

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

THOMAS W. ANDERSON,
Bar No. 003724

Respondent.

PDJ-2016-9105

**FINAL JUDGMENT AND
ORDER OF DISBARMENT**

[State Bar Nos. 15-2866, 15-2943, 15-
3065, 16-1752]

FILED JANUARY 31, 2017

This matter having come 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, **THOMAS W. ANDERSON, Bar No. 003724**, is disbarred from the State Bar of Arizona and his name is stricken from the roll of lawyers effective January 6, 2017, as set forth in the Hearing Panel's Decision and Order Imposing Sanctions. Mr. Anderson 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. Anderson 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 Mr. Andrews shall pay \$19,210.00 in restitution to Dr. Jasna Pecarski with interest at the legal rate until paid.

IT IS FURTHER ORDERED Mr. Anderson shall pay the costs and expenses of the State Bar of Arizona totaling \$2,002.25 with interest at the legal rate until paid. 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 31st day of January, 2017.

William J. O'Neil

William J. O'Neil
Presiding Disciplinary Judge

COPY of the foregoing e-mailed this 31st day of January 2017, and mailed February 1, 2017, to:

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Thomas W. Anderson
256 S. 2nd Avenue, Suite E
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Respondent

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Thomas W. Anderson
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by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**THOMAS W. ANDERSON,
Bar No. 003724**

Respondent.

PDJ 2016-9105

**DECISION AND ORDER IMPOSING
SANCTIONS**

[State Bar Nos. 15-2866, 15-2943,
15-3065 and 16-1752]

FILED JANUARY 6, 2017

On January 03, 2017, the Hearing Panel, comprised of James M. Marovich, attorney member, and Mike Snitz, public member, and the Presiding Disciplinary Judge (PDJ), William J. O'Neil, considered the evidence and heard argument. Stacy Shuman appeared on behalf of the State Bar of Arizona. Mr. Anderson did not appear.

Although the allegations are deemed admitted by default, there has also been an independent determination by the Hearing Panel that the State Bar has proven by clear and convincing evidence that Mr. Anderson violated the ethical rules. The State Bar had witnesses available to testify telephonically and avowed their testimony is consistent with the allegations in the complaint. Ninety-five (95) exhibits were admitted to undergird the allegations. We find these establish by clear and convincing evidence the accuracy of the allegations within the complaint.

PROCEDURAL HISTORY

The State Bar of Arizona (SBA) filed its complaint on October 17, 2016. On October 19, 2016, the complaint was served on Mr. Anderson by certified, delivery restricted mail, and by regular first class mail, pursuant to Rules 47(c) and 58(a) (2),

Ariz. R. Sup. Ct. The complaint was mailed to Mr. Anderson's address of record with the State Bar of Arizona, and his last known physical address. The Presiding Disciplinary Judge (PDJ) was assigned to the matter. A notice of default issued on November 15, 2016. Mr. Anderson filed no answer or otherwise defended the allegations and default was effective on December 06, 2016, at which time a notice of aggravation and mitigation hearing was sent to all parties notifying them the aggravation mitigating hearing was scheduled for January 03, 2017 at 2:00 p.m., at the State Courts Building, 1501 West Washington, Phoenix, Arizona 85007-3231.

A respondent against whom an effective default has been entered may not litigate the merits of the factual allegations, but retains the right to appear and participate in the hearing that will determine the sanctions. Included with that right to appear is the ability to testify and the right to cross-examine witnesses, in each instance only to establish facts related to aggravation and mitigation. Mr. Anderson did not appear.

FINDINGS OF FACT

The facts listed below are those set forth in the SBA's complaint and were deemed admitted by Mr. Anderson's effective default and independently reviewed by the hearing Panel.

1. Mr. Anderson was a lawyer licensed to practice law in Arizona having been first admitted to practice on April 27, 1974.
2. On February 26, 2016, Mr. Anderson was summarily suspended for failure to comply with Arizona Mandatory Continuing Legal Education requirements.

COUNT ONE (File no.15-2866/Jasna Pecarski)

3. In or about 2007, Dr. Jasna Pecarski (Pecarski) retained Mr. Anderson to handle a claim against Northwestern Mutual Life Insurance Co. relating to the 2005 denial of her and her husband's disability insurance claims.

4. In 2012, Mr. Anderson filed a complaint on behalf of Pecarski and her husband with the Maricopa County Superior Court, Case No. CV 2012-014379, *Pecarski v. The Northwestern Mutual Life Insurance Co.* (Complaint).

5. On March 29, 2013, the defendant filed a "Motion to Compel Plaintiffs' Initial Disclosure and Discovery Responses" (Motion to Compel) due to Pecarski's continued failure to respond to propounded discovery requests and Mr. Anderson's failure to respond to opposing counsel's repeated efforts to communicate. Opposing counsel attached copies of correspondence to the Motion to Compel, evidencing his repeated attempts to communicate with Mr. Anderson about his failure to: serve an initial disclosure statement; respond to written discovery requests; or disclose experts. Mr. Anderson did not respond to the Motion to Compel.

6. By order filed May 6, 2013, the Court granted the Motion to Compel and ordered Pecarski to serve the initial disclosure statement; respond to discovery within ten (10) business days; and pay the defendant's attorney fees and costs incurred in preparing the Motion to Compel (the Order). The Order stated the Court would dismiss the Complaint, with prejudice, upon notification of Pecarski's failure to comply with the Order. Anderson filed nothing assuring Pecarski did not comply with the Order.

7. On July 3, 2013, the Court dismissed the Complaint, with prejudice, and ordered Pecarski to pay the defendant \$19,210 in attorney fees and costs. [Exhibits 11-12.] Pecarski learned about the order to pay the defendant's attorney fees and

costs only after the defendant later billed Pecarski directly for them who then paid them.

8. In February 2014, Mr. Anderson told Pecarski he felt “morally” obligated to pay her and her husband for their losses because the Complaint was dismissed due to his negligence.

9. Mr. Anderson agreed to pay Pecarski \$5,000 per month for a total of \$350,000, which was the amount that Pecarski and her husband would have received in disability payments, less the contingency fee of 33 and 1/3%, had Mr. Anderson successfully prosecuted the case. Mr. Anderson refused to put the agreement in writing and he did not advise Pecarski and her husband that they should consult with an attorney or otherwise comply with ER 1.8(a).

10. Beginning in February 2014, Mr. Anderson made monthly payments of \$5,000 to Pecarski by directly depositing the funds into her Wells Fargo Bank account. [By example Exhibit 13.] The last payment made by Mr. Anderson to Pecarski was in February 2015.

11. During a telephone conversation on April 10, 2015, Mr. Anderson told Pecarski he was having financial difficulties and he could not pay her until he recovered financially. Mr. Anderson assured Pecarski she was on the top of his priority list of people to whom he would send money when he had it. Mr. Anderson did not respond to any of Pecarski’s emails after that date.

12. On March 3, 2016, Bar Counsel called Mr. Anderson’s cell phone at 928-580-6880 and left a voicemail message asking Mr. Anderson to return the call to discuss the pending bar charges and the whereabouts of his client files. Mr. Anderson did not return Bar Counsel’s call.

13. By letter dated March 31, 2016, Bar Counsel sent Mr. Anderson a screening letter at his last know physical address: 12818 138th St. KPN, Gig Harbor, Washington, 98329. Bar Counsel asked Mr. Anderson to respond to the allegations in the bar charge. Mr. Anderson did not respond to the screening letter, which was not returned undeliverable to the State Bar of Arizona (SBA).

14. Mr. Anderson's conduct in Count One violated ERs 1.3, 1.4(a)(3) and (4), 1.8(h)(3), 3.2, 8.1(b), 8.4(d), Rule 54(c) and Rule 54(d)(2).

COUNT TWO (File no. 15-2943/Judicial Referral/Fox)

15. In 2013, Carey Fox retained Mr. Anderson to represent her in a medical malpractice case relating to bunion surgery and aftercare. The surgery and aftercare resulted in nerve damage and required two (2) subsequent surgeries, a bone graft and a neuro-stimulator for pain management, all of which affected her career as a nurse.

16. On September 19, 2013, Mr. Anderson caused a complaint to be filed on behalf of Fox and her husband in the Yuma County Superior Court, *Carey L. Fox and Michael Fox v. Stanton J. Cohen et al.*, Case No. S1400CV2013-00877 (the Complaint). Attorney Bruce Crawford (Crawford) represented the defendants.

17. On June 19, 2014, Defendants moved to dismiss based on Fox's failure to comply with discovery rules and statutory pleading requirements (Motion to Dismiss). Mr. Anderson filed no response to the Motion to Dismiss.

18. On July 28, 2014, the Court held a hearing on the Motion. Mr. Anderson appeared and agreed to fully comply with the discovery rules and to file preliminary expert affidavits.

19. On August 25, 2014, the Court held a status hearing. Mr. Anderson appeared in person at the hearing and a discussion was held about Fox's continued failure to file the preliminary expert affidavits.

20. On December 15, 2014, the Court held another status hearing. Mr. Anderson failed to appear in person or telephonically.

21. On August 10, 2015, the Court held another status hearing. Mr. Anderson failed to appear in person or telephonically.

22. On September 21, 2015, the Court held another status hearing. Mr. Anderson appeared in person at the hearing and a discussion was held about Mr. Anderson's prior failures to appear and the defendants' claims of lack of communication and cooperation by Mr. Anderson. The Court set several scheduling deadlines, which were reduced to writing in a minute entry and formal order filed on September 29, 2015.

23. On October 26, 2015, the Court conducted a scheduling conference, which had been set during the September 21, 2015 status hearing. Mr. Anderson failed to appear for the conference. Crawford advised the Court that Fox had not complied with the Court's prior orders. Specifically, Fox failed to provide a list of the witnesses to be deposed or identify her physical therapist. Crawford moved the court to dismiss the Complaint based on "the repeated failure of [Fox], through their counsel, to communicate and cooperate, and the failure of [Mr. Anderson] to appear at multiple status hearing/conferences ordered by this Court."

24. By order dated November 3, 2015, the Court granted the Motion to Dismiss, with prejudice. The Court also awarded the defendants their taxable costs.

25. After each hearing that Mr. Anderson failed to attend, Court staff made e-mail and telephonic attempts to contact Mr. Anderson on each occasion without success.

26. During the representation, Mr. Anderson failed to return Fox's telephone calls and months would go by with no contact from him. Then, Mr. Anderson would meet with Fox to discuss the case and tell her he was "following up" on things. Mr. Anderson told Fox he had "a lot of things going on," but never elaborated. Mr. Anderson also failed to appear for hearings or conferences and then who up for a hearing "out of the blue."

27. When Crawford scheduled Fox's deposition, neither Mr. Anderson nor Fox appeared as scheduled. Crawford received a "panicked" call from Mr. Anderson, who then showed up with Fox three (3) hours late. Fox later told Crawford she was unaware that the deposition had been scheduled. Fox was deposed for three (3) hours with no preparation by Mr. Anderson.

28. During the representation, Mr. Anderson told Fox he had a good expert lined up to testify on her behalf, but there is no evidence to support that claim.

29. Crawford, who handles all of the podiatry defense work in Arizona, opined the settlement value of the case was in the range of \$250,000-\$300,000.00.

30. On December 2, 2015, Bar Counsel sent Mr. Anderson a screening letter to his address of record with the SBA: 256 S. 2nd Ave., Ste. E, Yuma, Arizona 85364, and asked him to produce Fox's file and respond to the allegations in the bar charge. Mr. Anderson did not respond to the letter.

31. On December 30, 2015, Bar Counsel sent Mr. Anderson a ten (10) day notice to his address of record with the SBA and again asked him to respond to the

allegations in the bar charge. The letter was returned to the SBA marked "unable to forward."

32. Thereafter, SBA Investigator Mike Fusselman located a current address for Mr. Anderson in Washington, which was also confirmed by Attorney James Clark of Yuma, Arizona.

33. On February 1, 2016, Bar Counsel sent another screening letter to Mr. Anderson at his last know physical address: 12818 138th St. KPN, Gig Harbor, Washington, 98329 and asked him to respond to the allegations in the bar charge. Mr. Anderson did not respond to the letter. Nor did Mr. Anderson respond to the ten (10) day notice letter that Bar Counsel sent to him on March 1, 2016.

34. On March 3, 2016, Bar Counsel called Mr. Anderson's cell phone at 928-580-6880 and left a voicemail message asking Mr. Anderson to return the call to discuss the pending bar charges and the whereabouts of his client files. Mr. Anderson did not return Bar Counsel's call.

35. Mr. Anderson's conduct in Count Two violated ERs 1.2, 1.3, 1.4(a)(3) and (4), 1.16(d), 3.2, 3.4(c), 8.1(b), 8.4(d), Rule 54(c) and Rule 54(d)(2).

COUNT THREE (File no. 15-3065/Lopez)

36. On October 25, 2013, Rosa Lopez (Lopez) retained Mr. Anderson to represent her in a personal injury case and signed a contingency fee agreement on that date.

37. On September 23, 2014, Mr. Anderson filed a complaint on behalf of Lopez with the Yuma County Superior Court *Lopez v. Banks*, Case No. 31400CV201401048 (the Complaint).

38. On October 20, 2014, defendant's counsel, Steven Marlowe, (Marlowe) filed an answer to the Complaint.

39. In June 2015, Mr. Anderson's secretary, Marcia K. Anderson (Mr. Anderson's wife) called Lopez to set up an appointment to meet with Mr. Anderson. Ms. Anderson changed the appointment date twice before she set the appointment for September 9, 2015.

40. On September 9, 2015, Mr. Anderson called Lopez to cancel the meeting and told her to wait for another appointment.

41. In October 2015, Lopez called Mr. Anderson's office to know whether a new appointment was scheduled. However, she kept getting a voicemail message stating that Mr. Anderson's voicemail mailbox was full.

42. Thereafter, Lopez went to Mr. Anderson's office three (3) times to see him, but Mr. Anderson was not there. Initially, the building receptionist told Lopez she had not seen Mr. Anderson and promised to email Mr. Anderson and his wife. When Lopez went to the office in late November or early December 2015, the receptionist told her she had sent Mr. Anderson an email; that she did not know where to locate Mr. Anderson; and that Lopez was not the only person looking for him.

43. By letter dated October 30, 2015, Marlowe advised Mr. Anderson that if Lopez's disclosure statement was not received by November 11, 2015, he would move for Sanctions and a Motion to Dismiss the Complaint. Mr. Anderson did not respond to the letter.

44. In December 2015, Lopez's niece spoke with Mr. Anderson outside of his office building, at which time Mr. Anderson told her he had retired.

45. On December 23, 2015, Bar Counsel sent Mr. Anderson a screening letter to his address of record with the State Bar and asked that he respond to the allegations in the bar charge. Mr. Anderson did not respond to the letter.

46. By letter dated January 19, 2016, Bar Counsel sent Mr. Anderson a ten (10) day notice letter to his address of record with the SBA and again asked Mr. Anderson to respond to the allegations in the bar charge. Mr. Anderson did not respond to the letter.

47. Thereafter, SBA Investigator Mike Fusselman located a current address for Mr. Anderson in Washington, which was also confirmed by Attorney James Clark of Yuma, Arizona.

48. By letter dated February 1, 2016, Bar Counsel sent another screening letter to Mr. Anderson at his last known physical address: 12818 138th St. KPN, Gig Harbor, Washington, 98329, and asked Mr. Anderson to respond to the allegations set for the in the bar charge. Mr. Anderson did not respond to the letter. Nor did Mr. Anderson respond to the ten (10) day notice that Bar Counsel subsequently set to him.

49. On February 28, 2016, Marlowe tried to contact Mr. Anderson by telephone. He could not leave a message because the voice mail message box was full, which had been the case for many months.

50. On February 23, 2016, the defendant filed a Motion to Dismiss the Complaint, alleging Lopez had provided no disclosure and that Mr. Anderson had failed to respond to opposing counsel's attempts to communicate with him about discovery issues.

51. On March 3, 2016, Bar Counsel called Mr. Anderson's cell phone at 928-580-6880 and left a voicemail message asking Mr. Anderson to return the call to discuss the pending bar charges and the whereabouts of his client files. Mr. Anderson did not return the call.

52. On March 10, 2016, Lopez secured successor counsel, C. Candy Camarena, who moved to extend time to respond to the motion to dismiss, which was granted by the trial court.

53. On April 7, 2016, Marlowe filed a Notice of Withdrawal of Motion to Dismiss, because Lopez had secured new counsel who could provide disclosure and move the case forward.

54. Mr. Anderson's conduct in Count Three violated ERs 1.2, 1.3, 1.4(a)(3) and (4), 1.16(d), 3.2, 8.1(b), 8.4(d), and Rule 54(d)(2).

COUNT FOUR (File no. 16-1752/Cabellero)

55. Christian Caballero is the daughter of the decedent, Angel Caballero (Decedent). Mr. Anderson represented the Decedent in a personal injury case, which was settled in 2008 for \$1,050,000.00. Christian understood that the settlement proceeds had been partially distributed: \$300,000 to Decedent; \$300,000 to Mr. Anderson; and \$112,000 was deposited in an account at the A.E.A. Federal Credit Union (Credit Union), which was held jointly by Mr. Anderson and Decedent (the Account). With no documentation, it is unknown how the balance of the settlement funds were disbursed. However, Christian understood that the funds held on deposit with the Credit Union would satisfy any claims made by AHCCCS, if Mr. Anderson was unsuccessful in otherwise resolving them. Christian understood that Mr. Anderson

was continuing to work to resolve the AHCCCS issues when her father passed away on October 5, 2011.

56. After Decedent's death, Mr. Anderson opened a probate case in the Yuma County Superior Court, *In re the Matter of the Estate of Angel Caballero*, Case No. S1400PB201200033 (the Probate Case). Christian signed no fee agreement with Mr. Anderson, nor did she pay him any fees relating to the Probate Case. She understood that Mr. Anderson handled the Probate Case for no additional fee.

57. On February 24, 2012, Mr. Anderson applied for Informal Appointment of Personal Representative (Intestate Estate) and by order dated March 2, 2012, the Court appointed Christian the personal representative for the Estate.

58. By letter dated March 5, 2012, Mr. Anderson notified the Credit Union that Christian was the personal representative for the Estate and that she had authority to act on the Estate's behalf regarding the Account.

59. The Court's file reflects no further action taken by Mr. Anderson in the Probate Case after February 2012.

60. In October 2015, Christian contacted Mr. Anderson regarding the status of the Probate Case and the Account. Mr. Anderson assured Christian he would look into securing the release of the funds in the Account and asked her to send him a copy of a recent Account statement reflecting the balance, which Christian did on October 5, 2015.

61. Thereafter, Christian tried to reach Mr. Anderson by telephone and email. She called Mr. Anderson's office, but the calls went straight to voicemail. She also called Mr. Anderson's cellphone number. Mr. Anderson picked up a few times, but then he hung up right away. Other times, Mr. Anderson let the calls go to voicemail.

Eventually, Christian spoke with a secretary at a law office in the same location as Mr. Anderson's office. Christian was told that Mr. Anderson no longer had an office there; that he had moved to the State of Washington; and that several other clients had been trying to reach him without success.

62. When she could not communicate with Mr. Anderson, Christian called the Credit Union regarding the Account. The Credit Union told Christian she would need a court order to withdraw the funds from the Account. According to the Credit Union, it had sent a letter to Mr. Anderson and tried to reach him to discuss the Account, without success. The Credit Union told Christian it would transfer the funds in the Account to the State of Arizona if no action was taken.

63. Christian then retained Attorney William Dieckhoff resolve the issues concerning the probate and the Account.

64. As of July 20, 2016, Attorney Dieckhoff had published notice to creditors in the Probate Case, which included AHCCCS. Christian had also retained an accountant to review the financial information relating to the Probate Case.

65. While Mr. Anderson filed the initial paperwork with the Court, he failed to publish the notice to creditors or obtain an EIN (employer identification number). Dieckhoff told Christian that the outstanding items should have been resolved within one (1) year of filing the Probate Case, which by then had been pending for four (4) years.

66. On March 3, 2016, and before filing the present bar charge, Bar Counsel called Mr. Anderson's cell phone at 928-580-6880 and left a voicemail message asking Mr. Anderson to return the call to discuss other pending bar charges and the whereabouts of the client files. Mr. Anderson did not return Bar Counsel's call.

67. By letter dated June 3, 2016, Bar Counsel sent a screening letter to Mr. Anderson at his address of record with the SBA: 256 S. 2nd Ave., Ste. E, Yuma, Arizona 85364 and to his last know physical address: 12818 138th St. KPN, Gig Harbor, Washington, 98329 and asked Mr. Anderson to respond to the allegations in the bar charge. While the letter sent to the Arizona address was returned to the SBA as "unable to forward," the letter sent to the Washington address was not returned. Mr. Anderson did not respond to the letter.

68. By letter dated June 27, 2016, Bar Counsel sent Mr. Anderson a ten (10) day notice to his address of record with the SBA, and his last known address in Gig Harbor, Washington, and asked him to respond to the allegations in the bar charge. Mr. Anderson did not respond to Bar Counsel's letter.

69. Mr. Anderson's conduct in Count Four violated ERs 1.2, 1.3, 1.4(a)(3) and (4), 1.5(b), 1.15(d), 1.16(d), 3.2, 8.1(b), 8.4(d), Rule 54(d)(2).

CONCLUSIONS OF LAW

Mr. Anderson failed to file an answer or otherwise defend against the allegations in the SBA's complaint. Default was properly entered and the allegations are therefore deemed admitted pursuant to Rule 58(d), Ariz. R. Sup. Ct.

Based upon the facts deemed admitted and an independent review by the Hearing Panel, the Hearing Panel finds by clear and convincing evidence that Mr. Anderson violated: Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.2, 1.3, 1.4(a)(3) and (4), 1.8(h)(3), 1.5(b), 1.15(d), 1.16(d), 3.2, 3.4(c), 8.1(b), 8.4(d), Rule 54(c) and (d)(2).

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 should consider: (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. Anderson violated his duty to his clients by violating ERs 1.2, 1.3, 1.4(a)(3) and (4), 1.5(b), 1.8(h)(3), and 1.15(d). Mr. Anderson violated his duty as a professional by violating ERs 1.5(b), 1.16(d) and 8.1(b). Mr. Anderson violated his duty to the legal system by violating ERs 3.2, 3.4(c) and 8.4(d). Mr. Anderson violated his duty to the public by violating ER 8.1(b). By violating Rule 54(c) and (d)(2), Mr. Anderson violated his duty as a professional and his duty to the legal system.

Mental State and Injury:

Mr. Anderson violated his duty to his clients, implicating *Standard 4.4*. *Standard 4.41* states,

Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

In this matter, Mr. Anderson abandoned his practice; knowingly failed to perform services for clients and engaged in a pattern of neglect of client matters, all which caused serious or potentially serious injury to his clients. Therefore, *Standard 4.41* applies.

Mr. Anderson also violated his duty owed as a professional, which implicates *Standard 7.0*. *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."

Mr. Anderson failed to respond to the SBA's investigation. Mr. Anderson's actions were taken with the intent to obtain a personal benefit. *Standard 7.1*, therefore, applies.

AGGRAVATING AND MITIGATING FACTORS

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

- *Standard 9.22(a)* Prior Disciplinary Offense. SBA 87-0929 (1990) Suspension (3 months) and Restitution. Rule 42, ERs 1.3, 1.4, and 8.1(b), Rule 51(h) and (i). [Malpractice action dismissed after Mr. Anderson failed to file pre-trial statement; failed to communicate with client; failed to move to set aside the dismissal]
- *Standard 9.22(b)* dishonest or selfish motive.
- *Standard 9.22(c)* a pattern of misconduct.
- *Standard 9.22(d)* multiple offenses.

- *Standard 9.22(e)* bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency.
- *Standard 9.22(g)* refusal to acknowledge wrongful nature of conduct.
- *Standard 9.22(i)* substantial experience in the practice of law. Mr. Anderson was admitted to practice law in Arizona on April 27, 1974.

The Hearing Panel finds there are no mitigating factors to be considered.

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 SBA. *Matter of Horwitz*, 180 Ariz. 20, 881 P.2d 352 (1994).

The Hearing Panel has made the above findings of fact and conclusions of law. The Hearing Panel has determined the sanction using the facts deemed admitted, the *Standards*, the aggravating factors, the mitigating factor, and the goals of the attorney discipline system. The Hearing Panel orders:

1. Mr. Anderson disbarred from the practice of law effective immediately.
2. Mr. Anderson shall pay restitution to Dr. Jasna Pecarski in the amount of \$19,210.00, representing the costs and legal fees paid. [See Paragraph 7 above.]

3. Mr. Anderson shall pay all costs and expenses incurred by the SBA. There are no costs incurred by the Office of the Presiding Disciplinary Judge in this proceeding.

A final Judgment and order will follow.

DATED this 6th day of January, 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Michael Snitz

Michael Snitz, Volunteer Public Member

James M. Marovich

James M. Marovich, Volunteer Attorney Member

Copy of the foregoing e-mailed this 6th day of January 2017, and mailed on January 9, 2017, to:

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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

OCT 17 2016

FILED
BY 

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**THOMAS W. ANDERSON,
Bar No. 003724,**

Respondent.

PDJ 2016-9105

COMPLAINT

[State Bar Nos. 15-2866, 15-2943,
15-3065, 16-1752]

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 April 27, 1974.

2. On February 26, 2016, Respondent was summarily suspended for failure to comply with Arizona Mandatory Continuing Legal Education requirements.

COUNT ONE (File no. 15-2866/Pecarski)

2. In or about 2007, Dr. Jasna Pecarski (Pecarski) retained Respondent to handle a claim against Northwestern Mutual Life Insurance Co. relating to the 2005 denial of her and her husband's disability insurance claims.

3. In 2012, Respondent filed a complaint on behalf of Pecarski and her husband with the Maricopa County Superior Court, Case No. CV 2012-014379, *Pecarski v. The Northwestern Mutual Life Insurance Co.* (Complaint).

4. On March 29, 2013, the defendant filed a "Motion to Compel Plaintiffs' Initial Disclosure and Discovery Responses" (Motion to Compel) due to Pecarski's continued failure to respond to propounded discovery requests and Respondent's failure to respond to opposing counsel's repeated efforts to communicate. Opposing counsel attached copies of correspondence to the Motion to Compel, which evidenced his repeated attempts to communicate with Respondent about the failure to serve an initial disclosure statement; to respond to written discovery requests; or to disclose Pecarski's experts. Respondent did not respond to the Motion to Compel.

5. By order filed May 6, 2013, the Court granted the Motion to Compel and ordered Pecarski to serve the initial disclosure statement; respond to discovery within ten (10) business days; and pay the defendant's attorney fees and costs incurred in preparing the Motion to Compel (the Order). The Order further advised that the Court would dismiss the Complaint, with prejudice, upon notification of Pecarski's failure to comply with the Order. Pecarski did not comply with the Order.

6. On July 3, 2013, the Court dismissed the Complaint, with prejudice, and ordered Pecarski to pay the defendant \$19,210 in attorney fees and costs. Pecarski learned about the order to pay the defendant's attorney fees and costs only after the defendant later billed Pecarski directly for them.

7. In February 2014, Respondent told Pecarski that he felt "morally" obligated to pay her and her husband for their losses because the Complaint was dismissed due to his negligence.

8. Respondent agreed to pay Pecarski \$5,000 per month for a total of \$350,000, which was the amount that Pecarski and her husband would have received in disability payments, less the contingency fee of 33 and 1/3%, had Respondent successfully prosecuted the case. Respondent refused to put the agreement in writing and he did not advise Pecarski that she and her husband should consult with an attorney or otherwise comply with the provisions of ER 1.8(a).

9. In February 2014, Respondent began making monthly payments of \$5,000 to Pecarski by directly depositing the funds into her Wells Fargo Bank account. The last payment made by Respondent to Pecarski was in February 2015.

10. During a telephone conversation on April 10, 2015, Respondent told Pecarski that he was having financial difficulties and the he would be unable to pay her until he recovered financially. Respondent assured Pecarski that she was on the top of his priority list of people to whom he would send money when he had it. Respondent did not respond to any of Pecarski's emails after that date.

11. On March 3, 2016, Bar Counsel called Respondent's cell phone at 928-580-6880 and left a voicemail message asking Respondent to return the call to discuss the pending bar charges and the whereabouts of his client files. Respondent did not return Bar Counsel's call.

12. By letter dated March 31, 2016, Bar Counsel sent Respondent a screening letter at his last know physical address: 12818 138th St. KPN, Gig Harbor, Washington, 98329. Bar Counsel asked Respondent to respond to the allegations in the bar charge. Respondent did not respond to the screening letter, which was not returned undeliverable to the State Bar of Arizona (SBA).

13. By engaging in the foregoing conduct, Respondent violated numerous ethical rules including, but not limited to, the following.

14. ER 1.3 [Diligence] A lawyer shall act with reasonable diligence and promptness in representing a client.

15. ER 1.4(a)(3) and (4) [Communication] A lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information.

16. ER 1.8(h)(3) [Conflict of Interest] A lawyer shall not settle malpractice allegations, claims, or potential claims with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.

17. ER 3.2 [Expediting Litigation] A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

18. ER 8.1(b) [Disciplinary Matters] A lawyer in connection with a disciplinary matter, shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by ER 1.6.

19. ER 8.4(d) [Misconduct] It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

20. Rule 54(c) [Grounds for Discipline] Grounds for discipline include the knowing violation of any rule or any order of the court.

21. Rule 54 (d)(2) [Grounds for Discipline] The failure to furnish information or respond promptly to any inquiry or request from Bar Counsel made pursuant to these rules for information relevant to pending charges, complaints or matters under investigation concerning conduct of a lawyer constitutes grounds of discipline.

COUNT TWO (File no. 15-2943/Judicial Referral/Fox)

22. In 2013, Carey Fox retained Respondent to represent her in a medical malpractice case relating to bunion surgery and aftercare, which resulted in nerve damage and required two (2) subsequent surgeries, a bone graft and a neuro-stimulator for pain management, all of which impacted her career as a nurse.

23. On September 19, 2013, Respondent caused a complaint to be filed on behalf of Fox and her husband in the Yuma County Superior Court, *Carey L. Fox and Michael Fox v. Stanton J. Cohen et al.*, Case No. S1400CV2013-00877 (the Complaint). Attorney Bruce Crawford (Crawford) represented the defendants.

24. On June 19, 2014, Defendants filed a motion to dismiss based on Fox's failure to comply with discovery rules and statutory pleading requirements (Motion to Dismiss). Respondent did not file a response to the Motion to Dismiss.

25. On July 28, 2014, the Court held a hearing on the Motion. Respondent appeared at the hearing and agreed to fully comply with the discovery rules and to file preliminary expert affidavits.

26. On August 25, 2014, the Court held a status hearing. Respondent appeared in person at the hearing and a discussion was held about Fox's continued failure to file the preliminary expert affidavits.

27. On December 15, 2014, the Court held another status hearing. Respondent failed to appear in person or telephonically.

28. On August 10, 2015, the Court held another status hearing. Respondent failed to appear in person or telephonically.

29. On September 21, 2015, the Court held another status hearing. Respondent appeared in person at the hearing and a discussion was held about Respondent's prior failures to appear and the defendants' claims of lack of communication and cooperation by Respondent. The Court set a number of scheduling deadlines, which were reduced to writing in a minute entry that day and a formal order that was filed on September 29, 2015.

30. On October 26, 2015, the Court conducted a scheduling conference, which had been set during the September 21, 2015 status hearing. Respondent failed to appear for the conference. Crawford advised the Court that Fox had not complied with the Court's prior orders. Specifically, Fox failed to provide a list of the witnesses to be deposed or identify her physical therapist. Crawford moved the court to dismiss the Complaint based on "the repeated failure of [Fox], through

their counsel, to communicate and cooperate, and the failure of [Respondent] to appear at multiple status hearing/conferences ordered by this Court.”

31. By order dated November 3, 2015, the Court granted the Motion to Dismiss, with prejudice. The Court also awarded the defendants their taxable costs.

32. After each hearing that Respondent failed to attend, Court staff made e-mail and telephonic attempts to contact Respondent on each occasion without success.

33. During the representation, Respondent failed to return Fox’s telephone calls and months would go by with no contact from him. Then, Respondent would meet with Fox to discuss the case and tell her that he was “following up” on things. Respondent told Fox that he had “a lot of things going on,” but never elaborated. Respondent also failed to appear for hearings or conferences and then who up for a hearing “out of the blue.”

34. When Crawford scheduled Fox’s deposition, neither Respondent nor Fox appeared as scheduled. Crawford received a “panicked” call from Respondent, who then showed up with Fox three (3) hours late. Fox later told Crawford that she was unaware that the deposition had been scheduled. As a result, Fox was deposed for three (3) hours without any preparation by Respondent.

35. During the representation, Respondent told Fox that he had a good expert lined up to testify on her behalf at trial, but there is no evidence to support that claim.

36. Crawford, who handles all of the podiatry defense work in Arizona, opined that the settlement value of the case in the range of \$25,000-\$300,000.00.

37. On December 2, 2015, Bar Counsel sent Respondent a screening letter to his address of record with the SBA: 256 S. 2nd Ave., Ste. E, Yuma, Arizona 85364, and asked him to produce Fox's file and respond to the allegations set forth in the bar charge. Respondent did not respond to the letter.

38. On December 30, 2015, Bar Counsel sent Respondent a ten (10) day notice to his address of record with the SBA and again asked him to respond to the allegations set forth in the bar charge. The letter was returned to the SBA marked "unable to forward."

39. Thereafter, SBA Investigator Mike Fusselman located a current address for Respondent in Washington, which was also confirmed by Attorney James Clark of Yuma, Arizona.

40. On February 1, 2016, Bar Counsel sent another screening letter to Respondent at his last know physical address: 12818 138th St. KPN, Gig Harbor, Washington, 98329 and asked him to respond to the allegations set forth in the bar charge. Respondent did not respond to the letter. Nor did Respondent respond to the ten (10) day notice letter that Bar Counsel sent to him on March 1, 2016.

41. On March 3, 2016, Bar Counsel called Respondent's cell phone at 928-580-6880 and left a voicemail message asking Respondent to return the call to discuss the pending bar charges and the whereabouts of his client files. Respondent did not return Bar Counsel's call.

42. By engaging in the foregoing conduct, Respondent violated numerous ethical rules including, but not limited to, the following.

43. ER 1.2 [Scope of Representation and Allocation of Authority between Client and Lawyer] A lawyer shall, with certain exceptions, abide by the client's decisions concerning the objective of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued.

44. ER 1.3 [Diligence] A lawyer shall act with reasonable diligence and promptness in representing a client.

45. ER 1.4(a)(3) and (4) [Communication] A lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information.

46. ER 1.16(d) [Termination of Representation] Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, and surrendering documents and property to which the client is entitled.

47. ER 3.2 [Expediting Litigation] A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

48. ER 3.4(c) [Fairness to Opposing Party and Counsel] A lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

49. ER 8.1(b) [Disciplinary Matters] A lawyer in connection with a disciplinary matter, shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by ER 1.6.

50. ER 8.4(d) [Misconduct] It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

51. Rule 54(c) [Grounds for Discipline] Grounds for discipline include the knowing violation of any rule or any order of the court.

52. Rule 54(d)(2) [Grounds for Discipline] The failure to furnish information or respond promptly to any inquiry or request from Bar Counsel made pursuant to these rules for information relevant to pending charges, complaints or matters under investigation concerning conduct of a lawyer constitutes grounds of discipline.

COUNT THREE (File no. 15-3065/Lopez)

53. On October 25, 2013, Rosa Lopez (Lopez) retained Respondent to represent her in a personal injury case and signed a contingency fee agreement on that date.

54. On September 23, 2014, Respondent filed a complaint on behalf of Lopez with the Yuma County Superior Court *Lopez v. Banks*, Case No. 31400CV201401048 (the Complaint).

55. On October 20, 2014, defendant's counsel, Steven Marlowe, (Marlowe) filed an answer to the Complaint.

56. In June 2015, Respondent's secretary, Marcia K. Anderson (Respondent's wife) called Lopez to set up an appointment to meet with Respondent. Ms. Anderson changed the appointment date twice before she set the appointment for September 9, 2015.

57. On September 9, 2015, Respondent called Lopez to cancel the meeting and told her to wait for another appointment.

58. In October 2015, Lopez began calling Respondent's office to find out if a new appointment had been scheduled. However, she kept getting a voicemail message stating that Respondent's voicemail mailbox was full.

59. Thereafter, Lopez went to Respondent's office three (3) times to try to see him, but Respondent was not there. Initially, the building receptionist told Lopez that she had not seen Respondent and promised to email Respondent and his wife. When Lopez went to the office in late November or early December 2015, the receptionist told her that she had sent Respondent an email; that she did not know where to locate Respondent; and that Lopez was not the only person looking for him.

60. By letter dated October 30, 2015, Marlowe advised Respondent that if Lopez's disclosure statement was not received by November 11, 2015, he would file a Motion for Sanctions and a Motion to Dismiss the Complaint. Respondent did not respond to the letter.

61. In December 2015, Lopez's niece spoke with Respondent outside of his office building, at which time Respondent told her that he had retired.

62. On December 23, 2015, Bar Counsel sent Respondent a screening letter to his address of record with the State Bar and asked that he respond to the allegations set forth in the bar charge. Respondent did not respond to the letter.

63. By letter dated January 19, 2016, Bar Counsel sent Respondent a ten (10) day notice letter to his address of record with the SBA and again asked

Respondent to respond to the allegations set forth in the bar charge. Respondent did not respond to the letter.

64. Thereafter, SBA Investigator Mike Fusselman located a current address for Respondent in Washington, which was also confirmed by Attorney James Clark of Yuma, Arizona.

65. By letter dated February 1, 2016, Bar Counsel sent another screening letter to Respondent at his last known physical address: 12818 138th St. KPN, Gig Harbor, Washington, 98329, and asked Respondent to respond to the allegations set forth in the bar charge. Respondent did not respond to the letter. Nor did Respondent respond to the ten (10) day notice that Bar Counsel subsequently set to him.

66. On February 28, 2016, Marlowe tried to contact Respondent by telephone. He was unable to leave a message because the voice mail message box was full, which had been the case for many months.

67. On February 23, 2016, the defendant filed a Motion to Dismiss the Complaint, alleging that Lopez had not provided any disclosure and that Respondent had failed to respond to opposing counsel's attempts to communicate with him about discovery issues.

68. On March 3, 2016, Bar Counsel called Respondent's cell phone at 928-580-6880 and left a voicemail message asking Respondent to return the call to discuss the pending bar charges and the whereabouts of his client files. Respondent did not return the call.

69. On March 10, 2016, Lopez secured successor counsel, C. Candy Camarena, who filed a motion to extend time to respond to the motion to dismiss, which was granted by the trial court.

70. On April 7, 2016, Marlowe filed a Notice of Withdrawal of Motion to Dismiss, because Lopez had secured new counsel who could provide disclosure and move the case forward.

71. By engaging in the foregoing conduct, Respondent violated numerous ethical rules including, but not limited to, the following.

72. ER 1.2 [Scope of Representation and Allocation of Authority between Client and Lawyer] A lawyer shall, with certain exceptions, abide by the client's decisions concerning the objective of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued.

73. ER 1.3 [Diligence] A lawyer shall act with reasonable diligence and promptness in representing a client.

74. ER 1.4(a)(3) and (4) [Communication] A lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information.

75. ER 1.16(d) [Termination of Representation] Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, and surrendering documents and property to which the client is entitled.

76. ER 3.2 [Expediting Litigation] A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

77. ER 8.1(b) [Disciplinary Matters] A lawyer in connection with a disciplinary matter, shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by ER 1.6.

78. ER 8.4(d) [Misconduct] It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

79. Rule 54(d)(2) [Grounds for Discipline] The failure to furnish information or respond promptly to any inquiry or request from bar counsel made pursuant to these rules for information relevant to pending charges, complaints or matters under investigation concerning conduct of a lawyer constitutes grounds of discipline.

COUNT FOUR (File no. 16-1752/Cabellero)

80. Christian Caballero is the daughter of the decedent, Angel Caballero (Decedent). Respondent represented the Decedent in a personal injury case, which was settled in 2008 for \$1,050,000.00. Christian understood that the settlement proceeds had been distributed, in part, as follows: \$300,000 to Decedent; \$300,000 to Respondent; and \$112,000 was deposited in an account at the A.E.A. Federal Credit Union (Credit Union), which was held jointly by Respondent and Decedent (the Account). Without any documents, it is unknown how the balance of the settlement funds were disbursed. However, Christian understood that the funds held on deposit with the Credit Union would be used to satisfy any claims made by

AHCCCS, if Respondent was unsuccessful in otherwise resolving them. Christian understood that Respondent was continuing to work to get the AHCCCS issues resolved when her father passed away on October 5, 2011.

81. After Decedent's death, Respondent opened a probate case in the Yuma County Superior Court, *In re the Matter of the Estate of Angel Caballero*, Case No. S1400PB201200033 (the Probate Case). Christian did not sign a fee agreement with Respondent, nor did she pay him any fees relating to the Probate Case. She understood that Respondent handled the Probate Case for no additional fee.

82. On February 24, 2012, Respondent filed an Application for Informal Appointment of Personal Representative (Intestate Estate) and by order dated March 2, 2012, the Court appointed Christian the personal representative for the Estate.

83. By letter dated March 5, 2012, Respondent notified the Credit Union that Christian was the personal representative for the Estate and that she had authority to act on the Estate's behalf with respect to the Account.

84. The Court's file does not reflect any further action taken by Respondent in the Probate Case after February 2012.

85. In October 2015, Christian contacted Respondent regarding the status of the Probate Case and the Account. Respondent assured Christian that he would look into securing the release of the funds in the Account and asked her to send him a copy of a recent Account statement reflecting the balance, which Christian did on October 5, 2015.

86. Thereafter, Christian made numerous unsuccessful attempts to reach Respondent by telephone and email. She called Respondent's office, but the calls went straight to voicemail. She also called Respondent's cellphone number. Respondent picked up a few times, but then he hung up right away. Other times, Respondent let the calls go to voicemail. Eventually, Christian spoke with a secretary at a law office in the same location as Respondent's office. Christian was told that Respondent no longer had an office there; that he had moved to the State of Washington; and that several other clients had been trying to reach him without success.

87. When she was unable to communicate with Respondent, Christian called the Credit Union regarding the Account. The Credit Union told Christian that she would need a court order to withdraw the funds from the Account. According to the Credit Union, it had sent a letter to Respondent and tried to reach him to discuss the Account, without success. The Credit Union told Christian that it would transfer the funds in the Account to the State of Arizona if no action was taken.

88. Christian then retained Attorney William Dieckhoff resolve the issues concerning the probate and the Account.

89. As of July 20, 2016, Dieckhoff had published notice to creditors in the Probate Case, which included AHCCCS. Christian had also retained an accountant to review the financial information relating to the Probate Case.

90. While Respondent filed the initial paperwork with the Court, he failed to publish the notice to creditors or obtain an EIN (employer identification number). Dieckhoff told Christian that the outstanding items should have been resolved

within one (1) year of filing the Probate Case, which by then had been pending for four (4) years.

91. On March 3, 2016, and before the filing of the present bar charge, Bar Counsel called Respondent's cell phone at 928-580-6880 and left a voicemail message asking Respondent to return the call to discuss other pending bar charges and the whereabouts of the client files. Respondent did not return Bar Counsel's call.

92. By letter dated June 3, 2016, Bar Counsel sent a screening letter to Respondent at his address of record with the SBA: 256 S. 2nd Ave., Ste. E, Yuma, Arizona 85364 and to his last know physical address: 12818 138th St. KPN, Gig Harbor, Washington, 98329 and asked Respondent to respond to the allegations set forth in the bar charge. While the letter sent to the Arizona address was returned to the SBA as "unable to forward," the letter sent to the Washington address was not returned. Respondent did not respond to the letter.

93. By letter dated June 27, 2016, Bar Counsel sent Respondent a ten (10) day notice to his address of record with the SBA, as well as his last known address in Gig Harbor, Washington, and asked him to respond to the allegations set forth in the bar charge. Respondent did not respond to Bar Counsel's letter.

94. By engaging in the foregoing conduct, Respondent violated numerous ethical rules including, but not limited to, the following.

95. ER 1.2 [Scope of Representation and Allocation of Authority between Client and Lawyer] A lawyer shall, which certain exceptions, abide by the client's

decisions concerning the objective of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued.

96. ER 1.3 [Diligence] A lawyer shall act with reasonable diligence and promptness in representing a client.

97. ER 1.4(a)(3) and (4) [Communication] A lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information.

98. ER 1.5(b) [Fees] The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing, before or within a reasonable time after commencing the representation.

99. ER 1.15(d) [Safekeeping Property] A lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

100. ER 1.16(d) [Termination of Representation] Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, and surrendering documents and property to which the client is entitled.

101. ER 3.2 [Expediting Litigation] A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

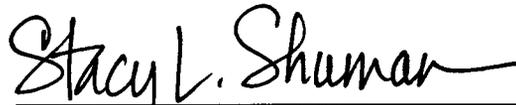
102. ER 8.1(b) [Disciplinary Matters] A lawyer in connection with a disciplinary matter, shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by ER 1.6.

103. ER 8.4(d) [Misconduct] It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

104. Rule 54(d)(2) [Grounds for Discipline] The failure to furnish information or respond promptly to any inquiry or request from Bar Counsel made pursuant to these rules for information relevant to pending charges, complaints or matters under investigation concerning conduct of a lawyer constitutes grounds of discipline.

DATED this 17th day of October, 2016.

STATE BAR OF ARIZONA

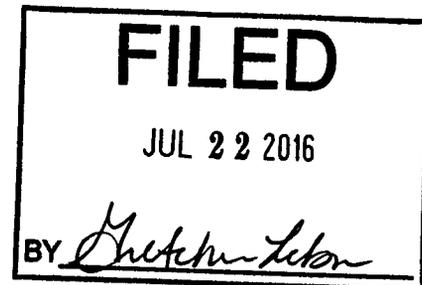


Stacy L. Shuman
Bar Counsel - Litigation

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 17^m day of October, 2016.

by: 
SLS:kec

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



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

No. 15-2866

THOMAS W. ANDERSON,
Bar No. 003724

PROBABLE CAUSE ORDER

Respondent.

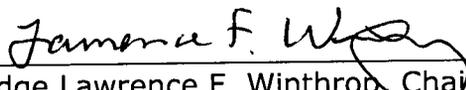
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on July 8, 2016, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 9-0-0, the Committee finds probable cause exists to file a complaint against Respondent in File No. 15-2866.

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 21 day of July, 2016.



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

Original filed this 25th day
of July, 2016 with:

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

Copy mailed this 25th day
of July, 2016, to:

Thomas W. Anderson
256 S. 2nd Avenue, Suite E
Yuma, AZ 85364-2258
Respondent

Copy emailed this 25th day
of July, 2016, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

by: Karen E. Alvarez

FILED

SEP 28 2016

BY *A. Leber*

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

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

**THOMAS W. ANDERSON
Bar No. 003724**

Respondent.

No. 15-2943

PROBABLE CAUSE ORDER

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on September 9, 2016, 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 7-0-2¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 15-2943.

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 27 day of September, 2016.

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

¹ Committee members Charles J. Muchmore and Karen E. Osborne did not participate in this matter.

Original filed this 29th day
of September, 2016, with:

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

Copy mailed this 29th day
of September, 2016, to:

Thomas W. Anderson
256 S. 2nd Avenue, Suite E
Yuma, AZ 85364-2258
Respondent

Thomas W. Anderson
12818 138th Street KPN
Gig Harbor, WA 98329
Respondent Alternate Address

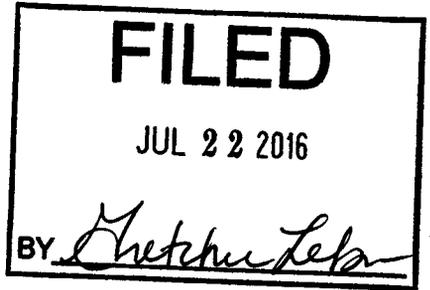
Copy emailed this 29th day
of September, 2016, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

by: Karen E. Calceano
SES/kec

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



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

No. 15-3065

THOMAS W. ANDERSON,
Bar No. 003724

PROBABLE CAUSE ORDER

Respondent.

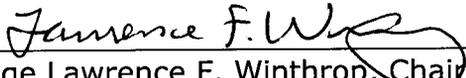
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on July 8, 2016, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 9-0-0, the Committee finds probable cause exists to file a complaint against Respondent in File No. 15-3065.

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 21 day of July, 2016.



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

Original filed this 25th day
of July, 2016 with:

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

Copy mailed this 25th day
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Thomas W. Anderson
256 S. 2nd Avenue, Suite E
Yuma, AZ 85364-2258
Respondent

Copy emailed this 25th day
of July, 2016, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

by: Karen E. Colcaso

FILED

SEP 28 2016

BY *A. Lebon*

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

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

**THOMAS W. ANDERSON
Bar No. 003724**

Respondent.

No. 16-1752

PROBABLE CAUSE ORDER

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on September 9, 2016, 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 7-0-2¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 16-1752.

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 27 day of September, 2016.

Lawrence F. Winthrop

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

¹ Committee members Charles J. Muchmore and Karen E. Osborne did not participate in this matter.

Original filed this 29th day
of September, 2016, with:

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Copy mailed this 29th day
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Respondent

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by: Karen E. Calcagno
SLS/Kec