

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

CASON LEAVITT,

Respondent.

PDJ 2020-9091

**FINAL JUDGMENT AND
ORDER**

State Bar File No. 19-2993

FILED FEBRUARY 24, 2021

This matter came for hearing before the hearing panel which rendered its decision on February 1, 2021, imposing reprimand on Cason Leavitt, a non-member of the State Bar of Arizona. No notice of appeal having been filed and the time now having expired, and no objection to the State Bar's Statement of Costs and Expenses having been filed,

Accordingly:

IT IS ORDERED reprimanding Respondent, **CASON LEAVITT**, for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED Mr. Leavitt shall pay restitution in the amount of \$2,000.00 to Susan Craver within thirty (30) days from the date of this order.

IT IS FURTHER ORDERED Mr. Leavitt shall pay the costs and expenses of the State Bar of Arizona in the amount of \$2,079.47. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 24th day of February, 2021.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing emailed
this 24th day of February, 2021, to:

Cason Leavitt
15282 West Brookside Lane, Suite 110
Surprise, Arizona 85374
Email: leavittplanning@gmail.com
Respondent

and

Cason Leavitt
14924 West Hearn Circle,
Surprise, Arizona 85379

James D. Lee
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

CASON LEAVITT,

Respondent.

PDJ-2020-9091

**DECISION AND ORDER
IMPOSING SANCTIONS**

[State Bar No. 19-2993]

FILED FEBRUARY 1, 2021

SUMMARY

Mr. Leavitt, who is not licensed to practice law in Arizona, engaged in the intentional unauthorized practice of law while representing clients in probate matters and estate planning. Mr. Leavitt held himself out as a licensed Arizona attorney to clients. Mr. Leavitt failed to respond to the State Bar's investigation. He violated Supreme Court Rules 31(b) (regulation of the practice of law), 33(c) (practice in courts), and, Rule 42, specifically ER 5.5(a) and (b) (unauthorized practice of law) and ER 8.4(d) (conduct prejudicial to the administration of justice).

PROCEDURAL HISTORY

The complaint was filed on October 5, 2020. On October 13, 2020, the Presiding Disciplinary Judge of the Supreme Court (PDJ) authorized service of the complaint and probable cause order by alternative means: by email at

leavittplanning@gmail.com; and, by mailing them to Respondent by regular first class mail and certified mail/delivery restricted to Cason Leavitt to 14924 West Hearn Circle, Surprise, Arizona 85379. That is the address of the corporation he organized and formed, the address for himself as statutory agent, and is the address he listed for the company's only listed member; himself. On October 20, 2020, the complaint was served on Respondent as directed by the PDJ.

Effective entry of default was entered against Mr. Leavitt given his failure to file an answer or otherwise defend even after a notice of default was sent to him. An aggravation/mitigation hearing was set. The Chief Justice by Administrative Order authorized and directed the use of technologies to eliminate or limit in-person contact in the conduct of court proceedings. Because of COVID-19 concerns, the hearing was held telephonically on January 28, 2021, at 10:00 a.m.

The Hearing Panel (Panel), comprised of voluntary attorney member Scott I. Palumbo, volunteer public member Richard Westby, and the PDJ, William J. O'Neil. The State Bar was represented by Senior Bar Counsel James D. Lee. Mr. Leavitt did not appear. Multiple efforts were made to contact him.

Exhibits 1-8 were admitted and considered by the Panel. At the hearing, Mr. Lee explained the unsuccessful efforts made to locate Mr. Leavitt.¹ The Panel asked multiple questions.

FINDINGS OF FACT

The facts listed below are quoted from the SBA's complaint and deemed admitted by Mr. Leavitt's default or supported by the exhibits. Where inconsequential allegations contradict the objective exhibits, we rely on those exhibits.

GENERAL ALLEGATIONS

1. Respondent was a lawyer licensed to practice law in the state of Utah having been first admitted to practice in Utah on February 25, 2016; during part or all times relevant, Respondent was suspended from the practice of law in Utah for non-compliance with the requirements of mandatory continuing legal education. Respondent is not and has never been admitted to practice law in Arizona.

COUNT ONE (File no. 19-2993/Susan Craver)

2. Respondent is the organizer, sole member and registered statutory agent of LL Estate Planning, LLC, which was formed in Arizona on April 11, 2017, and approved by the Arizona Corporation Commission on April 19, 2017. [Ex. 1.]

¹ See by example exhibits 2-5.

3. Respondent identifies his business as “LL Estate Planning, LLC” on his Facebook webpage. LL Estate Planning’s Facebook webpage includes the following:

LL Estate Planning, LLC

[. . .]

LEAVITTPLANNING.COM

**High Cost of DIY Estate Planning | LL Estate Planning, LLC.
Estate Planning Attorney, Wills and Trusts, AZ**

There are many individuals that think they can do their own Estate Planning. We review lots of...

(Bold in original) [Exhibit 8, Bates 19-20.]

4. The “About” section of that same Facebook webpage includes the following:

[Globe symbol] leavitttplanning.com

[Symbol] Estate Planning Lawyer

[Dollar symbol] Legal Service Price Range \$

[Id.]

5. Another of LL Estate Planning’s Facebook webpages includes the following: “**How to Avoid Probate with Estate Planning: Part 1 of 2 | LL Estate Planning, LLC. Estate Planning Attorney, Wills and Trusts, AZ[.]**” (Bold in original). [Id, Bates 21.]

6. Respondent identifies his business as “LL Estate Planning, LLC” on his LinkedIn webpage. The “Experience” section of Respondent’s LinkedIn webpage includes the following:

Attorney

LL Estate Planning, LLC

Apr 2017 – Present · 2 years[,] 9 months

St. George, Utah and Surprise, Arizona

Estate planning law firm. Wills, Trusts, Powers of Attorney, Trust Administration, Probate.

(Bold in original).
[Id., Bates 25.]

7. Respondent also has a webpage at asapconnected.com. That webpage includes the following:

Cason Leavitt, JD

Cason Leavitt is the Trust Director at LL Estate Planning, LLC. Estate Planning is a local law firm dedicated to educating and assisting individuals in their Estate Planning needs.

(Bold in original). [Id. Bates 30.]

8. That same webpage also states that Respondent is “a member of the Utah Bar” and “currently lives in Surprise[,] Arizona.” [Id. Bates 31.]

9. Susan Craver hired Respondent in 2017 but was unhappy with the work he performed for her. She received nothing in writing from Respondent in which he held himself out to be a lawyer practicing law in Arizona. A financial advisor at Edward Jones referred Ms. Craver to Respondent when he learned that she needed legal work to be performed. She assumed that Respondent was an attorney because he was completing legal work for her.

10. In November 2017, Respondent met with Ms. Craver in her home. She believed he was licensed to practice law in Arizona. During that meeting, Respondent gathered information from her to prepare a will, powers-of-attorney, a living will, advanced directives, and a trust. She paid Respondent \$2,000.

11. Although Respondent provided Ms. Craver with a notebook containing various documents, the trust did not include her oil well royalties, which she considered to be the most important part of the trust. Ms. Craver contacted Respondent on several occasions, at which time Respondent agreed to complete all the tasks she requested. Eventually, she lost contact with Respondent.

12. Ms. Craver subsequently hired an attorney, who opined that Respondent's work product was "shoddy" and appeared to have been based on a "form" that was not specific to her situation. The attorney also noted that some documents were "just wrong."

13. By engaging in the misconduct described above, Respondent violated several ethical rules, including ER 5.5(a) and (b), ER 8.4(d), and Rules 31(b) and 33(c).

CONCLUSIONS OF LAW

The allegations are deemed admitted by default and the exhibits support the findings of unethical conduct. The Panel finds by clear and convincing evidence that under Rule 42, Ariz. R. Sup. Ct., Mr. Leavitt violated:

Rule 31(b), Ariz. R. Sup. Ct., Rule 33(c), Ariz. R. Sup. Ct., and, Rule 42, Ariz. R. Sup. Ct., specifically ER 5.5(a) and (b), and ER 8.4(d).

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 were 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*.

Duties violated:

Mr. Leavitt violated his duty to the legal system by violating ER 8.4(d), and his duties to the legal profession by violating Rule 31(b), Rule 33(c), and ER 5.5(a) and (b).

Mental State and Injury:

Mr. Leavitt acted both knowingly and intentionally when he misled Susan Craver, his customer, and the public to believe he was authorized to engage in the practice of law in Arizona. He defrauded Ms. Craver by providing legal advice through the preparation of various legal documents for her.

Actual or Potential Injury:

Susan Craver suffered actual harm by paying Respondent a total of \$2,000 for legal documents he was not authorized to prepare, and which were inappropriate for Ms. Craver's use. As a result, she hired another lawyer to prepare the estate planning documents she requested. Furthermore, Respondent has never refunded the \$2,000 he was paid by Ms. Craver.

The following *ABA Standards* are implicated by Respondent's conduct: *Standard 4.61, Standard 4.62, Standard 5.11(b), Standard 5.13, Standard 7.1 and Standard 7.2.*

Standard 4.61 states, "Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another and

causes serious injury or potentially serious injury to a client.” Respondent intended to benefit from his deceit by collecting \$2,000 from Ms. Craver.

Standard 4.62 states, “Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.”

Standard 5.11(b) states, “Disbarment is generally appropriate when: . . . (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer’s fitness to practice.”

Standard 5.13 states, “Reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer’s fitness to practice law.”

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.”

AGGRAVATING AND MITIGATING FACTORS

The Panel finds these aggravating factors:

Standard 9.22(b) - dishonest or selfish motive;

Standard 9.22(e) - bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; and

Standard 9.22(h) - vulnerability of victim.

The Panel finds the following sole mitigating factor:

Standard 9.32(a) - absence of a prior disciplinary record.

The Panel finds the sole mitigating factor does not outweigh the aggravating factors. The *Standards* call for disbarment as does the flagrant fraudulent misrepresentations of Mr. Leavitt. We strongly condemn his purposeful deception that profited him and did nothing of benefit for his client. However, Mr. Leavitt is not a member of the State Bar of Arizona. As such he cannot be disbarred or suspended. The only sanction that can be imposed is a reprimand. *Matter of Olsen*, 180 Ariz. 5, (1994); *In re Elcock*, SB-19-0022-AP (9/27/2019) (decision order) (Supreme Court entered a reprimand against Jennifer Anne Elcock, a member of the Massachusetts Bar, by relying on a Disciplinary Commission conclusion in *In re Olsen, supra.*, that the only sanction available against a non-admitted member of the bar was a censure; the Court further stated it saw no reason to revisit *Olsen*); *In re*

Alcorn, 202 Ariz. 62, 67 n. 7 (2002) (Supreme Court stated that a censure, the equivalent of a reprimand under the current rules, was the only sanction that could be imposed on Attorney Hmielewski, a Florida attorney; “any disciplinary action beyond what was done in this matter would have to be taken in Florida, [Attorney Hmielewski’s] home state bar, as a matter of comity.”). We leave for Utah to sanction Mr. Leavitt and direct the disciplinary clerk to forward this decision to the Attorney General of Arizona Fraud Division.

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 State Bar of Arizona. *Matter of Horwitz*, 180 Ariz. 20, 881 P.2d 352 (1994). Here those purposes cannot fully be achieved because Mr. Leavitt has never been a member of the State Bar of Arizona.

Now Therefore,

IT IS ORDERED:

- a) **CARSON LEAVITT** is reprimanded for violating the above-referenced rules.
- b) Mr. Leavitt shall pay all costs and expenses incurred by the State Bar of Arizona in the amount of \$2,079.47. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge.
- c) Mr. Leavitt shall pay restitution in the amount of \$2,000.00 to Susan Craver within thirty (30) days of entry of the final judgment and order.

A final judgment and order shall follow.

DATED this 1st day of February 2021.

Signature on File

William J. O’Neil, Presiding Disciplinary Judge

Signature on File

Scott I. Palumbo, Volunteer Attorney Member

Signature on File

Richard Westby, Volunteer Attorney Member

Copy of the foregoing mailed/mailed
this 1st day of February 2021, to:

Cason Leavitt
15282 West Brookside Lane, Suite 110
Surprise, Arizona 85374
Email: leavittplanning@gmail.com

And

Cason Leavitt
14924 West Hearn Circle,
Surprise, Arizona 85379

James D. Lee
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: SHunt

James D. Lee, Bar No. 011586
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone: (602) 340-7250
Email: LRO@staff.azbar.org

BEFORE THE PRESIDING DISCIPLINARY JUDGE

In the Matter of a Non-Member
of the State Bar of Arizona,

CASON LEAVITT,

Respondent.

PDJ-2020-9091

COMPLAINT

[State Bar No. 19-2993]

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 Utah, having been first admitted to practice in Utah on February 25, 2016; during part or all times relevant, Respondent was suspended from the practice of law in Utah for non-compliance with the requirements of mandatory continuing legal education. Respondent is not and has never been admitted to practice law in Arizona.

COUNT ONE (File No. 19-2993/Craver)

Unauthorized Practice of Law

2. Respondent is the organizer, sole member and registered statutory agent of LL Estate Planning, LLC, which was formed in Arizona on April 11, 2017, and approved by the Arizona Corporation Commission on April 19, 2017.

3. Respondent identifies his business as “LL Estate Planning, LLC” on his Facebook webpage. LL Estate Planning’s Facebook webpage includes the following:

LL Estate Planning, LLC

[. . .]

LEAVITTPLANNING.COM

**High Cost of DIY Estate Planning | LL Estate Planning, LLC.
Estate Planning Attorney, Wills and Trusts, AZ**

There are many individuals that think they can do their own Estate Planning. We review lots of . . .

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4. The “About” section of that same Facebook webpage includes the following:

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10. In November 2017, Respondent met with Ms. Craver in her home. She believed he was licensed to practice law in Arizona. During that meeting, Respondent gathered information from her to prepare a will, powers-of-attorney, a living will, advanced directives, and a trust. She paid Respondent \$2,000.

11. Although Respondent provided Ms. Craver with a notebook containing various documents, the trust did not include her oil well royalties, which she considered to be the most important part of the trust. Ms. Craver contacted Respondent on several occasions, at which time Respondent agreed to complete all the tasks she requested. Eventually, she lost contact with Respondent.

12. Ms. Craver subsequently hired an attorney, who opined that Respondent’s work product was “shoddy” and appeared to have been based on a

“form” that was not specific to her situation. The attorney also noted that some documents were “just wrong.”

13. By engaging in the conduct set forth above, Respondent violated ER 5.5(a) and (b), ER 8.4(d), and Rules 31(b) and 33(c), Ariz. R. Sup. Ct.

Failure to Respond to Bar Counsel

14. On December 23, 2019, bar counsel mailed a screening letter to Respondent regarding State Bar File No. 19-2993.

a. Enclosed with that letter was a copy of the charge of misconduct submitted to the State Bar by Susan Craver and copies of various Internet webpages.

b. That letter directed Respondent to submit a written response to the charge by January 13, 2020.

c. That letter noted that Respondent had a duty to cooperate with the State Bar’s investigation, and that a failure to fully and honestly respond to, or cooperate with, the investigation could result in the imposition of sanctions and his deposition being taken at his expense, regardless of the ultimate disposition of the initial charges.

15. Bar counsel’s December 23, 2019 screening letter was never returned to the State Bar as undeliverable.

16. Respondent failed to submit a written response to bar counsel, as directed in his screening letter dated December 23, 2019, and failed to assert a ground for refusing to do so.

17. On January 22, 2020, bar counsel mailed another screening letter to Respondent regarding State Bar File No. 19-2993.

a. Enclosed with that letter was a copy of bar counsel's December 23, 2019 screening letter.

b. That January 22, 2020 letter noted that a failure to provide a written response within 10 days could result in his deposition being taken pursuant to subpoena.

18. Bar counsel's January 22, 2020 screening letter was never returned to the State Bar as undeliverable.

19. Respondent failed to submit a written response to bar counsel, as directed in his screening letter dated January 22, 2020, and failed to assert a ground for refusing to do so.

20. On April 29, 2020, bar counsel (through his assistant) emailed another screening letter to Respondent regarding State Bar File No. 19-2993.

a. Sent with that letter was a copy of the charge of misconduct submitted to the State Bar by Susan Craver and copies of various Internet

webpages.

b. That letter directed Respondent to submit a written response to the charge by May 19, 2020.

c. That letter also stated:

Pursuant to ER 8.1(b) and Rule 54(d), Ariz. R. Sup. Ct., you have a duty to cooperate with this investigation. Failure to fully and honestly respond to, or cooperate with, the investigation is, in itself, grounds for discipline.

21. On May 1, 2020, the State Bar received confirmation by email that the file that had been sent to Respondent by email on April 29, 2020, which included bar counsel's April 29, 2020 screening letter and enclosures, had been downloaded.

22. Respondent failed to submit a written response to bar counsel, as directed in his screening letter dated April 29, 2020, and failed to assert a ground for refusing to do so.

23. By engaging in the conduct set forth above, Respondent violated ER 8.1(b) and Rule 54(d), Ariz. R. Sup. Ct.

DATED this 5th day of October, 2020.

STATE BAR OF ARIZONA

/s/ James D. Lee

James D. Lee

Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 5th day of October, 2020.

by: /s/ Jackie Brokaw
JDL:jlb

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

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

CASON LEAVITT

Respondent.

No. 19-2993

PROBABLE CAUSE ORDER

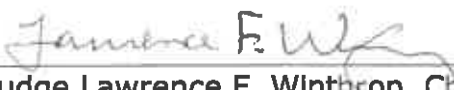
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on August 14, 2020, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 6-0-3¹ the Committee finds probable cause exists to file a complaint against Respondent in File No. 19-2993.

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

Parties may not file motions for reconsideration of this Order.

DATED this 31 day of August, 2020.



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

¹ Committee members JoJene Mills, Genene Dyer, and Charles Muchmore did not participate in this matter.

Original filed this 31st day
of August, 2020, with:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

Copy emailed this 3rd day
of September, 2020, to:

Cason Leavitt
15282 West Brookside Lane, Suite 110
Surprise, Arizona 85374
Respondent

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 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
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by: /s/Jackie Brokaw