



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

IN THE MATTER OF A MEMBER) No. 08-0803, 08-1036, 08-1085,
OF THE STATE BAR OF ARIZONA,) 08-1128
)
WILLIAM WAHL,) **HEARING OFFICER'S REPORT**
Bar No. 019356)
)
RESPONDENT.)
_____)

PROCEDURAL HISTORY

1. Probable Cause was found in all cause numbers on May 6, 2009. A Complaint alleging four counts was filed on July 17, 2009, and thereafter served on Respondent via certified mail on July 20, 2009. The matter was assigned to the undersigned Hearing Officer on July 22, 2009. Respondent failed to file an Answer to the Complaint and his default was entered on September 9, 2009. An Aggravation/Mitigation hearing was held on September 24, 2009, wherein the Bar Counsel, Respondent and the undersigned were in attendance.

FINDING OF FACT

2. 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 January 12, 1999.¹
3. Respondent was admitted to the State Bar of California on June 7, 1996, and is listed on the State Bar of California's website as having inactive status.

¹ Unless otherwise noted, all facts cited herein are from the Complaint filed in this matter, which are deemed to have been admitted due to Respondent's default having been entered.

4. Respondent was summarily suspended from the practice of law in Arizona on March 25, 2005, for failure to comply with mandatory continuing legal education requirements. Respondent was reinstated to the practice of law in Arizona on June 9, 2006.
5. Respondent was suspended from the practice of law in Arizona for six months and one day by order of the Supreme Court of Arizona filed on March 18, 2008, and effective 30 days from the date (April 17, 2008). This suspension was a result of Respondent practicing law while under the summary suspension, Transcript of Hearing (“T/H”) 7:9-8:14.
6. Respondent has not been reinstated to the practice of law in Arizona and currently remains suspended from the practice of law in Arizona.

COUNT ONE (File no. 08-0803 Bassett)

7. By letter dated May 7, 2008, mailed to Charles Bassett, Esq. (“Mr. Bassett”) at “The Law Office of Charles W. Bassett, P.C.,” Respondent held himself out as the attorney for Eagle Rock Underground, L.L.C. (“Eagle Rock”).
8. The letter was written on stationery bearing the letterhead of “The Law Offices of Wahl and Ribadeneira, P.C.”
9. In the letter, Respondent set forth Eagle Rock’s legal position, summarized his client’s claim, and proffered proposed terms for settlement of the legal dispute Eagle Rock had with Mr. Bassett's client.
10. Respondent's signature appears over his typed name, “Randy Wahl, Esq.”
11. By facsimile transmission dated May 8, 2008, Mr. Bassett's paralegal forwarded Respondent's letter to the State Bar of Arizona (“State Bar”).

12. By letter dated May 13, 2008, sent to Respondent at his address of record, Bar Counsel Amy Rehm made Respondent aware of the allegations against him and instructed him to respond no later than 20 days of the date of the letter. Respondent knowingly failed to respond.
13. By letter dated July 15, 2008, sent to Respondent at his address of record, Bar Counsel Savita Kasturi reminded Respondent of his obligation to respond, cautioned him that failure to respond was, in itself, grounds for discipline and instructed Respondent to respond within 10 days of the date of the letter. Respondent knowingly failed to respond.

COUNT TWO (File no. 08-1036 Luna)

14. Respondent represented All Wood Cabinet Company, L.L.C., for a period of time including the time period between 2005 and 2008.
15. By minute entry filed on May 23, 2008, in the matter of “All Wood Cabinet Company, L.L.C. v. Office of Administrative Hearings, et al.,” Maricopa County Superior Court Case No. LC 2008-000313, the Court ordered that an Amended Complaint be filed by June 13, 2008.
16. The minute entry warned that failure to comply would result in the matter being dismissed with prejudice, without further notice.
17. On June 17, 2008, Respondent filed a First Amended Complaint on behalf of All Wood Cabinet Company, L.L.C.
18. The caption page of the Complaint reflects that it was filed by “Randy Wahl (SBN019365)” of the “Law Offices of Wahl and Ribadeneira.”
19. The First Amended Complaint was signed by “William R. Wahl.”

20. The Court, noting that Respondent was suspended from the practice of law, struck the First Amended Complaint and notified the State Bar of the matter.
21. By letter dated June 18, 2008, Angelina Luna (“Ms. Luna”) also notified the State Bar that Respondent had been practicing law during his suspension.
22. By letter dated July 7, 2008, sent to Respondent at his address of record, Bar Counsel Amy Rehm notified Respondent of the allegations against him and instructed him to respond within 20 days of the date of the letter. Respondent knowingly failed to respond.
23. By letter dated August 4, 2008, sent to Respondent at his address of record, Bar Counsel Savita Kasturi reminded Respondent of his obligation to respond, cautioned him that his failure to respond was, in itself, grounds for discipline, and instructed him to respond within 10 days of the date of the letter. Respondent knowingly failed to respond.

COUNT THREE (File no. 08-1085 Sakelarios)

24. By letter dated January 4, 2006, Respondent, as attorney for All Wood Cabinet Company, the DBA Big America Construction Enterprises (“Big America”), contacted William (Bill) and Elaine Sakelarios (“Mr. and Mrs. Sakelarios or “the Sakelarioses”), demanding they cease-and-desist actions Respondent characterized as adverse to Big America and directed the Sakelarioses to contact him to discuss the matter.
25. The letter, written on the letterhead of “The Law Offices of Wahl and Ribadeneria, P.C., was signed by Respondent over his typed name, “Randy Wahl, Esq., Attorney at Law.”

26. By letter dated January 18, 2006, on letterhead stationery of “The Law Offices of Wahl and Ribadeneira, P.C.,” Respondent contacted the Sakelarios’ attorney, Brett Rigg (“Mr. Rigg”), to further discuss matters relating to their dispute with his client, Big America.
27. In the letter, Respondent requested that Mr. Rigg discuss the matter with the Sakelarioses and get back in touch with Respondent.
28. The letter was signed by Respondent, over the typed signature “Randy Wahl, Esq., Attorney at Law.”
29. On January 27, 2006, Respondent, again representing Big America, attended an inspection at the Sakelarios’ home, on behalf of his client. The inspector’s report notes Respondent as the contractor’s attorney.
30. The State Bar received the Sakelarios’ allegations on June 30, 2008.
31. By letter dated August 4, 2008, sent to Respondent at his address of record, Bar Counsel Savita Kasturi made Respondent aware of the allegations made by Mr. and Mrs. Sakelarios, and instructed him to respond in writing within 20 days of the date of the letter. Respondent knowingly failed to respond.
32. By letter dated October 1, 2008, sent to Respondent at his address of record, Bar Counsel reminded Respondent of his obligation to respond, cautioned Respondent that his failure to respond was, in itself, grounds for discipline, and instructed him to respond within 10 days of the date of the letter. Respondent knowingly failed to respond.

COUNT FOUR (File no. 08-1128 McTurk)

33. By letter dated December 4, 2005, Respondent, on behalf of his client Big America, contacted Susan McTurk (“Ms. McTurk”) relating to a dispute between Big America and Ms. McTurk.
34. The letter was written on letterhead stationery of “The Law Offices of Wahl and Ribadeneira, P.C.,” and was signed by Respondent over a typed signature of “Randy Wahl, Esq., Attorney at Law.”
35. In the letter, Respondent warned Ms. Mc Turk that her conduct, as he alleged it, would “force my client” to file a civil action against her, and that should that happen “we” (meaning he and Big America) would seek punitive and other legal damages.
36. Ms. McTurk made the State Bar aware of Respondent's conduct by letter, received by the State Bar on July 7, 2008.
37. By letter dated August 13, 2008, sent to Respondent at his address of record, Bar Counsel Savita Kasturi advised Respondent of the allegations against him and instructed him to respond within 20 days of the date of the letter. Respondent knowingly failed to respond.
38. By letter dated October 1, 2008, sent to Respondent at his address of record, Bar Counsel reminded Respondent of his obligation to respond, cautioned him that his failure to respond was, in itself, grounds for discipline, and instructed Respondent to respond within 10 days of the date of the letter. Respondent knowingly failed to respond.

39. Respondent testified at the Aggravation/Mitigation hearing that he had no good explanation for his misconduct, or not responding to the Bar's letters, T/H 12:2-6, 14:7-15:9. Respondent conceded that his continued practice of law while knowing that he was suspended was, at least in part, due to financial pressures, T/H 17:8-16, and that he just kept putting off responding to the Bar, T/H16:24-17:7.
40. Respondent also testified that he realized that the practice of law, at this time, was probably not for him, T/H 11:17, 12:10-15, 12:25-13:1.

CONCLUSIONS OF LAW

41. The undersigned Hearing Officer finds that there is clear and convincing evidence that Respondent violated the following Rules and ERs:
- Rule 31(b), engaging in the unauthorized practice of law;
 - Rule 42;
 - ER 5.5, engaging in the unauthorized practice of law;
 - ER 8.1(b), failing to respond to a lawful demand for information from a disciplinary authority;
 - ER 8.4(a), violating the Rules of Professional Conduct
 - ER 8.4(c), engaging in conduct involving dishonesty, fraud, deceit or misrepresentation;
 - ER 8.4(d), engaging in conduct prejudicial to the administration of justice;
 - Rule 53(d), refusing to cooperate with officials and staff of the State Bar;

Rule 53(f), failing to furnish information to or respond promptly to an inquiry or request from Bar Counsel for information relevant to complaints, grievances or matters under investigation concerning the conduct of a lawyer.

ABA STANDARDS

42. *ABA Standard 3.0* provides that four criteria should be considered: (1) the duty violated; (2) the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of aggravating and mitigating factors.

The Duty Violated

43. The undersigned Hearing Officer finds that Respondent violated his duties to his clients, to the legal system, and to the profession.
44. *Standard 7.1* provides that disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession with the intent to obtain a benefit for the lawyer, and causes serious or potential serious injury to a client, the public, or the legal system.
45. Respondent's conduct in continuing to represent clients, even though he was aware that he had been suspended, caused damage not only to his clients but to the legal system as well.
46. *Standard 8.1* provides that disbarment is generally appropriate when a lawyer intentionally or knowingly violates the terms of a prior disciplinary order and such violation causes injury or potential injury to a client, the public, the legal system or the profession or has been suspended for the same or similar

misconduct, and intentionally or knowingly engages in further acts of misconduct that cause injury or potential injury to a client, the public, the legal system or the profession.

47. Respondent had previously been suspended for six months and a day for continuing to practice law after he had been suspended for failure to comply with mandatory continuing legal education requirements. Thereafter, Respondent prior to being reinstated practiced law as set forth herein. Similarly, Respondent had previously been sanctioned for failing to cooperate with the State Bar, and yet again failed in this case to cooperate with the State Bar.

The Lawyer's Mental State

48. The Respondent's conduct was "knowing."

The Injury Caused

49. The Hearing Officer finds that Respondent's conduct caused both actual and potential injury. Respondent's conduct caused actual injury, specifically in Count Two where the Amended Complaint he filed on behalf of his client was stricken by the Court based upon Respondent's suspended status. The potential injury was that Respondent continued to represent clients when he knew that he was not authorized to do so, and his conduct was a denigration of his responsibility to the profession. Further, by not cooperating with the State Bar, Respondent's conduct frustrated the State Bar's ability to self regulate.

Aggravating and Mitigating Factors

Aggravating Factors:

50. *Standard 9.22(a)*, Prior disciplinary offenses. Respondent was suspended by order of the Supreme Court of Arizona, filed March 18, 2008, in case SB-08-0017-D.
51. *Standard 9.22(b)*, Dishonest or selfish motive. Respondent continued to practice law during his suspension, earned and collected fees and failed to advise his clients, opposing parties and/or counsel, or the court of his suspension. Respondent's conduct is clearly both self-serving and dishonest.
52. *Standard 9.22(c)*, Pattern of misconduct. Respondent's misconduct in the instant matter, continuing to practice after suspension, is consistent with his misconduct addressed in the prior disciplinary matter. Additionally, Respondent's failure to participate in the investigation, or in the formal proceedings until the date of the Aggravation/Mitigation hearing, shows a pattern of disregard for the Rules and the self-regulation of the profession. Respondent's conduct "... serves to undermine the profession's efforts at self-regulation, damaging both his credibility and reputation." *In re Davis*, 181 Ariz. 263, 889 P.2d 621 (1995).
53. *Standard 9.22(d)*, Multiple offenses. The instant matter consists of four distinct counts.
54. *Standard 9.22(e)*, Bad-faith obstruction of disciplinary proceedings by intentionally failing to comply with Rules or Orders of the disciplinary agency. While Respondent did appear at the Aggravation/Mitigation hearing, up until that time he had refused and failed to cooperate with the State Bar in its efforts to

engage him in the process. Additionally, although Respondent did appear at the Aggravation/Mitigation hearing, he refused to cooperate in four separate investigations initiated by the State Bar against him.

Mitigating Factors:

55. *Standard 9.32(l)*, Remorse. Respondent appeared at the Aggravation/Mitigation hearing, and expressed what appeared to be sincere and deep felt remorse about his misconduct, T/H15:10-14. Respondent was also honest with this Hearing Officer in acknowledging that he probably should not be practicing law. Respondent offered no excuses or empty promises and accepted full responsibility for his misconduct.²

PROPORTIONALITY REVIEW

56. The Supreme Court has held that one of the goals of attorney discipline should be to achieve consistency when imposing discipline. It is also recognized that the concept of proportionality is “an imperfect process” because no two cases are ever alike, *In re Struthers*, 179 Ariz. to 16, 887 P.2d 789 (1994), *In re Wines*, 135 Ariz. 203, 660 P.2d 454 (1983). In order to achieve internal consistency, it is appropriate to examine sanctions imposed in cases that are factually similar, *In re Peasley*, 208 Ariz. 90, 90 P.3d 772 (2004). It is also the goal of attorney discipline that the discipline imposed be tailored to the individual case and that neither perfection nor absolute uniformity can be achieved, *Peasley*, supra.
57. In this case, the State Bar is recommending that the Respondent be disbarred.

² This Hearing Officer urged the Respondent to submit a Post Hearing Memorandum setting forth any mitigation or contrary proportionality cases, but he did not do so.

58. In *In re Rodgers*, SB-07-0128-D (2007), Rogers was disbarred. Rogers had been summarily suspended for failure to comply with the mandatory continuing legal education requirement, but nonetheless knowingly engaged in the continuing unauthorized practice of law. He also engaged in a pattern of neglect, ultimately, abandoning his clients. Rogers failed to respond or cooperate with the State Bar's investigation and with the formal disciplinary process and the alleged conduct was deemed admitted by default. Rogers had also been sanctioned in an earlier case for the unauthorized practice of law.
59. In *In re Wagner*, SB-05-0175-D (2006), Wagner was disbarred after engaging in the unauthorized practice of law while suspended for failing to comply with mandatory continuing legal education requirements. Wagner also failed to comply with a court order and abandoned her law practice. She further failed to cooperate with the State Bar's investigation and participate in the formal disciplinary process. The alleged misconduct was deemed admitted by default. Wagner had no prior discipline.

RECOMMENDATION

60. The purpose of lawyer discipline is not to punish the lawyer, but to protect the public, the profession, the administration of justice, and to deter future misconduct, *In re Fioramonti*, 176 Ariz. 182, 859 P.2d 1315 (1993), *In re Neville*, 147 Ariz. 106, 708 P.2d 1297 (1985). It is also the purpose of attorney discipline to instill public confidence in the Bar's and integrity, *Matter of Horwitz*, 180 Ariz. 20, 881 P.2d 352 (1994).

61. In imposing discipline, it is appropriate to consider the facts of the case, the American Bar Associations *Standards for Imposing Lawyer Sanctions* and the proportionality of discipline imposed in analogous cases, *Matter of Bowen*, 178 Ariz. 283, 872 P.2d 1235 (1994).
62. It was difficult for this Hearing Officer to discern the reasons why Respondent continues to practice law even though he knows he has been suspended. When confronted with that question at the Aggravation/Mitigation hearing, Respondent became very emotional, apologized and talked about his conclusion that he should no longer be practicing law. Whether this is as a result of emotional pressures or competency could not be ascertained. This Hearing Officer recognizes the value and difficulty in obtaining a license to practice law, and it appears that the Respondent does not take that lightly either. Respondent's continued violation of the Rules by practicing law when he knows that his license to do so has been suspended, evidences either a complete disregard for his obligation to the profession or a disdain for the Rules, neither of which can be excused. Respondent testified that financial pressures were, at least in part, why he kept practicing law while suspended. This, while understandable, causes concern about Respondent's honesty.
63. Sadly, whatever Respondent's excuses are, he continues to victimize his clients and this profession as well, and that conduct, coupled with his refusal to cooperate with the State Bar in either reaching out for help or cooperating in these proceedings, merits the loss of his license to practice law. It is, therefore, the

recommendation of the undersigned Hearing Officer that Respondent be
disbarred.

DATED this 16th day of October, 2009.

H. Jeffrey Coker / CPA
H. Jeffrey Coker, Hearing Officer

Original filed with the Disciplinary Clerk
this 16th day of October, 2009.

Copy of the foregoing mailed
this 16 day of October, 2009, to:

William Wahl
Respondent
Wahl & Ribadeneira PC
9590 E Ironwood Square Drive, Suite 105
Scottsdale, AZ 85258

Roberta Tepper
Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, AZ 85016-6288

by: Deann Barber