018, the court denied Respondent's request to reset the October 4, 2018 hearing and ordered "the parties to confer before September 21, 2018 to properly discuss and exchange any and all discovery and disclosure." [Complaint allegation 12.]

21. The parties scheduled a September 18, 2018 meeting at the East Mesa Superior Court to comply with the above order. [Complaint allegation 13.]

22. On September 18, 2018, Respondent failed to appear for the meeting. [Complaint allegation 14.]

23. The day of the meeting, client received a phone call from Respondent's assistant indicating that Respondent would not be able to appear. She asked client to drive to Respondent's office prior to the meeting to pick-up paperwork and deliver it to the courthouse. He was unable to do so. As a result, his wife spent approximately one hour in the law library printing the documents. [Complaint allegation 15.]

24. During the meeting, the client and his ex-wife drafted a hand-written one-page custody agreement and filed it with the court. [Complaint allegation 16.] [It is not clear to us if the descriptor, "ex-wife" is a typographical error as the

complaint alleges this was a “divorce” action or if this was not a “divorce” action as alleged in complaint but instead a post-decree “custody” or visitation matter. We make no finding of whether she was the wife or ex-wife of client.]

25. Concerning the above meeting and hand-written agreement, client stated in his bar charge:

I felt like so much time and money has been wasted due to Ms. Walker-Owsley's lack of representing me. I felt I had no other choice but to come to an agreement with Cortney Lamb, giving into her request of her full custody. I felt I was in a no win situation at that point with lack of representation from Ms. Walker-Owsley. I did not have endless amounts of money available to keep continuing the circle of nonsense. It was obvious that my case was not a priority to Ms. Walker-Owsley.
[Complaint allegation 17.]

No portion of the bar charge was an exhibit. The statement was deemed admitted.

26. On September 19, 2018, client emailed Respondent a copy of the agreement. [Complaint allegation 18.]

27. By email of April 25, 2019, he requested a full refund and set out the various reasons that he found Respondent’s representation to be deficient. The email was not offered as an exhibit to the hearing panel. [Complaint allegation 19.]

28. On April 29, 2019, he emailed Respondent again noting her lack of a response to his email. He stated that he had given her “ample time for a response back. Since you have failed to acknowledge my email, I will be presenting this situation to the State Bar of Arizona.” [Complaint allegation 20.]

29. That afternoon, Respondent's assistant emailed client and indicated that the firm was willing to go over the billing statements in the case. He declined indicating that Respondent had "wasted enough" of his time. [Complaint allegation 21.]

30. On August 26, 2019, bar counsel requested a copy of Respondent's fee agreement. [Complaint allegation 22.]

31. Respondent's assistant emailed a copy of an unsigned fee agreement containing several empty blanks for client's signature. [Complaint allegation 23.]

32. On September 3, 2019, bar counsel emailed Respondent and asked for a copy of the executed agreement. Respondent did not respond. [Complaint allegation 24.]

33. On September 5, 2019, bar counsel emailed Respondent again noting the lack of response. Respondent did not respond. [Complaint allegation 25.]

CONCLUSIONS OF LAW

By engaging in the misconduct described above, Ms. Walker violated ERs 1.3, 1.4, 8.4(d) and Rule 54(d)(2). We find the State Bar failed to meet its' burden of proof regarding either a violation of ER 1.5 or ER 5.3 as alleged and dismiss those.

ER 1.5 is Dismissed

ER 1.5 was generally alleged in the complaint without citing to any subsection. No evidence was offered that the fee was “unreasonable” under the factors stated in ER 1.5(a)(1-8). In Finding 27 above, while we quoted from the complaint allegation 19 that client “requested a full refund and set out the various reasons that he found Ms. Walker’s representation to be deficient,” we are left to speculate what those reasons were.

The SBA made no allegation that no written fee agreement entered or in non-compliance with ER 1.5(b). There was only that allegation that Ms. Walker did not respond to the Bar Counsel’s request for a copy of that agreement. None of the SBA’s allegations even remotely fall within the prohibitions of ER 1.5(c-e).

ER 5.3 is Dismissed

ER 5.3 was generally alleged in the complaint without citing to any subsection. There are no allegations that the conduct of any nonlawyer employed or retained by or associated with Ms. Walker was not “compatible with the professional obligations of the lawyer.” We are left to speculate what is being referred to.

At Finding No. 18 above, we quoted Complaint allegation 10, that a “meeting was conducted by Ms. Walker’s non-attorney assistant of whom client asked questions concerning an upcoming hearing. The non-attorney assistant was unable to provide an explanation as to why Ms. Walker was not present for the meeting.”

But nothing in that allegation identifies what the questions were or whether they were even answered by the non-attorney assistant.

At Finding No. 23, we quote Complaint allegation 15 that “client received a phone call from Ms. Walker’s assistant indicating that Ms. Walker would not be able to appear.” At Finding No. 29, we quote Complaint allegation 21 that “Ms. Walker’s assistant emailed client and indicated that the firm was willing to go over the billing statements in the case.” At Finding No. 31, we quote Complaint allegation 23 that “Ms. Walker’s assistant emailed a copy of an unsigned fee agreement containing several empty blanks for client’s signature.” We find nothing incompatible with the professional obligations of Ms. Walker in any of these and note no other generalized allegations that remotely fall within ER 5.3

DISCUSSION

The State Bar argued that no work was done by Ms. Walker for the client and that as a result the entire sum paid to her should be ordered as restitution. We decline to order restitution on this record as there are no exhibits that support the opinion of Bar Counsel that no work was done by Ms. Walker. Nothing in this decision precludes the client from seeking fee arbitration or a civil remedy.

The past and present disciplinary record of Ms. Walker demonstrates an ongoing undercurrent of troubling consistency that warrants a long-term suspension. However, we decline to follow the State Bar recommendation for imposition of a

three-year suspension as we conclude that it would be excessive and not proportional to her conduct in this case. We find that a one-year suspension is warranted for the protection of the public.

ABA STANDARDS ANALYSIS

When an attorney faces discipline for multiple charges of misconduct, the most serious charge serves as the baseline for the punishment. *In re Cassalia*, 173 Ariz. 372, 375 (1992). 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, (1990). Rule 58(k), Ariz. R. Sup. Ct. mandates their use by the hearing panel in determining any sanction to be imposed. In imposing a sanction, the following factors 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 or mitigating factors. *Standard* 3.0.

Mental State and Injury:

Ms. Walker knowingly violated her duty to her client, implicating *Standard* 4.4(b) Lack of Diligence.

Standard 4.42(b) states that suspension is generally appropriate when a lawyer engages in a pattern of neglect regarding client matters and causes injury or potential injury to a client. The Comment to this *Standard* states that, "Suspension

should be imposed when a lawyer knows that [the lawyer] is not performing the services required by the client, but does nothing to remedy the situation.”

AGGRAVATING AND MITIGATING FACTORS

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

1. **9.22(a) prior disciplinary offenses:**

Reprimand with probation (SBA Case Nos. 17-2154 and 17-3385): 1.3, 1.4, 1.6, 3.4(c), 5.3, 8.4(d), and Rule 54(d). In Count One, Ms. Walker appeared late for a client meeting, failed to provide discovery and failed to timely file exhibits. In Count Two, Ms. Walker filed a deficient motion to withdraw that was rejected for deficiencies, then later filed a new motion to withdraw containing confidential client information. Ms. Walker also failed to timely respond to the State Bar’s investigation.

Admonition with probation (SBA Case Nos. 15-1744, 15-2811) ERs 1.3, 1.4, 1.5, 1.15(a), 5.1, and Rule 43. In Count one, Ms. Walker failed to exercise diligence and reasonably communicate in a Family Law case. She also failed to properly manage her Trust Account. In Count two Ms. Walker failed to properly oversee and train an inexperienced associate attorney.

2. **9.22(c) a pattern of misconduct.** Our Supreme Court “has found patterns when a lawyer had a prior disciplinary record concerning similar misconduct and a lawyer engaged in misconduct involving multiple parties in different matters that often occurred over an extended period of time.” *In re Alexander*,

232 Ariz. 1, 15 (2013), The past disciplinary history of Ms. Walker consistently shows violations of ER 1.3 and 1.4.

3. **9.22(i) substantial experience in the practice of law.**

Ms. Walker has been a practicing lawyer for many years. Substantially all of her practice has been in Family Law.

The State Bar also requested a 9.22(d) finding of multiple offenses. We decline to find that requested aggravating factor in this single count complaint. We also decline to find bad faith obstruction, factor 9.22(e). Ms. Walker was defaulted in this case. Such an aggravating factor requires evidence that the respondent acted “intentionally.” That evidence is lacking here.

The Hearing Panel finds the following mitigating factor present:

9.32 (c) personal or emotional problems. The *Standards* note that “[c]ases concerning person and emotional problems as mitigating factors include a wide range of difficulties...” There can be little doubt that such problems exist here. We strongly believe that any reinstatement effort by Ms. Walker must be preceded by a Member’s Assistance Program (MAP) mental health evaluation by a physician designated by the State Bar. We also recommend that any reinstatement order require that Ms. Walker comply with two years of MAP terms of probation based on the physician’s findings and conclusions in that evaluation.

In summary, based on the foregoing, the Hearing Panel finds that upon consideration of the *Standards* and the substantial number of aggravating factors, a suspension of one (1) year is proper, warranted and necessary for the protection of the public in this matter.

1. **CONCLUSION**

As an attorney licensed to practice in Arizona, Ms. Walker is bound to her oath to abide by the Rules of Professional Conduct. These exist, among other reasons, to protect the public, deter similar misconduct and preserve the public's confidence in the State Bar and the attorneys licensed under its authority. *In re Walker*, 200 Ariz. 155, 161 ¶ 26 (2001).

The Hearing Panel orders:

- a) Ms. Walker shall be suspended for one (1) year, effective immediately.
- b) Ms. Walker shall pay all costs and expenses incurred by the SBA. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge.
- c) Prior to reinstatement Ms. Walker shall undergo a Member's Assistance Program (MAP) evaluation by such doctor as approved by the State Bar.
- d) Upon reinstatement, Ms. Walker shall be placed on probation for two (2) years under MAP terms of probation.

A final judgment and order shall follow.

DATED this 3rd day of April 2020.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Richard L. Brooks

Richard L. Brooks, Volunteer Attorney Member

Howard M. Weiske

Howard M. Weiske, Volunteer Public Member

Copy of the foregoing emailed
this 6th day of April, 2020, to:

Hunter F. Perlmeter
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

Carlie Owsley Walker
The Owsley Law Firm, PLLC
13517 W. Denton St.
Litchfield Pk., AZ 85340-3303
Email: carlie@owsleylaw.com

by: BEnsign

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

CARLIE OWSLEY WALKER,
Bar No. 022255

Respondent.

PDJ 2020-9001

**FINAL JUDGMENT AND
ORDER OF SUSPENSION**

[State Bar No. 19-1849]

FILED APRIL 28, 2020

This matter came for hearing before the hearing panel (Panel) which rendered its decision on April 6, 2020 and ordered the immediate suspension of Carley Owsley Walker. The decision of the hearing panel is final under Rule 58(k), Ariz. R. Sup. Ct. No request for stay or notice of appeal was filed under Rule 59, Ariz. R. Sup. Ct., and the time now having expired and no objection to the State Bar's Statement of Costs and Expenses having been filed,

IT IS ORDERED suspending **CARLEY OWSLEY WALKER, Bar No. 022255** from the practice of law for one (1) year effective April 6, 2020 for her conduct as set forth in the Panel's Decision and Order.

IT IS FURTHER ORDERED prior to reinstatement, Ms. Walker shall undergo a Member Assistance Program (MAP) evaluation by such doctor as approved by the State Bar.

IT IS FURTHER ORDERED upon reinstatement, Ms. Walker shall be placed on probation for two (2) years under MAP terms of probation.

IT IS FURTHER ORDERED Ms. Walker shall 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 Ms. Walker shall pay the costs and expenses of the State Bar of Arizona totaling \$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 28th day of April 2020.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
this 28th day of April 2020 to:

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Respondent

by: BEnsign