

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

JAMES R. ANDREWS, II,
Bar No. 027886

Respondent.

PDJ-2016-9101

**FINAL JUDGMENT AND
ORDER OF DISBARMENT**

[State Bar Nos.16-1258, 16-1280]

FILED FEBRUARY 1, 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, **JAMES R. ANDREWS, II, Bar No. 027886**, is disbarred from the State Bar of Arizona and his name is stricken from the roll of lawyers effective January 9, 2017, as set forth in the Hearing Panel's Decision and Order Imposing Sanctions. Mr. Andrews 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. Andrews 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 restitution to the following individuals in the following amounts:

Count One: \$77,260.59 to Kathi Sharpe

Count Two: \$2,650.00 to Elias Barron Viera

IT IS FURTHER ORDERED Mr. Andrews shall pay the costs and expenses of the State Bar of Arizona. 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 1st day of February, 2017.

William J. O'Neil

**William J. O'Neil,
Presiding Disciplinary Judge**

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

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

James R. Andrews, II
3190 S. Gilbert Road, Suite 5
Chandler, AZ 85286-5106
Email: jra2esq@gmail.com
Respondent

by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**JAMES R. ANDREWS II,
Bar No. 027886**

Respondent.

PDJ 2016-9101

**DECISION AND ORDER IMPOSING
SANCTIONS**

[State Bar No. 16-1258 and 16-1280]

FILED JANUARY 9, 2017

On January 4, 2017, the Hearing Panel, comprised of Lorie B. Patrick, attorney member, and Anne B. Donahoe, public member, and the Presiding Disciplinary Judge, William J. O'Neil held an aggravation/mitigation hearing. Craig D. Henley appeared on behalf of the State Bar of Arizona. Mr. Andrews 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. Andrews 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. Thirty (30) 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 11, 2016. On October 14, 2016, the complaint was served on Mr. Andrews 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 Presiding Disciplinary Judge ("PDJ") was assigned to the matter. A notice of default was properly issued on November 10, 2016, given Mr. Andrews's failure to file an answer or otherwise defend. Mr. Andrews never filed an answer or otherwise defended against the complainant's allegations. Default was effective on December 6, 2016. On that same date, a notice of aggravation and mitigation hearing was sent to all parties notifying them the aggravation mitigating hearing was scheduled for January 4, 2017 at 9:00 a.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. Andrews 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. Andrews's default and independently reviewed by the Hearing Panel.

1. Mr. Andrews was licensed to practice law in the State of Arizona having been first admitted on September 20, 2010.
2. On June 23, 2015, Mr. Andrews was administratively suspended for non-payment of dues.

COUNT ONE (File No. 16-1258/Kathi Sharpe)

3. Kathi Sharpe ("Sharpe") was involved in two motor vehicle accidents on October 29, 2010, and October 31, 2011.

First Accident:

4. In July 2013, Sharpe hired Mr. Andrews to become successor counsel in Maricopa County Superior Court case of *Sharpe v. Scott*, CV2012-055117 (first accident).

5. While three medical providers (including AHCCCS) recorded liens against Sharpe for the accident, Sharpe alleges that AHCCCS paid all of the medical bills for Sharpe's medical treatment.

6. On July 19, 2013, an arbitration hearing was scheduled to occur on September 9, 2013.

7. On August 30, 2013, Mr. Andrews filed a notice of appearance on behalf of Sharpe.

8. On November 19, 2013, an arbitration award of Twelve Thousand Five Hundred Sixty Dollars and 59/100 (\$12,560.59) was filed in favor of Sharpe. The amount included an award of One Thousand Sixty Dollars and 59/100 (\$1,060.59) of attorney's fees and costs.

9. Opposing counsel immediately wrote Mr. Andrews and tendered a check for the arbitration award. Both Sharpe and Mr. Andrews were named payees.

10. On or about November 22, 2013, Sharpe and Mr. Andrews endorsed the check which was deposited into Mr. Andrews's bank account.¹

¹ Due to Mr. Andrews's failure to respond to the State Bar investigation, it is unknown if the check was deposited in Mr. Andrews's trust account or business account.

11. On December 5, 2013, Mr. Andrews signed a Satisfaction of Arbitration Award which was filed December 10, 2013.

12. While Mr. Andrews repeatedly claimed to be in active negotiation of the liens, all three liens are still active as of the date of the Complaint.

13. In mid-2014, Mr. Andrews ceased communicating with Sharpe.

Second Accident:

14. Between November 19, 2013, and February 2014, Mr. Andrews received three settlement checks totaling Sixty Six Thousand Dollars (\$66,000.00). Both Sharpe and Mr. Andrews were named payees.

15. One medical provider (MediClinix) recorded a lien against Sharpe for the accident.

16. Sharpe and Mr. Andrews endorsed all of the checks deposited into Mr. Andrews's bank account.²

17. When Sharpe asked about the status of the disbursement of the funds in early 2014, Mr. Andrews claimed to be in active negotiation of the lien.

18. When Sharpe asked for a partial disbursement in May 2014, Mr. Andrews provided Sharpe with a check for One Thousand Three Hundred Dollars (\$1,300.00).

19. The MediClinix lien is still active as of the date of the Complaint.

20. On March 31, 2016, Sharpe sued Mr. Andrews and his law firm as he "failed to remit the money to (Sharpe) and to this day is unlawfully withholding the funds."

² Id.

21. Sharpe's current attorney indicates that they have been unable to locate Mr. Andrews for service of the lawsuit.

22. On June 14, 2016, the State Bar mailed Mr. Andrews an initial screening letter requesting that a response to the allegations to be provided within twenty days. The initial screening letter also informed Mr. Andrews that his failure to fully and honestly respond to, or cooperate with the investigation are grounds for discipline pursuant to Rule 54(d) and Rule 42, Ariz. R. Sup. Ct., ER 8.1(b).

23. On July 26, 2016, the State Bar mailed Mr. Andrews a second request for a response to be provided within ten days. The second letter again informed Mr. Andrews that his failure to fully and honestly respond to, or cooperate with the investigation are grounds for discipline.

24. To date, the State Bar has not received a response from Mr. Andrews.

25. By engaging in the above-listed misconduct, Mr. Andrews violated the following ethical rules:

- a. Rule 42, Ariz. R. Sup. Ct., ER 1.2 – Mr. Andrews failed to abide to his client's decisions during the representation;
- b. Rule 42, Ariz. R. Sup. Ct., ER 1.3 – Mr. Andrews failed to act diligently during the representation;
- c. Rule 42, Ariz. R. Sup. Ct., ER 1.4 – Mr. Andrews failed to reasonably communicate or respond to inquiries during the representation;
- d. Rule 42, Ariz. R. Sup. Ct., ER 1.5 – Mr. Andrews charged, collected and retained unreasonable fees during the representation;
- e. Rule 42, Ariz. R. Sup. Ct., ER 1.15 – Mr. Andrews charged, collected and retained unreasonable fees during the representation and failed to return unauthorized or unearned fees to the client;
- f. Rule 42, Ariz. R. Sup. Ct., ER 1.16 – Mr. Andrews failed to properly withdraw from the representation and take the steps to the extent

reasonably practicable to protect a client's interests following the representation;

- g. Rule 42, Ariz. R. Sup. Ct., ER 8.1 – Mr. Andrews knowingly failed to respond to a lawful demand for information from the disciplinary authority in connection with the instant investigation;
- h. Rule 42, Ariz. R. Sup. Ct., ER 8.4(d) – Mr. Andrews engaged in conduct which was prejudicial to the administration of justice;
- i. Rule 54(d), Ariz. R. Sup. Ct. – Mr. Andrews refused to cooperate, furnish information or respond promptly to any inquiry or request from bar counsel relevant to the pending charges.

COUNT TWO (File No. 16-1280/Viera)

26. On or before June 18, 2012, Elias Barron Viera ("Viera") paid Mr. Andrews Two Thousand Six Hundred Fifty Dollars (\$2,650.00) to represent him in United States Bankruptcy Court case of *In re Viera*, 2-12-BK-13531.

27. Despite Mr. Andrews's repeated assurances that the home was protected from foreclosure, Viera received notification that the home was being sold.

28. When asked about the notice in early 2013, Mr. Andrews again assured Viera that the home was protected.

29. On April 1, 2013, the trustee caused the home to be sold pursuant to a bankruptcy order dated March 13, 2013.

30. When asked about the sale, Mr. Andrews informed Viera that the sale was a good thing as "everything they owed is going to be paid and whatever is left over, payments were going to be given to creditors."

31. When Viera received an IRS notice for the deficiency, Viera attempted to contact Mr. Andrews but was unsuccessful.

32. On May 31, 2016, the State Bar mailed Mr. Andrews an initial screening letter requesting that a response to the allegations to be provided within twenty days. The initial screening letter also informed Mr. Andrews that his failure to fully and honestly respond to, or cooperate with the investigation are grounds for discipline pursuant to Rule 54(d) and Rule 42, Ariz. R. Sup. Ct. and ER 8.1(b).

33. On July 6, 2016, the State Bar mailed Mr. Andrews a second request for a response to be provided within ten days. The second letter again informed Mr. Andrews that his failure to fully and honestly respond to, or cooperate with the investigation are grounds for discipline.

34. To date, the State Bar has not received a response from Mr. Andrews.

35. By engaging in the above-listed misconduct, Mr. Andrews violated the following ethical rules:

- a. Rule 42, Ariz. R. Sup. Ct., ER 1.2 – Mr. Andrews failed to abide to his client’s decisions during the representation;
- b. Rule 42, Ariz. R. Sup. Ct., ER 1.3 – Mr. Andrews failed to act diligently during the representation;
- c. Rule 42, Ariz. R. Sup. Ct., ER 1.4 – Mr. Andrews failed to reasonably communicate or respond to inquiries during the representation;
- d. Rule 42, Ariz. R. Sup. Ct., ER 1.5 – Mr. Andrews charged, collected and retained unreasonable fees during the representation;
- e. Rule 42, Ariz. R. Sup. Ct., ER 1.15 – Mr. Andrews charged, collected and retained unreasonable fees during the representation and failed to return unauthorized or unearned fees to the client;
- f. Rule 42, Ariz. R. Sup. Ct., ER 1.16 – Mr. Andrews failed to properly withdraw from the representation and take the steps to the extent reasonably practicable to protect a client’s interests following the representation;

- g. Rule 42, Ariz. R. Sup. Ct., ER 8.1 – Mr. Andrews knowingly failed to respond to a lawful demand for information from the disciplinary authority in connection with the instant investigation;
- h. Rule 42, Ariz. R. Sup. Ct., ER 8.4(d) – Mr. Andrews engaged in conduct which was prejudicial to the administration of justice;
- i. Rule 54(d), Ariz. R. Sup. Ct. – Mr. Andrews refused to cooperate, furnish information or respond promptly to any inquiry or request from bar counsel relevant to the pending charges.

CONCLUSIONS OF LAW

Mr. Andrews 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. Andrews violated the following ethical rules:

Count One: Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16, 8.1, 8.4(d) and Rule 54(d); and

Count Two: Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.2, 1.3, 1.4, 1.5, 1.15, 1.16, 8.1, 8.4(d) and Rule 54(d).

ABA STANDARDS ANALYSIS

The American Bar Association's *Standards for Imposing Lawyer Sanctions* ("*Standards*") are a "useful tool in determining the proper sanction." *In re Cardenas*, 164 Ariz. 149, 152, 791 P.2d 1032, 1035 (1990). In imposing a sanction, the following factors 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. Andrews violated his duty to his clients by violating ERs 1.2, 1.3, 1.4, 1.5 and 1.16. Mr. Andrews also violated his duty owed as a professional by violating ERs 8.1 and 8.4(d), and Rule 54(d).

Mental State and Injury:

Mr. Andrews violated his duty to 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;
- (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.

We find Mr. Andrews abandoned the 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 clients. Therefore, *Standard 4.41* applies.

Mr. Andrews 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 violates a duty owed as a professional intending 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. Andrews has abandoned the practice of law and failed to substantively respond to the SBA's investigation. Mr. Andrews's actions were taken with the intent

to obtain and resulted in a personal benefit for Mr. Andrews to the detriment of his clients. *Standard 7.1, Disbarment*, 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 Offenses [On December 23, 2015, Mr. Andrews was suspended from the practice of law for one (1) year in PDJ-2015-9126, [Exhibits 28-30];
- *Standard 9.22 (b)* – Dishonest or Selfish Motive;
- *Standard 9.22 (c)* – Pattern of Misconduct;
- *Standard 9.22 (d)* – Multiple Offenses;
- *Standard 9.22 (j)* – Indifference to Making Restitution.

The Hearing Panel finds the no mitigating factors apply.

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 and determined the sanction using the facts deemed admitted, the *Standards*, the aggravating factors, and the goals of the attorney discipline system.

The Hearing Panel orders:

1. Disbarring **James R. Andrews II, Bar No. 027886** from the practice of law effective immediately.
2. Mr. Andrews shall pay in restitution:
 - a. **Count One:** \$77,260.59 to Kathi Sharpe (representing \$12,560.59 of the total settlement funds in the first accident and \$64,700.00 of the total settlement funds in the second accident);
 - b. **Count Two:** \$2,650.00 to Elias Barron Viera.
3. Mr. Andrews 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.

DATED this 9th day of January 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Anne B. Donahoe

Anne B. Donahoe, Volunteer Public Member

Lorie B. Patrick

Lorie B. Patrick, Volunteer Attorney Member

Copy of the foregoing e-mailed
this 9th day of January, 2017, and
mailed January 10, 2017, to:

James R. Andrews, II
3190 S. Gilbert Road, Suite 5
Chandler, Arizona 85286-5106
Email: jra2esq@gmail.com
Respondent

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

by: AMcQueen

Craig D. Henley, Bar No. 018801
Senior Bar Counsel
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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

OCT 11 2016

FILED

BY _____



**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**JAMES R. ANDREWS II,
Bar No. 027886,**

Respondent.

PDJ 2016-9101

COMPLAINT

[State Bar Nos. 16-1258 and 16-1280]

Complaint is made against Respondent as follows:

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was licensed to practice law in the State of Arizona having been first admitted on September 20, 2010.

COUNT ONE (File No. 16-1258/Sharpe)

2. Kathi Sharpe ("Sharpe") was involved in two motor vehicle accidents on October 29, 2010, and October 31, 2011.

First Accident:

3. In July 2013, Sharpe hired Respondent to become successor counsel in the Maricopa County Superior Court case of *Sharpe v. Scott*, CV2012-055117 (first accident).

4. While three medical providers (including AHCCCS) recorded liens against Sharpe for the accident, Sharpe alleges that AHCCCS paid all of the medical bills for Sharpe's medical treatment.

5. On July 19, 2013, an arbitration hearing was scheduled to occur on September 9, 2013.

6. On August 30, 2013, Respondent filed a notice of appearance on behalf of Sharpe.

7. On November 19, 2013, an arbitration award of Twelve Thousand Five Hundred Sixty Dollars and 59/100 (\$12,560.59) was filed in favor of Sharpe. The amount included an award of One Thousand Sixty Dollars and 59/100 (\$1,060.59) of attorney's fees and costs.

8. Opposing counsel immediately wrote Respondent and tendered a check in the full amount of the arbitration award. Both Sharpe and Respondent were named payees.

9. On or about November 22, 2013, Sharpe and Respondent endorsed the check which was deposited into Respondent's bank account.¹

10. On December 5, 2013, Respondent signed a Satisfaction of Arbitration Award which was filed December 10, 2013.

11. While Respondent repeatedly claimed to be in active negotiation of the liens, all three of the liens are still active as of the date of this Complaint.

12. In mid-2014, Respondent ceased communicating with Sharpe.

¹ Due to Respondent's failure to respond to the State Bar investigation, it is unknown if the check was deposited in Respondent's trust account or business account.

Second Accident:

13. Between November 19, 2013, and February 2014, Respondent received three settlement checks totaling Sixty Six Thousand Dollars (\$66,000.00).

Both Sharpe and Respondent were named payees.

14. One medical provider (MediClinix) recorded a lien against Sharpe for the accident.

15. Sharpe and Respondent endorsed all of the checks which were deposited into Respondent's bank account.²

16. When Sharpe asked about the status of the disbursement of the funds in early 2014, Respondent claimed to be in active negotiation of the lien.

17. When Sharpe asked for a partial disbursement in May 2014, Respondent provided Sharpe with a check for One Thousand Three Hundred Dollars (\$1,300.00).

18. The MediClinix lien is still active as of the date of this Complaint.

19. On March 31, 2016, Sharpe filed a lawsuit against Respondent and his law firm as he "failed to remit the money to (Sharpe) and to this day is unlawfully withholding the funds."

20. Sharpe's current attorney indicates that they have been unable to locate Respondent for service of the lawsuit.

21. On June 14, 2016, the State Bar mailed Respondent an initial screening letter requesting that a response to the allegations to be provided within twenty days. The initial screening letter also informed Respondent that his failure

² Id.

to fully and honestly respond to, or cooperate with the investigation are grounds for discipline pursuant to Rule 54(d) and Rule 42, Ariz.R.Sup.Ct., ER 8.1(b).

22. On July 26, 2016, the State Bar mailed Respondent a second request for a response to be provided within ten days. The second letter again informed Respondent that his failure to fully and honestly respond to, or cooperate with the investigation are grounds for discipline.

23. To date, the State Bar has not received a response from Respondent.

24. Pursuant to Rule 60(a)(6), Ariz. R. Sup. Ct., Sharpe is entitled to an order of restitution for all financial injury incurred.

25. By engaging in the above referenced misconduct, Respondent violated:

- a. Rule 42, Ariz. R. Sup. Ct., ER 1.2 – Respondent failed to abide to his client’s decisions during the representation;
- b. Rule 42, Ariz. R. Sup. Ct., ER 1.3 – Respondent failed to act diligently during the representation;
- c. Rule 42, Ariz. R. Sup. Ct., ER 1.4 – Respondent failed to reasonably communicate or respond to inquiries during the representation;
- d. Rule 42, Ariz. R. Sup. Ct., ER 1.5 – Respondent charged, collected and retained unreasonable fees during the representation;
- e. Rule 42, Ariz. R. Sup. Ct., ER 1.15 – Respondent charged, collected and retained unreasonable fees during the representation and failed to return unauthorized or unearned fees to the client;
- f. Rule 42, Ariz. R. Sup. Ct., ER 1.16 – Respondent failed to properly withdraw from the representation and take the steps to the extent reasonably practicable to protect a client’s interests following the representation;
- g. Rule 42, Ariz. R. Sup. Ct., ER 8.1 – Respondent knowingly failed to respond to a lawful demand for information from the disciplinary authority in connection with the instant investigation;

- h. Rule 42, Ariz. R. Sup. Ct., ER 8.4(d) – Respondent engaged in conduct which was prejudicial to the administration of justice;
- i. Rule 54(d), Ariz. R. Sup. Ct. – Respondent refused to cooperate, furnish information or respond promptly to any inquiry or request from bar counsel relevant to the pending charges.

COUNT TWO (File No. 16-1280/Viera)

26. On or before June 18, 2012, Elias Barron Viera (“Viera”) paid Respondent Two Thousand Six Hundred Fifty Dollars (\$2,650.00) to represent him in the United States Bankruptcy Court case of *In re Viera*, 2-12-BK-13531.

27. Despite Respondent’s repeated assurances that the home was protected from foreclosure, Viera received notification that the home was being sold.

28. When asked about the notice in early 2013, Respondent again assured Viera that the home was protected.

29. On April 1, 2013, the trustee caused the home to be sold pursuant to a bankruptcy order dated March 13, 2013.

30. When asked about the sale, Respondent informed Viera that the sale was a good thing as “everything they owed is going to be paid and whatever is left over, payments were going to be given to creditors.”

31. When Viera received an IRS notice for the deficiency, Viera attempted to contact Respondent but was unsuccessful.

32. On May 31, 2016, the State Bar mailed Respondent an initial screening letter requesting that a response to the allegations to be provided within twenty days. The initial screening letter also informed Respondent that his failure to fully

and honestly respond to, or cooperate with the investigation are grounds for discipline pursuant to Rule 54(d) and Rule 42, Ariz.R.Sup.Ct., ER 8.1(b).

33. On July 6, 2016, the State Bar mailed Respondent a second request for a response to be provided within ten days. The second letter again informed Respondent that his failure to fully and honestly respond to, or cooperate with the investigation are grounds for discipline.

34. To date, the State Bar has not received a response from Respondent.

35. Pursuant to Rule 60(a)(6), Ariz. R. Sup. Ct., Viera is entitled to an order of restitution for all financial injury incurred.

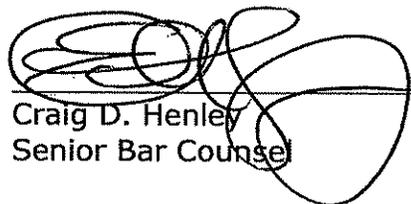
36. By engaging in the above referenced misconduct, Respondent violated:

- a. Rule 42, Ariz. R. Sup. Ct., ER 1.2 – Respondent failed to abide to his client’s decisions during the representation;
- b. Rule 42, Ariz. R. Sup. Ct., ER 1.3 – Respondent failed to act diligently during the representation;
- c. Rule 42, Ariz. R. Sup. Ct., ER 1.4 – Respondent failed to reasonably communicate or respond to inquiries during the representation;
- d. Rule 42, Ariz. R. Sup. Ct., ER 1.5 – Respondent charged, collected and retained unreasonable fees during the representation;
- e. Rule 42, Ariz. R. Sup. Ct., ER 1.15 – Respondent charged, collected and retained unreasonable fees during the representation and failed to return unauthorized or unearned fees to the client;
- f. Rule 42, Ariz. R. Sup. Ct., ER 1.16 – Respondent failed to properly withdraw from the representation and take the steps to the extent reasonably practicable to protect a client’s interests following the representation;
- g. Rule 42, Ariz. R. Sup. Ct., ER 8.1 – Respondent knowingly failed to respond to a lawful demand for information from the disciplinary authority in connection with the instant investigation;

- h. Rule 42, Ariz. R. Sup. Ct., ER 8.4(d) – Respondent engaged in conduct which was prejudicial to the administration of justice;
- i. Rule 54(d), Ariz. R. Sup. Ct. – Respondent refused to cooperate, furnish information or respond promptly to any inquiry or request from bar counsel relevant to the pending charges.

DATED this 11TH day of October, 2016.

STATE BAR OF ARIZONA



Craig D. Henley
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 11TH day of October, 2016.

by: Jalise Stone
CDH/ts

FILED

SEP 28 2016

BY *A. Lopez*

**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,**

**JAMES R. ANDREWS,
Bar No. 027886,**

Respondent.

No. 16-1258

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 6-0-3¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 16-1258.

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 28 day of September, 2016.

Daisy Flores

Daisy Flores, Vice Chair
Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona

¹ Committee members Judge Lawrence F. Winthrop, Charles J. Muchmore and Karen E. Osborne did not participate in this matter.

Original filed this 28th 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:

James R. Andrews, II
3190 S. Gilbert Road, Suite 5
Chandler, Arizona 85286-5106
Respondent

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

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 W. Washington Street, Suite 104
Phoenix, Arizona 85007
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Lawyer Regulation Records Manager
State Bar of Arizona
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E-mail: LRO@staff.azbar.org

by: Karen E. Calugno
CDH/Kec

FILED

SEP 28 2016

BY *A. Leton*

**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,**

**JAMES R. ANDREWS,
Bar No. 027886,**

Respondent.

No. 16-1280

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 6-0-3¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 16-1280.

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 28 day of September, 2016.

Daisy Flores

Daisy Flores, Vice Chair
Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona

¹ Committee members Judge Lawrence F. Winthrop, Charles J. Muchmore and Karen E. Osborne did not participate in this matter.

Original filed this 28th day
of September, 2016, with:

Lawyer Regulation Records Manager
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Copy mailed this 28th day
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Respondent

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

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by: Karen E. Culcasior
CDH/Rec