BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **WILLIAM C. LOFTUS,** **Bar No. 001412** Respondent.	**PDJ-2015-9120** **FINAL JUDGMENT AND ORDER OF DISBARMENT** [State Bar File No. 14-3670] **FILED MAY 2, 2016**

This matter having come on for hearing before the Hearing Panel, it having duly rendered its decision; and no appeal having been filed and the time for appeal having passed, accordingly,

IT IS ORDERED Respondent, **WILLIAM C. LOFTUS**, **Bar No. 001412,** is disbarred from the State Bar of Arizona and his name is hereby stricken from the roll of lawyers effective the date of this order. Mr. Loftus is no longer entitled to the rights and privileges of a lawyer but remains subject to the jurisdiction of the Court.

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

IT IS FURTHER ORDERED granting Judgment to the State Bar of Arizona for costs in the amount of $4,002.10 with interest as provided by law. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary

Judge's Office in connection with these disciplinary proceedings.

DATED this 2nd day of May, 2016.

William J. O'Neil

William J. O'Neil
Presiding Disciplinary Judge

Copies of the foregoing mailed/e-mailed
this 2nd day of May, 2016, to:

William C. Loftus
8050 N. 19th Avenue, Suite 218
Phoenix, AZ 85021-0648
Email: wcloftus@aol.com
Respondent

Hunter F. Perlmeter
Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: lro@staff.azbar.org

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, Arizona 85016-6288

by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **WILLIAM C. LOFTUS, Bar No. 001412** Respondent.	**PDJ-2015-9120** **DECISION AND ORDER IMPOSING SANCTIONS** [State Bar No. 14-3670] **FILED MARCH 31, 2016**

Having heard such testimony as the parties presented, having examined their exhibits and considered their closing arguments, the appointed hearing panel (Panel), comprised of Volunteer Attorney Member, Ralph J. Wexler, Volunteer Public Member, Archer Shelton, and the Presiding Disciplinary Judge, ("PDJ") William J. O'Neil, renders its decision ordering disbarment of Mr. Loftus from the practice of law in Arizona. At the one day hearing conducted on March 10, 2016, Bar Counsel, Hunter F. Perlmeter appeared on behalf of the State Bar. William C. Loftus appeared *pro per*. Unless otherwise stated, we make our findings by clear and convincing evidence.

PROCEDURAL HISTORY

The Attorney Discipline Probable Cause Committee issued a Probable Cause Order on October 16, 2015. The complaint was filed on November 5, 2015. Notice of Service of the complaint was filed on November 10, 2015. The PDJ was assigned to the case on November 12, 2015. On December 1, 2015, Mr. Loftus filed a request for extension of time to file his answer until December 30, 2015. The PDJ extended the effective entry of default until December 30, 2015. On December 28, 2015, Mr. Loftus

timely filed his answer. At the January 5, 2016 initial case management conference, a two day hearing was set for March 10-11, 2016. Standard written initial case management orders were issued that same date. A settlement officer was assigned, but the matter did not settle. The parties filed a timely joint prehearing statement on February 19, 2016. The final case management conference was held with both parties present on March 1, 2016. At the conference, the parties reported that only a one day hearing was necessary.

FINDINGS OF FACT

Mr. Loftus is a lawyer licensed to practice law in the state of Arizona. He was admitted to practice in Arizona on September 22, 1962. His client ("complainant") first met with Mr. Loftus in 2006 concerning problems related to her purchase of two cellular phone stores in 2005. Mr. Loftus and complainant entered into a fee agreement for representation related to those purchases. Mr. Loftus sued on her behalf on February 1, 2008 in Maricopa County Superior Court, Case No. CV2008-002422. Following oral argument, the court granted summary judgment in favor of the defendants. Judgment was entered against complainant for $104,155.26 plus attorney fees of $31,092.00, interest, and costs. Mr. Loftus filed an appeal. Mr. Lofy represented at least one of the defendant judgment holders. The Court of Appeals upheld the Superior Court ruling. [Joint Prehearing Statement, Stipulated Facts, 1-11 and Exhibit 25.]

On November 4, 2011, Mr. Loftus wrote his client a letter explaining the process of filing a petition for review before the Supreme Court. In his conclusion to the letter he informed complainant that "[t]he filing of the Petition for Review will provide us with additional time within which to prepare and implement an asset protection plan,

time that is really needed." Complainant responded on November 7, 2011, saying, "I'm good with the next step of asking the Supreme Court to review this as well as taking steps to protect my assets. Thanks for letting me know. Also, do you have any estimate of the cost?" [Joint Prehearing Statement, Stipulated Facts, 12-13 and Exhibit 37]. By email dated November 10, 2011, Mr. Loftus explained the cost of the petition for review. He then stated:

> I want to get going on the asset protection procedure. There are several (3) prepared presentations I intend to purchase dealing with how to effectively protect assets from creditors. This is a far less expensive, but not cheap way to obtain all of the latest law and strategies to be used. Each of the seminars runs about $300.00 and are well worth it. Unless the material is designed in such a way that I cannot duplicate I'll sent them to you for your review and comments/suggestions. I'll need to get this started ASAP and if you agree I would appreciate it if you would please forward the $900.000 for purchase of these seminars in addition to the payment of my last statement. [Exhibit 39.]

Mr. Loftus testified having no experience in asset protection, but explained he could figure it out just like anyone else. He initially testified to never requesting the money from complainant to take the asset protection classes. His email impeached that testimony. He then testified complainant paid him the monies with which he paid for then took the three classes. [Loftus Testimony Recording at 11:42 a.m.] On December 8, 2011, the Superior Court issued an amended order requiring complainant to appear and answer regarding her property. [Exhibit 40]. On January 10, 2012, Mr. Loftus wrote to a former client, Michael Graham, regarding "Latin American Banking." Mr. Loftus asked if he could answer questions regarding lawyers and banks in "Belize and/or Nevis." Mr. Graham referred him to Mr. Bob Bandfield. On January 12, 2012, Mr. Loftus wrote to Mr. Bob Bandfield:

> I am an attorney in Phoenix Arizona. A mutual client of ours, Mr. Michael Graham of Strategen or Medusa, referred me to you for solution of a

> problem I have on behalf of one of my clients here in Phoenix. My client has a judgment obtained against her which we have appealed and not prevailed. My client is desirous of avoiding payment of this judgment.

Mr. Loftus detailed the method by which collection could be made "extremely difficult" by the judgment debtor transferring assets to a Belize trust. He then stated, "[t]his is further complicated by the use of a Nevis LLC as the owner of the trust." He explained his client would then like to be able "to have the trust dissolved if and when the judgment is extinguished." Mr. Loftus asked for Mr. Bandfield's assistance, stating that "[t]ime is a definite issue and it will require some rapid action." [Joint Prehearing Statement, Stipulated Fact 16, and Exhibit 72, SBA000319].

According to his billing statement for January 13, 2012, Mr. Loftus then conferenced with his client regarding off-shore trusts and Nevis LLC. The entry also states "Provided her with the results of all internet research and opinion of Michael Graham. Provided her with documents extracted from Internet web sites as to various sources available and requested she do due diligence." His entry states Complainant directed him to contact Mr. Bandfield. He did. His entry concludes, "Telephone call to Bob Bandfield regarding his ability and mechanism for asset protection. Told him I would provide client with information and requested he OK direct contact. He did." [Exhibit 48, Bates SBA000162].

Complainant learned of Mr. Graham and Mr. Bandfield from Mr. Loftus. On January 13, 2012, Mr. Bandfield gave his phone numbers to Mr. Loftus who then gave them to complainant. [Exhibit 95]. Complainant attempted to contact both but could not reach them. On January 16, 2012, complainant emailed Mr. Loftus pointing out the phone numbers Mr. Loftus gave her worked for Mr. Bandfield, but that he was not returning calls, and the phone number he gave her did not work for Mr. Graham.

She also asked Mr. Loftus questions regarding the plan to hide assets. Mr. Loftus told her he would contact them and check with her later in the day. She thanked him and stated, "I just really feel like I'm running out of time" and "unsure if everything that needs to be done will get done." Mr. Loftus emailed her back and corrected the number for Mr. Graham. [Exhibit 96]. Mr. Loftus then directed Mr. Bandfield to contact complainant, by giving Mr. Bandfield her contact information. [Exhibit 97]. He then forwarded a copy of this email to his client and sent Mr. Bandfield a copy of the correspondence letter he sent to Complainant for reference. [Exhibit 46].

The following day on January 17, 2012, Mr. Bandfield emailed Mr. Loftus to say he spoke with complainant that "we are proceeding." He attached the "C of Formation for Global Systems LLC". He explained to Mr. Loftus what needed to occur. Mr. Bandfield concluded with an observation; "Schedule is tight. I understand that an Examination to Discovery is Monday-barring any illness that may cause an adjournment." [Exhibit 98]. On January 19, 2012, Mr. Loftus emailed complainant with the Superior Court Order which required her to appear for a debtor's examination, set for January 23, 2012.

At the hearing, Mr. Loftus swore he had no knowledge of this. It is a position he has taken previously. On March 14, 2013, he wrote to Mr. Bandfield denying ever introducing complainant to him. He demanded Mr. Bandfield produce evidence showing Mr. Loftus had any communication with him about this matter. We find he was intentional in covering up his actions. [Exhibit 72, Bates SBA000326]. In our hearing he did the same, saying that complainant "pulled the trigger on it and I didn't know what she had done until a week later immediately before the debtor's examination." [Loftus Testimony Recording at 1:29 p.m. and 1:45:17 p.m.]. Mr.

Loftus further testified that he did not conspire with complainant about hiding assets and was shocked by her actions, stating he only became aware of what was happening when he received Mr. Bandfield's email on January 17, 2012. [Loftus Testimony Recording 1:28:18 p.m.] In addition, Mr. Loftus denied any connection with Mr. Bandfield.

Mr. Loftus' billing statements again conflict with his testimony. This record, dated January 16, 2012, details Mr. Loftus' efforts to put his client in contact with Mr. Bandfield. It details that the following day Mr. Loftus enabled further correspondence between complainant and Mr. Bandfield by forwarding emails, a form and sending reference documents. He then researched and forwarded a memo to his client "as to mobility of funds and precautionary monitoring to be used to forewarning of a coming action to execute on funds." He filed an email from Bandfield and reviewed the "transfer to Global System, LLC for 45 members units, transfer information." The following day he reviewed the amended debtor's examination order. [Exhibit 48]. The billing records undergirds what we find is already clear and convincing testimony and exhibits.

At the hearing Mr. Loftus minimized his participation at the deposition. He stated the fact complainant acknowledged in her deposition that she had transferred these assets was proof he did not direct her testimony. However, Mr. Loftus was told she should testify in that manner by Mr. Bandfield the day before that examination. By email dated January 23, 2012, Mr. Bandfield told Mr. Loftus how complainant should testify. Mr. Bandfield stated, "[s]he has stock which I expect her to fully disclose." In the email he detailed the testimony complainant should give. He concludes his email stating "She also transferred funds there ($220,000 USD) for

trading purposes. It is there now and I expect this would be disclosed. Please advise." [Exhibit 49]. Mr. Bandfield closed stating, "I leave this to you to discuss as you see appropriate."

Immediately prior to walking into the debtor's examination, Mr. Loftus warned complainant that if she linked him to the asset transfer, he could be disbarred. Mr. Loftus knew the testimony complainant gave was incomplete because she did not disclose that he requested her to pay for three asset protection training classes. We conclude Mr. Loftus attempted to distance himself by directing Mr. Bandfield to deal directly with complainant.

On February 7, 2012, Mr. Lofy demanded payment for the judgment creditor and explained to Mr. Loftus how the actions of complainant violated the Arizona Uniform Fraudulent Transfer Act, Title 44, Chapter 8, Article 1. Mr. Loftus testified he did not discuss this letter with complainant. He testified he did not: (1) forward the letter to complainant, (2) notify complainant that she violated the law, or (3) tell her the matter needed to be remedied. [Loftus Testimony Recording 1:04:15 p.m.; Exhibit 52]. However, Exhibit 53 demonstrates the opposite. Mr. Loftus emailed complainant on February 8, 2012 and referenced the letter of Mr. Lofy stating, "[t]his is all fine and dandy except for one thing Arizona doesn't have jurisdiction over Nevis LLC's and although they have jurisdiction over you, they have no authority over the LLC." [Exhibit 53].

CONCLUSIONS OF LAW

We find by clear and convincing evidence Mr. Loftus violated the following:

a. Rule 42, Ariz. R. Sup. Ct., ER 1.1 Competence – (A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

b. Rule 42, Ariz. R. Sup. Ct., ER 1.2(d) Scope of representation and allocation of authority between client and lawyer – (A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.).

c. Rule 42, Ariz. R. Sup. Ct., ER 3.3(a)(3) Candor toward the tribunal – (A lawyer shall not knowingly: offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client or a witness called by the lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.)

d. Rule 42, Ariz. R. Sup. Ct., ER 8.4. Misconduct (c) and (d) – (It is professional misconduct for a lawyer to: engage in conduct involving dishonesty, fraud, deceit or misrepresentation; engage in conduct that is prejudicial to the administration of justice).

We do not find clear and convincing evidence Mr. Loftus violated Rule 42, Ariz. R. Sup. Ct., **ER 1.4**.

In determining a sanction, the Court utilizes the American Bar Association's *Standards for Imposing Lawyer Sanctions* (*Standards*) under Rule 57(a)(2)(E). The Standards promote consistency in imposing sanctions by identifying factors courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary.

Several factors affect the appropriate sanction: (1) the duty violated, (2) the lawyer's mental state, (3) the potential or actual injury caused by the lawyer's

conduct, and (4) the existence of aggravating or mitigating factors. *In re Phillips,* 226 Ariz. 112, 117, 244 P.3d 549, 554 (2010) and *Standard* 3.0.

The most egregious misconduct of Mr. Loftus was his intentional violation of ERs 8.4(c) and (d). He intentionally engaged in fraudulent misconduct. We also find he was deceitful in his testimony before us. His misconduct caused actual injury to the opposing parties, the legal system, and the legal profession. We find *Standards* 5.11, 6.21, and 7.0 apply to the misconduct in this case and disbarment is the presumptive sanction.

Standard 5.11 provides:

Disbarment is generally appropriate when:

> A lawyer engages in any intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

Standard 6.21 provides:

> Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party, or causes serious or potentially serious interference with a legal proceeding.

Standard 7.1 provides:

> 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 or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

Aggravation/mitigation

Standard 9.22. Aggravating factors include:

(a) Prior disciplinary offenses – SB-88-0010-D: 5-2104, 86-1311 and 89-0979. Mr. Loftus was suspended for two years for violating Rule 42, ERs 1.1(competent representation), ER 1.2 (reasonable diligence), ER 1.4 (communication with clients), ER 8.1(b) (failure to disclose information to the State Bar), and Rule 51(h and (i), (failure to furnish information or respond to a bar inquiry, and refusal to cooperate with the State Bar). [Exhibits 85-88]. Because Mr. Loftus was previously suspended for similar misconduct, the presumptive sanction is disbarment. *See* also *Standard* 8.0. In SB-01-0070-D: 98-0747 & 99-0512, Mr. Loftus was censured for violations of Rule 42, ER 1.1 (competence), ER 1.2 (scope of representation-two violations), ER 1.3 (diligence-two violations), ER 1.4 (communication-two violations), ER 1.16(d) (protect client interests), ER 3.2 (expediting litigation-two violations), ER 8.4 (misconduct-two violations), and SCR 51(h) (failure to respond to bar inquiry). [Exhibits 90-91].

(b) Dishonest or selfish motive – The actions of Mr. Loftus profited himself and concealed his joinder in the fraudulent transfers.

(c) Pattern of misconduct –The discipline history of Mr. Loftus over the years involves similar misconduct and multiple clients. *In re Peasley*, 208 Ariz. 27, 37-38, 90 P.3d 764, 774-75 (2004) (Internal citations omitted). We give this less weight due to the time from the last offense of Mr. Loftus in 2001. *See* also mitigating factor 9.32(m) remoteness in time.

(f) Submission of false evidence, false statements, or other deceptive practices during the disciplinary process – The testimony of Mr. Loftus was repeatedly impeached by the exhibits. We find from the beginning of his efforts regarding asset

protection he was deceptive to insulate himself. This deception continued in the hearing.

(i) Substantial experience in the practice of law – Mr. Loftus was first admitted to practice in Arizona on September 22, 1962.

(k) Illegal conduct – Mr. Loftus conspired with complainant in violation of the Uniform Fraudulent Conveyance Act.

Standard 9.32. Mitigating factor:

(e) Full and free disclosure to the State Bar. In its prehearing memorandum the State Bar acknowledges this mitigating factor to be applicable.

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. 62, 74, 41 P.3d 600, 612 (2002) (quoting *In re Kastensmith*, 101 Ariz. 291, 294, 419 P.2d 75, 78 (1966). One purpose of lawyer discipline is to deter future misconduct. *In re Fioramonti*, 176 Ariz. 182, 859 P.2d 1315 (1993). Another purpose of lawyer regulation is to protect and instill public confidence in the integrity of individual members of the SBA. *Matter of Horwitz*, 180 Ariz. 20, 881 P.2d 352 (1994).

The Panel has determined the sanction using the facts as determined by the hearing panel, the Standards, the aggravating factors, the mitigating factor, and the goals of the attorney discipline system. Accordingly:

IT IS ORDERED disbarring Mr. Loftus effective thirty days (30) from the date of this order.

IT IS FURTHER ORDERED Mr. Loftus shall pay the State Bar's costs and expenses in these disciplinary proceedings. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office with these disciplinary proceedings.

A final judgment and order will follow.

DATED this 31st day of March 2016.

William J. O'Neil

_____

William J. O'Neil, Presiding Disciplinary Judge

Archer Shelton

_____

Archer Shelton, Volunteer Public Member

Ralph J. Wexler

_____

Ralph J. Wexler, Volunteer Attorney Member

Copy of the foregoing emailed/mailed
this 31st day of March, 2016, to:

Hunter Perlmeter
Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: lro@staff.azbar.org

William C. Loftus
8050 N. 19th Avenue, PMB 218
Phoenix, AZ 85021
Email: loftuslaw@gmail.com

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

by: MSmith

Hunter F Perlmeter, Bar No. 024755
Bar Counsel - Litigation
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7278
Email: LRO@staff.azbar.org

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA,	**PDJ 2015-9120**
WILLIAM C. LOFTUS, Bar No. 001412,	**COMPLAINT**
Respondent.	[State Bar No. 14-3670]

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 September 22, 1962.

COUNT ONE (File no. 14-3670/Melgaard)

2. Complainant, Karla Melgaard ("Melgaard"), first met with Respondent in 2006 concerning problems related to her purchase of two cellular phone stores in 2005 and her interest in filing suit to collect damages related to her purchase.

3. On August 1, 2006, Melgaard and Respondent entered into a fee agreement for representation related to the purchase.

4. Respondent filed suit on Melgaard's behalf on February 1, 2008, (Maricopa County Superior Court case no. CV2008-002422). The Complaint filed by Respondent included two counts: fraud and breach of contract. The defendants included Melgaard's real estate broker on the sale, the seller of the two cellphone stores, and the person from whom the seller of the two stores originally purchased the stores.

5. After the lawsuit was filed, all three defendants moved for summary judgment.

6. On October 23, 2009, following oral argument, the court granted all three motions for summary judgment and dismissed the matter.

7. Respondent did not tell Melgaard of the rulings until December of 2009.

8. As a result of the litigation in the case, judgment of $104,155.26, plus attorney's fees of $31,092.00, and interests, and costs, were entered against Melgaard.

9. When Melgaard and Respondent spoke about the dismissal for the first time in December of 2009, Respondent indicated that he would appeal the ruling for costs only.

10. Respondent filed his opening appellate brief on June 18, 2010.

11. On October 4, 2011, the Court of Appeals issued a Memorandum Decision upholding the Superior Court's ruling. The decision granted costs to all defendants and granted attorney's fees of $9,088 to one of the defendants.

12. On October 7, 2011, Respondent emailed a copy of the decision to Melgaard and indicated that he would file a Motion for Reconsideration.

13. On October 19, 2011, Respondent filed the Motion for Reconsideration.

14. On November 2, 2011, the Court of Appeals issued an order denying the Motion for Reconsideration.

15. On November 4, 2011, Respondent wrote Melgaard a letter indicating that he would be willing to file a Petition for Review and asked for Melgaard's permission. There was also vague discussion of the need to protect Melgaard's assets in the letter.

16. On November 7, 2011, Melgaard responded, "I'm good with the next step of asking the supreme court to review this as well as taking steps to protect my assets. Thanks for letting me know. Also, do you have any estimate of the cost?"

17. On November 17, 2011, Respondent filed a Petition for Review with the Supreme Court of Arizona.

18. On January 10, 2012, Respondent wrote an email to a former client, Michael Graham. The subject line of the email was "Latin American Banking." The two line email asked Graham to call him so that he could answer questions regarding lawyers and banks in "Belize and/or Nevis."

19. Graham, either by phone or email, indicated to Respondent that he could be of assistance and that Respondent and Melgaard should contact a man named Bob Bandfield.

20. On January 12, 2012, Respondent wrote the following letter to Bandfield:

> I am an attorney in Phoenix Arizona. A mutual client of ours, Mr. Michael Graham of Strategen or Medusa, referred me to you for solution of a problem I have on behalf of one of my clients here in Phoenix. My client has a judgment obtained against her which we have appealed and not prevailed. My client is desirous of avoiding payment of this judgment. In this regard I believe that collection of judgment of a US court is extremely difficult if the judgment debtor's assets are transferred to a Belize Trust. This is further complicated by the use of a Nevis LLC as the owner of the trust. The rest of the trust in this case is mostly stock. The returns and or the use of the rest of the stock provides my client with the cost of living and she would like to be able to have the trust dissolved if and when the judgment is extinguished. Mr. Graham thought that perhaps you could be of assistance in this matter. Time is a definite issue and it will require some rapid action. I would appreciate it if you would tell me if you can be of assistance. If not would you be so kind as to recommend a reliable reputable lawyer, trust company, or bank that could and would accommodate my client's needs?

21. On January 16, 2012, Respondent emailed Melgaard and told her that he had reached out to Bandfield and Graham.

22. The same day, Respondent emailed Bandfield and provided him Melgaard's email address and phone number.

23. On the following day, Bandfield emailed Respondent indicating that he had spoken with Melgaard and that the two were proceeding with an asset transfer in advance of Melgaard's debtor's examination scheduled for the following Monday. The name of Bandfield's company with which Melgaard was to invest was "Global Systems LLC."

24. Thereafter, Melgaard transferred all of her assets (approximately $600,000) to Bandfield in exchange for 45% ownership of "Global Systems, LLC."

25. Respondent was copied on most or all emails between Melgaard and Bandfield.

26. The debtor's examination took placed on January 23, 2012. Melgaard was represented by Respondent at the exam. Before the start of the exam, Respondent told her not to tell opposing counsel that he had introduced her to Bandfield and that he would lose his law license if she revealed such information.

27. During the exam, Melgaard repeatedly stated that she had made the foreign asset transfer so that the judgment creditors in the underlying litigation could not reach her assets.

28. Melgaard also indicated that she had asked the personal representative of her deceased father's estate to withhold the distribution of $20,000 in cash, because Respondent had indicated to her that such money would be "excluded from anything you guys could collect from me."

29. On March 20, 2012, the Supreme Court denied the Petition for Review and granted attorney's fees ($3,888.00) to one of the defendants.

30. In March of 2012, Melgaard agreed to invest an additional $100,000 with Graham and his company Strategem in addition to an initial investment that she had made with Strategem weeks earlier.

31. On July 23, 2012, the judgment against Melgaard was assigned to a company named Allaurtin.

32. During the summer of 2012, a representative from Strategem called Melgaard and asked her to move all of her Global Systems money to Strategem.

33. This caused Melgaard to grow suspicious about how her money was being handled. When she checked her account balance, she discovered that her foreign investments were down $33,000. She became nervous and asked Respondent to assist her in seeking the return of her funds.

34. Respondent reached out to Graham on Melgaard's behalf, but Graham refused to refund the money.

35. Melgaard then contacted the "Director General" in Belize in an attempt to obtain the return of her investment.

36. Subsequently, Bandfield emailed Melgaard indicating that he had made contact with an attorney to assist her in dealing with Strategem. When Melgaard looked up Bandfield's recommended attorney she could find no record that the attorney was licensed in Belize.

37. During the summer of 2013 Melgaard retained a new attorney to assist her in negotiating a settlement with Allaurtin related to the judgment entered against her. A settlement, however, was never reached.

38. In September of 2014, Bandfield was indicted for fraud. The press release from the US Attorney's Office for the Eastern District of New York provides, "As alleged, Bandfield and his co-conspirators devised not only a fraudulent scheme but an elaborate corporate structure based on lies and deceit designed to enable U.S. citizens to evade and circumvent our securities and tax laws. They set up

sham companies with figureheads at the helm in an attempt to deceive U.S. law enforcement and regulators and bragged about their scheme to their clients."

39. The fraudulent conveyance statute in Arizona, A.R.S. 44-1004, provides in part: "A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation under any of the following circumstances: with actual intent to hinder, delay or defraud any creditor of the debtor."

40. Melgaard is currently the defendant in a civil fraud lawsuit filed by Allaurtin (Maricopa County Superior Court case no. CV. CV2014-002941.)

Rule Violations

41. In engaging in the above conduct, Respondent violated ERs 1.1, 1.2(d), 1.4, 3.3(a)(3), 8.4(c) and 8.4(d).

DATED this 4th day of November, 2015.

STATE BAR OF ARIZONA

Hunter F. Perlmeter
Staff Bar Counsel - Litigation

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 5 day of November, 2015.

by:
HFP:lao

FILED

OCT 16 2015

STATE BAR OF ARIZONA

BY

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

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **WILLIAM C. LOFTUS** **Bar No. 001412** Respondent.	No. 14-3670 **PROBABLE CAUSE ORDER**

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on October 9, 2015, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Respondent's Response.

By a vote of 5-0-4[1], the Committee finds probable cause exists to file a complaint against Respondent in File No. 14-3670.

IT IS THEREFORE ORDERED pursuant to Rules 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 16 day of October, 2015.

Lawrence F. Winthrop

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

[1] Committee members Ben Harrison, Karen E. Osborne, Jeffrey G. Pollitt, and William J. Friedl did not participate in this matter.

Original filed this 16 day
of October, 2015, with:

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

Copy mailed this 19 day
of October, 2015, to:

William C. Loftus
8050 North 19th Avenue, Suite 218
Phoenix, Arizona 85021-0648
Respondent

Copy emailed this 19 day
of October, 2015, 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 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

by: Jessica Alcaraz