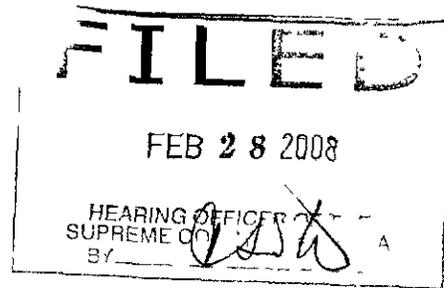


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7 Hearing Officer 7M



8  
9 **BEFORE A HEARING OFFICER OF**  
10 **THE SUPREME COURT OF ARIZONA**

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

No 06-1956

13 **EDWARD V. LACAMBRA,**  
14 **Bar No. 002153**

**HEARING OFFICER'S REPORT**

15 Respondent.

(Assigned to Hearing Officer 7M,  
Daniel P. Beeks)

16 The parties have filed a Tender of Admissions and Agreement for  
17 Discipline by Consent ("Tender"), and a Joint Memorandum in Support of  
18 Agreement for Discipline by Consent ("Joint Memorandum") agreeing that  
19 Respondent Edward V. Lacambra should receive a censure with two years of  
20 probation for violating ERs 1.1, 1 2, 1 3, 1 4, 3 2, 8 1, and 8.4, and Rule 53(f)  
21 Ariz.R.Sup.Ct.

22 The State Bar was represented by Stephen P Little in negotiating the  
23 Tender, and Lacambra represented himself The Hearing Officer has  
24 determined that no hearing is necessary in order to rule on the Tender.  
25

1 For reasons discussed in more detail below, the Hearing Officer  
2 recommends that the Tender be approved and accepted.

3  
4 **STIPULATED FACTS**

5 1. At all times relevant, Lacambra was a lawyer licensed to practice  
6 law in the state of Arizona having been first admitted to practice in Arizona  
7 on April 6, 1968.

8 2 On September 13, 2003, a truck hit a home owned by Elena  
9 Richardson's ("Ms. Richardson"), causing approximately \$40,000.00 in  
10 damage to the home.

11 3. Shortly thereafter, Ms. Richardson's homeowners association  
12 ("HOA") began levying fines against her for the damage displayed on her  
13 home.

14 4. Ms Richardson was working abroad at the time, so she signed a  
15 power of attorney for her mother, Sammye Richardson ("Mother"), to allow  
16 Mother to handle Ms. Richardson's matters while she was out of the  
17 country

18 5. In or about September of 2003, Mother retained Lacambra to  
19 pursue a civil matter on Ms. Richardson's behalf regarding the collision and  
20 to represent Ms. Richardson in the action her HOA was bringing against her.  
21  
22  
23  
24  
25

1           6.     On or about January 1, 2005, Lacambra recorded a lien in the  
2 amount of \$499,598.33 against Ms Richardson's home

3           7     Lacambra did not request permission for, or inform Ms.  
4 Richardson of, the lien.  
5

6           8.     Lacambra recorded this lien for Mother's benefit.

7           9.     Lacambra recorded the lien at the direction of Mother.  
8

9           10.    On or about February 28, 2005, the Superior Court of Pima  
10 County held an Order to Show Cause hearing in the case the HOA had  
11 brought against Ms Richardson, C2005-0322.

12           11    Lacambra did not notify Ms Richardson of this hearing, nor did  
13 he appear at the hearing to represent her  
14

15           12.    The court proceeded in Ms. Richardson's absence and issued a  
16 judgment against her.  
17

18           13.    The judgment included an injunction requiring Ms. Richardson  
19 to repair her property and pay attorney's fees in the amount of \$2,641.54  
20 plus interest

21           14.    On or about July 28, 2005, the Superior Court of Pima County  
22 held an Order to Show Cause hearing in another action Ms. Richardson's  
23 HOA had brought against her, C2005-3405.  
24  
25

1           15     Lacambra did not notify Ms. Richardson of this hearing, nor did  
2 he appear at the hearing to represent her.

3           16.    The court proceeded without Lacambra or Ms. Richardson's  
4 presence.  
5

6           17.    On or about July 29, 2005, Lacambra filed a Request for Re-  
7 Hearing in C2005-3405.

8           18.    This motion requested a new hearing on the grounds that  
9 Lacambra was served with the complaint at a time when he was preparing to  
10 leave the state for a family reunion.  
11

12           19.    The motion went on to indicate that Lacambra forgot about the  
13 papers served upon him until after the hearing took place.  
14

15           20.    Lacambra identified himself as Ms. Richardson's attorney in this  
16 motion.  
17

18           21.    The court denied Lacambra's Request for Re-Hearing and  
19 entered judgment against Ms. Richardson.

20           22.    The judgment included an injunction requiring Ms Richardson  
21 to repair her property and pay attorney's fees in the amount of \$2,196.70  
22 plus interest  
23

24           23.    In or about August of 2005, Ms. Richardson made multiple  
25 unsuccessful attempts to contact Lacambra via e-mail and telephone.

1           24. On August 22, 2005, Ms. Richardson sent a certified letter to  
2 Lacambra requesting that he update her on the case and send her a copy of  
3 her file. The letter was sent to Lacambra's address on record with the State  
4 Bar of Arizona.  
5

6           25. Lacambra did not respond to Ms Richardson's requests.  
7

8           26 On September 29, 2005, Ms. Richardson sent a certified letter to  
9 Lacambra revoking the power of attorney she had granted Mother and  
10 requesting Lacambra contact her directly The letter was sent to Lacambra's  
11 address on record with the State Bar of Arizona.  
12

13           27. In or about February of 2006, Ms. Richardson attempted to  
14 contact State Farm Insurance, but they would not communicate with her  
15 directly because they had notice that she was being represented by  
16 Lacambra.  
17

18           28 On February 10, 2006, Ms. Richardson sent a certified letter to  
19 Lacambra again requesting Lacambra contact her The letter was sent to  
20 Lacambra's address on record with the State Bar of Arizona  
21

22           29. Lacambra did not respond to Ms. Richardson's request.  
23

24           30. On or about March 6, 2006, the Superior Court of Pima County  
25 held an Enforcement Hearing in C2005-3405.

1           31. Lacambra did not notify Ms. Richardson of this hearing, nor did  
2 he appear at the hearing to represent her.

3           32 The court proceeded with the hearing and entered judgment  
4 against Ms. Richardson.

5           33 The judgment included an order requiring Ms. Richardson to  
6 comply with the previous rulings and pay ongoing contempt fines.  
7

8           34. On March 19, 2006, Ms. Richardson left a telephone message for  
9 Lacambra asking to meet with him.  
10

11           35. Lacambra did not respond to Ms Richardson's request.

12           36 On March 31, 2006, Ms. Richardson went to Lacambra's office  
13 and met with him in person  
14

15           37 At this meeting, Ms. Richardson was shown voluminous  
16 documents that evidenced the extensive litigation had been taking place in  
17 her name and without her knowledge  
18

19           38. Ms Richardson also learned about the lien Lacambra had placed  
20 on her home.

21           39 On or about April 14, 2006, Lacambra assured Ms Richardson  
22 he would provide her with contact information for contractors to repair her  
23 damaged home.  
24

25           40. Lacambra never provided the promised contactor information.

1           41. On April 20, 2006, Ms. Richardson asked Lacambra who he was  
2 representing, in an attempt to clarify whether he was representing her or  
3 Mother.  
4

5           42 Lacambra assured Ms. Richardson he represented her.

6           43. On April 25, 2006, Lacambra informed Ms. Richardson that he  
7 placed the lien on her home to “secure the home from creditors” per  
8 Mother’s request.  
9

10          44. In or about May of 2006, Ms. Richardson requested Lacambra  
11 remove the lien from her home and sent paperwork to Lacambra to have the  
12 lien removed  
13

14          45. Lacambra did not file the paperwork or remove the lien.

15          46. On May 17, 2006, Lacambra offered to write a letter of  
16 explanation to the credit agencies in order to assist Ms. Richardson in  
17 securing a loan to repair her damaged home  
18

19          47. On May 19, 2006, Ms. Richardson sent Lacambra a copy of her  
20 credit report to assist him in drafting the letter of explanation.

21          48 On May 30, 2006, Ms. Richardson sent a certified letter to  
22 Lacambra requesting an update on the letter of explanation. The letter was  
23 sent to Lacambra’s address on record with the State Bar  
24  
25

1           49. On June 12, 2006 and June 19, 2006, Ms. Richardson sent e-  
2 mails to Lacambra requesting an update on the letter of explanation.

3           50. Lacambra never responded to Ms Richardson's requests, nor did  
4 he ever provide the promised letter of explanation.

5           51. On September 29, 2006, Ms Richardson sent a certified letter to  
6 Lacambra requesting Lacambra update her on the status of her case. The  
7 letter was sent to Lacambra's address on record with the State Bar Arizona.  
8

9           52. Lacambra did not respond to Ms Richardson's request

10           53. On October 20, 2006, Ms. Richardson sent a certified letter to  
11 Lacambra informing Lacambra the lien was still on her home and requesting  
12 an update. The letter was sent to Lacambra's address on record with the  
13 State Bar of Arizona  
14

15           54. Lacambra did not respond to Ms. Richardson's request.

16           55. On November 1, 2006, Ms. Richardson called Lacambra to again  
17 request he remove the lien from her home.  
18

19           56. Lacambra refused to remove the lien and informed Ms.  
20 Richardson that it was put in place "to secure the home "  
21

22           57 On November 20, 2006, Countrywide Home Loans sent a letter  
23 to Ms. Richardson informing her that they could not provide her a loan to  
24 repair her home until the lien was removed  
25

1           58. On November 27, 2006, Ms. Richardson submitted a complaint  
2 to the State Bar of Arizona regarding Lacambra's behavior.

3           59 On November 28, 2006, Ms Richardson sent Lacambra a  
4 certified letter terminating his services and requesting a copy of her file. The  
5 letter was sent to Lacambra's address on record with the State Bar of  
6 Arizona.  
7

8           60 On January 29, 2007, the State Bar of Arizona sent a copy of Ms.  
9 Richardson's complaint to Lacambra with a letter requesting he respond  
10 within 20 days. This letter was sent to Lacambra's address on record with  
11 the State Bar  
12

13           61. Lacambra did not provide a response within 20 days.  
14

15           62. On March 15, 2007, the State Bar of Arizona sent a follow-up  
16 letter to Lacambra reminding him of his obligation to cooperate pursuant to  
17 Rule 53 Ariz.R.Sup.Ct and requesting his response within 10 days This  
18 letter was sent to Lacambra's address on record with the State Bar  
19

20           63. Lacambra did not provide a response within 10 days.  
21

22           64. Lacambra never provided any type of response to the State Bar's  
23 investigation.

24           65. By entering into the Tender, Lacambra has waived his right to a  
25 formal disciplinary hearing to which he would otherwise have been entitled

1 pursuant to Rule 57(i), Ariz.R.Sup.Ct., as well as his rights to testify and  
2 present witnesses on his behalf at such a hearing.

3  
4 66. By entering into the Tender, Lacambra has further waived all  
5 motions, defenses, objections or requests that he has made or raised, or could  
6 have asserted hereafter, provided that the conditional admissions and stated  
7 forms of discipline are approved.

8  
9 67 Lacambra has acknowledged that he has read and reviewed the  
10 Tender, and that he has submitted the Tender freely and voluntarily, and  
11 without coercion or intimidation, and that he is aware of the Supreme Court  
12 Rules with respect to discipline.

13  
14 68. Lacambra has acknowledged that he understands that the  
15 Disciplinary Commission must approve this agreement, and that this matter  
16 will become final only upon judgment and order of the Supreme Court of  
17 Arizona.

18  
19 69. The State Bar and Lacambra have agreed that if their agreement  
20 is rejected, the conditional admissions shall be deemed to be withdrawn.

21 **CONDITIONAL ADMISSIONS**

22  
23 70 Lacambra conditionally admits that the State Bar's evidence  
24 would show that his conduct, as set forth above, violated the following Rules  
25

1 of Professional Conduct Rule 42, Ariz R Sup.Ct., specifically, ERs 1.1, 1.2,  
2 1.3, 1.4, 3.2, 8.1, and 8.4, and Rule 53(f) Ariz R.Sup.Ct.

3  
4 **DISMISSED ALLEGATIONS**

5 71. The State Bar is not dismissing any counts of the complaint

6 72. The State Bar is dismissing allegations that Lacambra violated  
7 ERs 1.5 and 1.7 Ariz.R.Sup.Ct. as part of the Tender of Admissions.

8  
9 73. Further witness interviews and development of case facts have  
10 caused the State Bar to determine that allegations that Lacambra violated  
11 ERs 1.5 and 1.7 would not to be viable as it appears that Lacambra was  
12 acting at the direction of Mother, who had a power of attorney for the  
13 purpose of engaging Lacambra and directing litigation.  
14

15 **RESTITUTION**

16 74. While Lacambra was paid for his representation, the amounts  
17 paid are not the subject of the complaint in this disciplinary proceeding.  
18 Lacambra did perform some work on the case and has not admitted to any  
19 allegations involving misappropriation of client funds.  
20

21 75. Furthermore, although the trial court did enter a judgment  
22 adverse to Ms Richardson, the State Bar is unable to definitively prove that  
23 absent Lacambra's misconduct, there still would not have been a judgment  
24  
25

1 adverse to Ms. Richardson. Accordingly, restitution is not at issue in this  
2 case.

### 3 4 SANCTIONS

#### 5 Agreed Upon Sanctions

6 76. Lacambra and the State Bar have agreed that based on the  
7 conditional admissions, the following disciplinary sanctions shall be  
8 imposed

- 9
- 10 a. Lacambra shall receive a censure,
  - 11 b. Lacambra shall be placed on probation for two years; and
  - 12 c. Lacambra shall pay the State Bar's reasonable costs
- 13

#### 14 Appropriateness of Agreed Upon Sanctions

15 77 In determining the appropriate sanction, Arizona generally  
16 follows the guided by the American Bar Association Standards for Imposing  
17 Lawyer Discipline (1992) ("ABA Standards") *In re Van Doo*, 214 Ariz.  
18 300, 303, ¶ 11, 152 P 3d 1183, 1186 (2007)

19

20 78. 18. The ABA Standards list the following factors to be  
21 considered in imposing the appropriate sanction:

- 22
- 23 a. the duty violated;
  - 24 b. the lawyer's mental state;
- 25

1 c. the actual or potential injury caused by the lawyer's  
2 misconduct; and

3 d. the existence of aggravating or mitigating circumstances

4 ABA Standard 3.0 *Van Doo* at ¶ 11. The Hearing Officer has considered  
5 all of the required factors.  
6

7 **Duties Violated**

8  
9 79. Lacambra has conditionally admitted that he violated ERs 1.1,  
10 1.2, 1.3, 1.4, 3.2, 8.1, and 8.4, and Rule 53(f) Ariz.R.Sup.Ct.

11 80. The theoretical framework analysis contained in the Standards  
12 states that where there are multiple acts of misconduct, the sanction should  
13 be based upon the most serious misconduct, with the other acts being  
14 considered as aggravating factors. *See also In re Moak*, 205 Ariz 351, 353,  
15 ¶ 9, 71 P.3d 343, 345 (2003).  
16

17 81 The parties have stipulated, and the Hearing Officer agrees, that  
18 the most serious misconduct in this case is Lacambra's failure to diligently  
19 pursue the case and effectively communicate with his client.  
20

21 **Lacambra's Mental State**

22 82. The Tender did not contain any agreements regarding  
23 Lacambra's mental state  
24  
25

1           83. Lacambra's mental state becomes important because the  
2 Standards generally provide more severe punishment for intentional or  
3 knowing conduct, than for negligent conduct. In particular, Standard 4.42  
4 provides that suspension is generally appropriate if an attorney knows that  
5 he or she is not performing the services requested by the client, while  
6 Standard 4.43 provides that censure<sup>1</sup> is generally appropriate if the attorney  
7 is merely negligent.  
8  
9

10           84. In the Joint Memorandum, the parties agreed that Standard 4.43  
11 should be applied, which suggests that the parties agreed that Lacambra  
12 acted negligently, and not knowingly, in failing to act with reasonable  
13 diligence.  
14

15           85. The Joint Memorandum also contends that Lacambra's absence  
16 of a dishonest or selfish motive should be a mitigating factor because  
17 Lacambra acted only negligently.  
18

19           86. The Hearing Officer questions whether Lacambra's actions were  
20 merely negligent, as opposed to knowing, in light of Ms. Richardson's  
21 repeated efforts to contact him, and Lacambra's repeated failures to contact  
22 Ms. Richardson. Lacambra has conditionally admitted that Ms. Richardson  
23

---

24  
25 <sup>1</sup> The ABA Standards use the term "reprimand" rather than "censure." Public reprimand under the ABA Standards is the same as public censure under Arizona's disciplinary rules. *In re Castro*, 164 Ariz. 428, 433, 793 P.2d 1095, 1100 n.1 (1990).

1 made numerous efforts to contact him including telephone messages, emails,  
2 and certified letters, and that Lacambra repeatedly failed to respond to these  
3 attempts to contact him.  
4

5 87. The Hearing Officer presumes that because the State Bar agreed  
6 that Standard 4.43, dealing with negligent failure to use reasonable  
7 diligence, applies, the State Bar believes that if this matter proceeded to  
8 hearing, it could not establish by clear and convincing evidence that  
9 Lacambra acted knowingly. As such, the Hearing Officer will analyze the  
10 agreed upon discipline under the assumption that Lacambra's actions were  
11 merely negligent.  
12

13  
14 **Actual or Potential Injury Caused by Lacambra's**  
15 **Conduct**

16 88. The State bar has conceded that if this matter proceeded to a  
17 hearing, it would not be able to definitively prove that absent Lacambra's  
18 misconduct, there still would not have been a judgment adverse to Ms.  
19 Richardson.  
20

21 89 It appears that Lacambra's actions in failing to respond to the  
22 issues created by the recording of a lien in favor of Mother delayed or  
23 prevented Ms Richardson from obtaining a loan to repair her home from  
24 Countrywide. This appears to constitute injury or at least potential injury.  
25



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a. Standard 9 32(b) -- Absence of Dishonest or Selfish Motive. The parties contend that Lacambra's failures to diligently pursue Ms. Richardson's case and to maintain effective communication were ones of negligence, and that Lacambra's conduct generated no specific pecuniary gain for Respondent. As discussed above, the Hearing Officer has concerns about whether Lacambra's actions were merely negligent, as opposed to knowing. Nonetheless, it does not appear that Lacambra acted with a selfish or dishonest motive

b. Standard 9 32(l) -- Remorse. During the case management conference in this matter, Lacambra freely admitted to the Hearing Officer that he "messed up" on this case, and that he understood he needed to deal with the ramifications of his actions.

92. The Hearing Officer finds that the aggravating and mitigating factors are relatively equally balanced, and do not support significant departures from the sanctions otherwise recommended by the ABA Standards

1                    **Proportionality**

2                    93. The last step in determining if a particular sanction is appropriate  
3 is to assess whether the discipline is proportional to the discipline imposed  
4 in similar cases *In re Peasley*, 208 Ariz. 27, 41, ¶ 62, 90 P.3d 764, 778  
5 (2004). “This is an imperfect process because no two cases are ever alike”  
6 *In re Owens*, 182 Ariz. 121, 127, 893 P.2d 1284, 1290 (1995). As the  
7  
8 Arizona Supreme Court has recently observed:  
9

10                    Consideration of the sanctions imposed in similar cases is  
11 necessary to preserve some degree of proportionality, ensure  
12 that the sanction fits the offense, and avoid discipline by whim  
13 or caprice. . . . Proportionality review however, is an imperfect  
14 process. . . Normally the fact that one person is punished more  
15 severely than another involved in the same misconduct would  
16 not necessarily lead to a modification of a disciplinary sanction.  
Both the State Bar in its capacity as prosecutor and the  
Disciplinary Commission in its quasi-judicial capacity have  
broad discretion in seeking discipline and in recommending  
sanctions.

17 *In re Dean*, 212 Ariz. 221, 225, ¶ 24, 129 P.3d 943, 947 (2006).

18                    94. Because perfect uniformity cannot be achieved, the Arizona  
19 Supreme Court has long recognized that the discipline in each situation must  
20 be tailored for the individual case *In re Platt*, 191 Ariz 24, 31, 951 P 2d  
21 889, 896 n.5 (1997) The Hearing Officer has evaluated the agreed upon  
22 sanction to make sure that it is adequately tailored for the individual case,  
23  
24  
25

1 while keeping in mind the State Bar's broad discretion in recommending  
2 sanctions.

3  
4 95. The Hearing Officer has considered the cases cited by the parties  
5 in the Joint Memorandum, and has performed independent research  
6 regarding similar cases.

7  
8 96. Numerous Arizona discipline cases, including those cited in the  
9 Joint Memorandum, support the imposition of a censure when an attorney  
10 has negligently failed to act with reasonable diligence, and has negligently  
11 failed to timely communicate with a client. The Joint Memorandum cites a  
12 number of recent unpublished decisions imposing censures in similar  
13 circumstances. A number of older published discipline cases reach this same  
14 result. *See, e.g., In re Gamble*, 180 Ariz. 145, 147-48, 882 P.2d 1271, 1273-  
15 74 (1994); *In re Gawlowski*, 177 Ariz. 311, 313, 868 P.2d 324, 326 (1994)

16  
17  
18 97. Based on these prior cases, the Hearing Officer finds that the  
19 agreed upon sanction in this case is proportional to the sanctions imposed in  
20 the past in similar cases.

21  
22 98. The Hearing Officer believes that the agreed upon censure is  
23 sufficient punishment to deter others and to protect the public. *In re Pappas*,  
24 159 Ariz. 516, 526, 768 P.2d 1161, 1171 (1988).

25  
**CONCLUSION**



1 Phoenix, Arizona 85007-3231

2 COPIES of the foregoing mailed  
3 February 27, 2008, to:

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11 Tucson, Arizona 85712  
12 Respondent

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