

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

ALAN R. SOLOT,
Bar No. 006587

Respondent.

PDJ-2015-9055

FINAL JUDGMENT AND ORDER

[State Bar File No. 14-1398]

FILED JANUARY 15, 2016

This matter was heard by a Hearing Panel which rendered its decision. Thereafter an appeal was filed, and then voluntarily withdrawn on January 8, 2016. A notice of compliance with Rule 72 was filed on November 25, 2015, and supplemented on January 8, 2016; accordingly,

IT IS ORDERED Respondent, **ALAN R. SOLOT, Bar No. 006587**, is suspended from the practice of law for a period of one (1) year effective November 16, 2015 for conduct in violation of his duties and obligations as a lawyer as disclosed in the Hearing Panel's Decision and Order Imposing Sanctions filed October 16, 2015.

IT IS FURTHER ORDERED Mr. Solot shall pay \$2,690.00 in restitution to Martin Hussak. Notice of payment of restitution was filed November 19, 2015.

IT IS FURTHER ORDERED Mr. Solot shall pay the costs and expenses of the State Bar of Arizona in the amount of \$2,155.28. 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 15th day of January, 2016.

William J. O'Neil

William J. O'Neil
Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
this 15th day of January, 2016, to:

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**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**ALAN R. SOLOT,
Bar No. 006587**

Respondent.

PDJ 2015-9055

**DECISION AND ORDER
IMPOSING SANCTIONS**

[State Bar No. 14-1398]

FILED OCTOBER 16, 2015

BACKGROUND AND PROCEDURAL HISTORY

The formal complaint in this matter was filed on June 17, 2015. On June 22, 2015, the complaint was served on Respondent, Mr. Solot, by certified, delivery restricted mail, and by regular first class mail, under 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 July 24, 2015 and was effective on August 24, 2015. A notice of aggravation and mitigation hearing was sent to all parties notifying them the aggravation/mitigation hearing was scheduled for September 17, 2015, at 9:30 a.m., at the State Courts Building, 1501 West Washington, Phoenix, Arizona 85007-3231.

On September 17, 2015, the Hearing Panel (Panel), comprised of Judge David R. Cole (Retired), volunteer attorney member, and Richard L. Westby, volunteer public member, heard and considered testimony from witnesses Larry Schubart, Joelle Kahn, Complainant Martin Hussak, and Alan Solot. The Panel also admitted into

evidence and considered State Bar exhibits 1-51. On September 25, 2015, Bar Counsel was directed to provide the Chapter 13 bankruptcy records in the underlying representation. Those records were received on September 28, 2015, and marked by the disciplinary clerk as Exhibit 53 and 54.

The purpose of the aggravation/mitigation hearing is not only to weigh mitigating and aggravating factors, but also to assure there is a nexus between a respondent's conduct deemed admitted and the merits of the SBA's case. A respondent against whom a default has been entered and effective may no longer litigate the merits of the factual allegations. However, the respondent retains the right to appear and participate concerning that nexus and the sanctions sought. Included with that right to appear is the right to dispute the allegations relating to aggravation and to offer evidence in mitigation. Mr. Solot was afforded these rights.

Due process requires a hearing panel to independently determine whether, under the facts deemed admitted, ethical violations have been proven by clear and convincing evidence. The facts deemed admitted constitute ethical violations. The hearing panel must also exercise discretion in deciding whether sanctions should issue for the respondent's misconduct. We find the actions of Mr. Solot warrant sanctions. If the hearing panel finds that sanctions are warranted, then it independently determines which sanctions should be imposed. It is not the function panel to endorse or "rubber stamp" any request for sanctions. The State Bar requests a six (6) month and one (1) day suspension and restitution. We find a suspension satisfies the purpose of lawyer discipline.

I. SANCTION IMPOSED:

**ONE (1) YEAR SUSPENSION, RESTITUTION, AND COSTS OF THESE
DISCIPLINARY PROCEEDINGS**

II. FINDINGS OF FACT

The facts listed below include, but are not limited to, those set forth in the State Bar's complaint and were deemed admitted by Mr. Solot's default.

COUNT ONE of ONE (File no. 14-1398/Hussak)

Mr. Solot was a lawyer licensed to practice law in Arizona having been first admitted to practice in Arizona on October 4, 1980. Mr. Hussak was in the auto repair business and owned real property adjacent to I-10 near Picacho, Arizona, in Pinal County. Mr. Hussak lived in Picacho, Arizona, in Pinal County. [Hearing Testimony of Martin Hussak.]

In 2012, the Arizona Department of Transportation ("ADOT") filed an eminent domain case in Pinal County Superior Court seeking Mr. Hussak's property to improve I-10. Mr. Hussak hired attorney G. Lawrence Schubart to represent him. [Hearing Testimony of Lawrence Schubart.]

Mr. Schubart recommended his client file bankruptcy for multiple reasons including competing claims and that the real property included the home of Mr. Hussak. He testified, and we find, that the bankruptcy was critical to handling the eminent domain by Mr. Schubart as his "hands were tied fighting and trying to generate more money." Mr. Schubart needed to be appointed by the Bankruptcy Court to protect the substantial interests of Mr. Hussak. [Hearing Testimony of Lawrence Schubart.] In that same year, in an unrelated criminal case, Mr. Hussak was sentenced to 3½ years in prison and also had to pay restitution. He could no

longer earn a living and creditors threatened foreclosure. [Hearing Testimony of Martin Hussak.]

In January 2013, Mr. Hussak was referred by Lawrence Schubart to Mr. Solot to represent him in a Chapter 13 bankruptcy case. Mr. Hussak hired Mr. Solot. Mr. Hussak paid Mr. Solot \$3,000; \$2,000 was paid directly to Mr. Solot and \$1,000 paid by Mr. Schubart out of funds Mr. Hussak previously paid to Mr. Schubart that the latter held in his trust account. [Hearing Testimony of Lawrence Schubart; Martin Hussak.] Of the \$3,000, \$310.00 was for the bankruptcy filing fee. [Hearing Testimony of Mr. Solot.] Mr. Solot's job was to reorganize Mr. Hussak's debt at a lower interest rate, work out a payment plan, and authorize Mr. Schubart (with trustee cooperation) to obtain fair compensation for taking Mr. Hussak's property. [Hearing Testimony of Lawrence Schubart.]

Because Mr. Hussak was in prison, he authorized several people to communicate with Mr. Solot on his behalf, including family members and, primarily, his friend, Sara Marsh. Mr. Hussak repeatedly tried to communicate with Mr. Solot by email, sometimes by phone and through Ms. Marsh, but received virtually no communications. Mr. Solot consistently failed to communicate with his client or the client's intermediaries. [Hearing Testimony of Martin Hussak; undisputed by Mr. Solot.]

Mr. Solot also failed to respond to Mr. Schubart's requests he cooperate in getting Mr. Schubart appointed special counsel in the bankruptcy case to handle the client's eminent domain matter. Mr. Schubart wrote numerous letters to Mr. Solot and attempted multiple times to contact him. None of these efforts were responded to by Mr. Solot. The burden of proof in the Superior Court was on the landholder,

and without the Bankruptcy Court approval, Mr. Schubart had no ability to move the case forward; he had no authority to even hire an appraiser. Mr. Schubart has never received an explanation from Mr. Solot for his failure to respond to him. [Hearing Testimony of Mr. Schubart.]

There were three important general categories of assets in the bankruptcy to be protected: the equipment and inventory of the business; the land of the business, including that sought in the eminent domain; and the home of Mr. Hussak. Mr. Solot's receptionist told Mr. Hussak everything was going as planned. However, a short time later, he received a notice that his auto repair shop had been foreclosed on. Mr. Hussak tried to reach Mr. Solot, but it was not until three days before the trustee's sale of the shop that Mr. Solot told Mr. Hussak that the shop lienholders would not agree to a payment plan and insisted on payment in full (\$145,000). Mr. Hussak lost the shop, including tools, equipment, inventory, a truck, and trailer valued at \$250,000.

Also at issue was the home of Mr. Hussak, which he had listed for sale with his realtor, Joelle Kahn. In October 2013, Mr. Hussak's realtor Joelle Kahn obtained an offer on his residence and notified Mr. Solot by email. She reminded him that Sara Marsh had provided him with the address of the mortgage company to obtain the pay off. Shortly thereafter, Ms. Marsh provided a payoff figure but Mr. Solot failed to answer her emails or phone calls. [Hearing Testimony of Ms. Kahn; Exhibit 7.]

Ms. Kahn notified Mr. Solot she was aware ADOT had gone to the bankruptcy court and asked the business property be released and that "[E]veryone involved with this case is frustrated with the lack of response and professionalism from you. What is the status of the case?" In addition, she accused him of declining all of Mr.

Hussak's phone calls, ignoring ADOT representatives, and causing them to lose the buyer that initially offered to buy Mr. Hussak's property. [Exhibit 8.] Mr. Solot never answered.

Ms. Marsh emailed Mr. Solot repeatedly. [Exhibit 9.] When he finally responded, he ignored her inquiries and blamed Ms. Kahn for his inaction. We are disinclined, in light of such direct accusations in this email, to conclude Mr. Solot negligently failed to respond or act. These are not negligent actions. Mr. Solot did not explain his inaction or his refusal to respond despite acknowledging the receipt of the emails. We conclude, for reasons best known to him, he refused to respond. The sole reason for losing the sale of the house was Mr. Solot's abandonment of his client.

Ms. Marsh sent virtually identical emails to Mr. Solot to generate a response. [Exhibits 10, 11.] Frustrated at his refusal to respond she demanded, "Can you please acknowledge that you have received my emails and are working on my question...." She also informed him his client would leave federal prison in less than 30 days and was placed in state custody. She again reiterated her requests from her prior two emails. [Exhibit 12.] Mr. Solot did not respond. Ms. Marsh sent notice of payments under the plan to Mr. Solot. [Exhibit 13.] Mr. Solot acknowledged in his testimony their receipt, but ignored them.

On January 2, 2014, Ms. Marsh emailed Mr. Solot asking for updates on the business tools and equipment of Mr. Hussak. She also asked about the status of the home and asked for confirmation that the payment made by Mr. Hussak had been received. [Exhibit 14.] Mr. Solot did not respond. Ms. Marsh sent emails on January 6, 2014. Another on January 7, 2014, outlining instructions from Mr. Hussak. There

was no response. [Exhibit 16.] Ms. Marsh sent a virtually identical email to her previous January 2, 2014 email on January 8, 2014, which also went unanswered by Mr. Solot. [Exhibit 15.] Multiple emails were sent, and without explanation, Mr. Solot ignored them and did nothing to respond. [Exhibits 17-22, 24.]

Unable to obtain information from Mr. Solot, Mr. Hussak and Ms. Marsh asked the bankruptcy trustee to confirm that Mr. Hussak's plan payments had been credited. Instead, as Mr. Hussak and Ms. Marsh learned from the trustee in April 2014, Mr. Hussak's bankruptcy case was dismissed on March, 14, 2014, due to Mr. Solot's failure to confirm the Chapter 13 Plan Reorganization. [Exhibit 26.] The order authorized filing a motion to reinstate the case. Mr. Solot did not try to reinstate the case. Mr. Solot, to the detriment of Mr. Hussak, gave his client no notice of the dismissal. Further, Mr. Solot failed to update Mr. Hussak's address with the court (following Mr. Hussak's transfer from federal to state prison) despite being directly informed by Ms. Marsh of the new address on February 7, 2014. [Exhibit 21.]

We find Mr. Solot knew of the change of address of his client and did nothing. Because of the inaction of Mr. Solot, Mr. Hussak did not receive court notices that his case was in danger of imminent dismissal. [Hearing testimony of Martin Hussak.]

Regarding the business property, Mr. Solot did nothing to obtain Mr. Schubart's appointment as special counsel in the bankruptcy court to handle the condemnation matter pending in Pinal County Superior Court. Mr. Schubart wrote Mr. Solot. [Exhibit 2.] Mr. Solot did nothing. Unable to obtain any response from Mr. Solot, Mr. Schubart contacted his client on April 9, 2014, and explained his frustration at the inaction and lack of responses from Mr. Solot. [Exhibit 2.] He also explained he had to withdraw from the case due to the inaction of Mr. Solot. As a direct result, in

April 2014, by motion and order, Mr. Schubart motioned the Superior Court and was withdrawn from his representation of Mr. Hussak. [Exhibit 27, Bates 000044-49.] Mr. Schubart testified the inaction of Mr. Solot directly resulted in injury to Mr. Hussak as it left him without an attorney and precluded him from obtaining favorable relief. He testified it is typical for debtors to settle their debts for lesser amounts and the total debt of Mr. Hussak would have been favorably reduced. Mr. Schubart's fee was limited to a percentage of the evaluation by the Attorney General and any higher purchase price brought through his efforts. The inaction of Mr. Solot assured this could not occur.

We find the inaction of Mr. Solot created a burden on the court and other parties, as Mr. Schubart stated the case was delayed without cause for a year. Mr. Solot's failure to respond to Mr. Schubart was prejudicial to the administration of justice. [Hearing testimony of Mr. Schubart.] Mr. Solot stated to the Panel, prior to his cross-examination of Mr. Schubart, that he disputed none of the testimony of Mr. Schubart.

Mr. Solot testified he received multiple communications, but did not respond to them. Likewise, Bar Counsel communicated with him multiple times, but Mr. Solot failed to respond to these communications. [Exhibits 40-50.] When asked by a Panel member if anything might explain such a lack of communication, Mr. Solot answered, "No." He swore he had "no issues," is an avid bicyclist and that, "[N]othing explains what happened here." He swore he was not under a doctor's care and takes no medications, drugs or alcohol.

Mr. Solot acknowledged there "were gaps in communication" and "his head was in the sand" but swore the case was difficult. His only attempt at mitigation was

to state the publicity of this would hurt him and others in his life and other clients. However, he acknowledged he has made no attempt at restitution because no one has asked him to.

The Panel requested Bar Counsel submit as Exhibit 53, the general pleadings, without attachments” of the bankruptcy case filed by Mr. Solot on behalf of Mr. Hussak. From the outset, the inaction of Mr. Solot is clear in those exhibits. The petition was filed on January 21, 2013. On January 23, 2013, the Clerk issued a notice of deficient filings giving notice titled, “Debtor must file all required documents or their case shall be dismissed.” It stated the schedules of assets and liabilities and statement of financial affairs, a debtor statement of current monthly income and disposable income, and the declaration of employer payments had to be filed within fourteen days of January 21, 2013. [Exhibit 53, Bates 000106.] On February 4, 2013, Mr. Solot moved to extend time to February 13, 2013, for filing those documents which was granted by the court the following day. The record shows nothing was filed by Mr. Solot and the Court entered an order dismissing the case on February 15, 2013.

Mr. Solot moved to reinstate the matter, blaming the girlfriend of Mr. Hussak for not timely delivering the documents. [Exhibit 53, Bates 000119-120.] The testimony of Mr. Hussak was that the failings were due to the omissions of Mr. Solot, which was not contradicted by him. Regardless, the case was reinstated on February 15, 2013. [Exhibit 53, Bates 000122.] We find nothing in the record or testimony of Mr. Solot that he gave notice to his client of this dismissal or its reinstatement or multiple other pleadings and orders that were detrimental to his client.

On March 4, 2013, Mr. Solot filed a Submission of Statements, Lists and Schedules.” [Exhibit 53, Bates 000144]. On March 4, 2013, Mr. Solot filed a Chapter 13 plan for Mr. Hussak. Central to that plan was that “[T]he debtor would use proceeds from the condemnation lawsuit, No. CV201200667, AZDOT v. Hussak, et al., etc., to pay valid liens on the property....” Mr. Solot also stated in the pleading, the intent was also “to obtain a Bankruptcy Court order appointing as his attorney for such lawsuit. G. Lawrence Schubart” to pursue the eminent domain case involving the land of Mr. Hussak. [Exhibit 53, Bates 000145.]

On March 6, 2013, Mr. Solot received a warning of his non-compliance with local Rule 1007-1(c), which required filing a declaration of electronic filing within 7 days of March 4, 2013. The notice warned failure to comply would cause dismissal. Mr. Solot filed it on March 11, 2013. [Exhibit 53, Bates 000159-161.]

On May 2, 2013, the Trustee objected, with notice of potential dismissal, that Mr. Solot had failed to review all proofs of claim filed and resolve any discrepancies between the claims and the Plan. [Exhibit 53, Bates 000183-188.] The trustee criticized the plan submitted by Mr. Solot stating, “in varying provisions it appears that the cut and paste function went haywire in that instead of one payment of \$99,999.99 in month 36, there will be three such payments, and still the funding will be less than the liquidation value according to the schedules and plan.” [*Id.*, paragraph 7, Bates 000186.]

An objection to the proposed plan and relief from the automatic stay and a motion for relief from the automatic stay on a commercial real property of Mr. Hussak in Arizona City was filed by a creditor. [Exhibit 53, Bates 000164-179.] The record shows the two page objection filed by Mr. Solot. [Exhibit 53, Bates 000177-178.]

The motion was granted, and the stay lifted. A motion to lift the stay on the Picacho property was filed which was the subject of the eminent domain action. [Exhibit 53, Bates 000218-221.] Mr. Solot filed a five line objection. [Exhibit 53, Bates 225.] Another motion to lift the stay on another commercial property in Arizona City was filed. [Exhibit 53, Bates 000239-243.] No response was filed by Mr. Solot. The trustee filed a Notice of Intent to Dismiss Case for Failure to Confirm Chapter 13 Plan Reorganization on September 24, 2013. [Exhibit 53, Bates 000213.]

We find nothing in the record demonstrating any effort by Mr. Solot to respond to, oppose, or take any action to confirm the plan reorganization as required. On March 14, 2014, Mr. Solot was served with a notice of lodging order dismissing case by the Trustee. We find he did nothing. On March 19, 2014, the Court dismissed the case. [Exhibit 53, Bates 000273-277.]

The testimony of Mr. Hussak was not contradicted. He never received notice, nor did Ms. Marsh, of these filings or rulings. Mr. Solot offered no record of any notification to Mr. Hussak of any of these matters. We find it clear from the minute entry of Tuesday, February 6, 2014, Mr. Solot knew of the condemnation action, and conclude he knew it was proceeding and vital to the interests of his client. [Exhibit 53, Bates 000250.] Mr. Solot continued to receive communications from Mr. Schubart regarding the urgency of his appointment by the bankruptcy court. Still he did nothing to have Mr. Schubart appointed. Mr. Schubart testified Mr. Solot's failures prevented his ability to go forward, delayed the Superior Court litigation for over two years, and left his client without an attorney. The inaction of Mr. Solot also injured Mr. Schubart, who testified he had over \$12,000.00 of time invested in Mr. Hussak's eminent domain case. We conclude Mr. Solot disregarded the directives of his client.

Regardless of his mental state, Mr. Solot abandoned his client and ignored Mr. Schubart.

Multiple instances of imminent dismissals were unexplained by Mr. Solot. On April 3, 2013, the Trustee moved to dismiss for failing to timely pay the \$100 payment under the current plan. That motion was withdrawn on May 23, 2013, when the payment was made. [Exhibit 53, Bates 000198.] The trustee on August 30, 2013, again moved to dismiss for delinquent plan payments of \$150. [Exhibit 53, Bates 000210-212.] The motion was withdrawn on October 21, 2013, when the payment was made. [Exhibit 53, Bates 000215.] Exhibit 53 shows multiple other delinquent payments with motions to dismiss filed by the trustee. Again, the testimony was uncontroverted that Mr. Solot did nothing to inform his client of the motions and repeatedly failed to respond to his client. Mr. Solot acknowledged he had no explanation that makes any sense regarding his inaction and offered no elucidation at the hearing. As he testified, he had no good reason for his inactions or delayed actions and they burdened the trustee and the court, crippled the efforts of Mr. Schubart, injured his client, and brought disrepute to the profession.

Mr. Hussak filed a notice of change of address with the court on April 10, 2014. On May 8, 2014, Mr. Hussak filed a handwritten letter in Bankruptcy Court in which he complained about Mr. Solot and asked what he could do to reinstate his case. We find Mr. Hussak and others acting on his behalf could not reach Mr. Solot for many months. Mr. Hussak attached as exhibits, copies of Ms. Marsh's emails to Mr. Solot detailing her efforts to get information from him for Mr. Hussak's benefit, to which Mr. Solot failed to respond. Mr. Hussak testified he also attached as exhibits, letters

from Mr. Schubart that lamented Mr. Solot's failure to communicate or take action. [Exhibit 53, Bates 000282-286.]

On May 29, 2014, Mr. Hussak, *pro per*, filed a handwritten Motion to Reinstate "due to non-existent communication between Attorney of Record and Debtor," and an emergency Motion to Stay. [Exhibit 53, Bates 000287-288.] It was uncontroverted Mr. Solot contacted Mr. Hussak after receiving a copy of the Motion to Reinstate, sounding shocked that an inmate could file anything on his own. A hearing was held on June 11, 2014. Mr. Solot told Mr. Hussak he would appear in court but did not do so. Mr. Hussak appeared by phone. The Court denied the motions. [Exhibit 53, Bates 000287-295.] The Court suggested to Mr. Hussak he report Mr. Solot to the State Bar to address his lack of attentiveness to the matter.

Mr. Solot agreed to re-file the Chapter 13 case for free, and according to Mr. Hussak, has been "somewhat there" ever since. However, the case has been dismissed and reinstated three times due to Mr. Solot not timely filing documents. Notwithstanding, Mr. Solot failed to advise Mr. Hussak that in the refiled Chapter 13 case, Mr. Hussak had 30 days after filing within which to seek an extension of the automatic bankruptcy stay. Mr. Solot failed to seek such an extension. [Hearing testimony of Martin Hussak and Mr. Solot.]

We find Mr. Hussak could communicate with Mr. Solot from prison. Mr. Hussak's corrections officer, COIII Briseno, diligently called Mr. Solot on Mr. Hussak's behalf, and both mailed and emailed documents to Mr. Solot. In September 2014, Mr. Solot filed a notice converting the Chapter 13 case to a Chapter 7 case. A discharge was granted in the Chapter 7 case on February 3, 2015.

Mr. Solot failed to respond to the State Bar's mailed and emailed requests for information on July 2 and 29, 2014, and bar counsel's phone message and email on March 24, 2015. In his testimony, Mr. Solot avowed he filed no answer to the complaint because all of the allegations were true and it would have been dishonest of him to deny them. Mr. Solot also testified that he thought he and Bar Counsel had agreed to resolve the case. [Hearing Testimony of Mr. Solot.] However, we find his testimony not credible. The written and emailed communications between Mr. Solot and Bar Counsel demonstrate it is not credible for anyone to conclude that he and Bar Counsel agreed to a settlement. [Ex. 40-51.] Bar Counsel's email to Mr. Solot's dated July 12, 2015 reflects there was no meeting of the minds.

Further, we do not find credible Mr. Solot's testimony he mistakenly believed he did not have to file an answer. First, it contradicts his earlier testimony and second, the notices he received regarding default were clear and acknowledged to have been understood by him. No Rule 60(c) motion was filed to set aside the default. Although lawyer discipline proceedings are unfamiliar and created fear in Mr. Solot, he acknowledges that he handles adversary proceedings in bankruptcy court where similar litigation rules of procedure apply. [Hearing Testimony of Mr. Solot.]

III. CONCLUSIONS OF LAW

Mr. Solot 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 under Rule 58(d), Ariz. R. Sup. Ct. Based upon the facts deemed admitted and the evidence and testimony considered, the Panel finds by clear and

convincing evidence that Mr. Solot violated: Rule 42, Ariz. R. Sup. Ct., specifically E.R.s 1.2, 1.3, 1.4, 3.2, 8.1, and 8.4(d), and Rule 54(d).

IV. DISCUSSION

The State Bar recommends a six (6) month and one (1) day suspension. Mr. Solot asserts suspension is unnecessary to protect the public but cannot reasonably explain his misconduct. A suspension of over six months requires formal reinstatement proceedings and the burden would be on Mr. Solot to prove his fitness to practice by clear and convincing evidence and to satisfy other requirements such as examining the reasons for his misconduct.

The Panel declines to speculate on the reasons for Mr. Solot's misconduct. He testified he does not recall looking at the rules when faced with the bar charge and does not know why he did not respond. The Panel determined his failure to act and his inability to recall events or explain his misconduct coupled with his false statements regarding his prior disciplinary offense warrants suspension. We find his conduct egregious and inexplicable. We find a long term suspension should be imposed.

ABA STANDARDS ANALYSIS

In lawyer discipline cases, "Sanctions imposed shall be determined in accordance with the American Bar Association *Standards for Imposing Lawyer Sanctions* ["Standards"]" Rule 58(k), Ariz. R. Sup. Ct. In imposing a sanction, the following factors should be considered: (1) the duty violated; (2) the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating factors. *Standard 3.0*.

Duties violated: Mr. Solot violated his duties to his clients by violating ERs 1.2, 1.3, 1.4, and 3.2, violated his duties the legal system by violating ERs 3.2 and 8.4(d), and violated his duties as a professional by violating ER 8.1 and Rule 54(d).

Mental State and Injury:

Mr. Solot's mental state was knowing. He knowingly failed to appear in court for his client when required to do so and failed to advocate for his client. Mr. Solot knowingly failed to follow-up on matters and properly handle the client's legal matter entrusted to him, and knowingly failed to communicate with other counsel and intermediaries trying to reach him on behalf of the client. Mr. Solot further failed to respond to the SBA. The following *Standards* apply:

Standard 4.42:

Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

Standard 6.22

Suspension is appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

Standard 7.2

Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system.

AGGRAVATING AND MITIGATING FACTORS

The presumptive sanction is suspension. Aggravating and mitigating circumstances assist the Panel in determine the appropriate length of suspension to impose. The Panel finds the following aggravating factors are present in this matter:

Standard 9.22

- (a) prior disciplinary offenses. An informal reprimand (now an admonition) was imposed in 1987 for violating ERs 1.3, 1.4, and 8.4(c).

Mr. Solot testified he enjoyed a good reputation as a lawyer and that he has no blemishes on his record. The Panel determined his testimony was false as evidenced by his prior disciplinary history. [Exhibit 38.]

- (b) selfish motive; We conclude Mr. Solot either prioritized other matters that benefitted him more or abandoned his client.
- (d) multiple offenses;
- (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency;
- (h) vulnerability of victim; the client was incarcerated during the representation.
- (i) substantial experience in the practice of law. Mr. Solot was admitted to practice law in Arizona in 1980; and
- (j) indifference to making restitution.

The Panel finds there are no mitigating factors present.

V. CONCLUSION

The Supreme Court "has long held that 'the objective of disciplinary proceedings is to protect the public, the profession and the administration of justice and not to punish the offender.'" *Alcorn*, 202 Ariz. 62, 74, 41 P.3d 600, 612 (2002) (quoting *In re Kastensmith*, 101 Ariz. 291, 294, 419 P.2d 75, 78 (1966)). Other purposes and goals of lawyer discipline include a deterrence to future misconduct, *In re Fioramonti*, 176 Ariz. 182, 859 P.2d 1315 (1993), and to protect and instill public confidence in the integrity of individual members of the State Bar, *Matter of Horwitz*, 180 Ariz. 20, 881 P.2d 352 (1994).

Another goal of lawyer discipline of great significance to this specific case is to foster confidence in the self-regulatory process. *In re Hoover*, 161 Ariz. 529, 779 P.2d 1268 (1989); *Matter of Hoover*, 155 Ariz. 192, 745 P.2d 939 (1987); *In re Stout*, 122 Ariz. 503, 596 P.2d 29 (1979). Lawyers are an integral part in the self-regulatory process and they must respond and cooperate in State Bar inquiries. [ER 8.1(b) and Rule 54(d).] When a lawyer fails to meet this obligation, self-regulation breaks down.

Given the facts and upon application of the *Standards* including the aggravating and mitigating factors, the Panel concludes that a one (1) year suspension is within the range of reasonableness for sanctions involving similar misconduct and fulfills the purposes of discipline. Accordingly:

IT IS ORDERED Mr. Solot shall be suspended from the practice of law for one (1) year, effective thirty (30) days from the date of this Decision and Order Imposing Sanctions.

IT IS FURTHER ORDERED Mr. Solot 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. Solot shall pay restitution in the amount of \$2,690.00 to Martin Hussak.

IT IS FURTHER ORDERED Mr. Solot shall pay all costs and expenses incurred by the State Bar in these proceedings.

A final judgment and order will follow.

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DATED this 16th day of October, 2015.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Richard L. Westby

Richard L. Westby, Volunteer Public Member

Judge David R. Cole (Retired)

David R. Cole, Volunteer Attorney Member

Copy of the foregoing mailed/emailed
this 16th day of October, 2015.

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by: JAlbright

JUN 17 2015

FILED

BY 

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BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**ALAN R. SOLOT,
Bar No. 006587,**

Respondent.

PDJ 2015-9055

COMPLAINT

State Bar No. 14-1398

For its Complaint against Respondent the State Bar of Arizona alleges:

COUNT ONE of ONE (File no. 14-1398/Hussak)

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 October 4, 1980.
2. Complainant was in the auto repair business and owned real property adjacent to I-10 near Picacho, AZ, in Pinal County.
3. Complainant lived in Picacho, AZ, in Pinal County.
4. In 2012, the Arizona Department of Transportation filed an eminent domain case in Pinal County Superior Court to take Complainant's property in order to improve I-10. Complainant hired attorney G. Lawrence Schubart to represent him.

5. In 2012, in an unrelated criminal case, Complainant was sentenced to 3½ years in prison and also was required to pay restitution. He could no longer earn a living and creditors threatened foreclosure.

6. In January 2013 Complainant hired Respondent for a \$6,000 flat fee to file a Chapter 13 bankruptcy case.

7. Complainant paid Respondent \$4,500 and expected the bankruptcy court to approve the \$1,500 balance as part of the Ch. 13 plan.

8. Respondent's job was to reorganize Complainant's debt at a lower interest rate, work out a payment plan, and authorize Mr. Schubart (with trustee cooperation) to obtain fair compensation for the taking of Complainant's property.

9. Because Complainant was in prison he authorized several people to communicate with Respondent on his behalf including family members and, primarily, his friend Sara Marsh.

10. From September 2013-June 2014, however, Respondent failed to respond to almost all of their requests for information or to answer their questions so they could relay information to Complainant.

11. Respondent also failed to respond to Mr. Schubart's request that he cooperate in getting Mr. Schubart appointed special counsel in the bankruptcy case in order to handle the eminent domain matter.

12. Respondent's receptionist told Complainant that everything was going as planned.

13. However, a short time later he received a notice that his auto repair shop had been foreclosed on.

14. Complainant tried to reach Respondent but it was not until three days before the trustee's sale of the shop that Respondent told Complainant that the lienholders on the shop would not agree to a payment plan, and insisted on payment in full (\$145,000).

15. Complainant lost the shop, \$250,000 worth of tools and equipment, his truck, and his trailer.

16. Unable to obtain information from Respondent, Complainant and Ms. Marsh asked the bankruptcy trustee to confirm that Complainant's plan payments had been credited.

17. Complainant and Ms. Marsh learned from the trustee in April 2014 that Complainant's bankruptcy case in which Respondent represented him was dismissed in March.

18. Respondent failed to update Complainant's address with the court (following Complainant's transfer from federal to state prison) so Complainant did not receive his invoices for plan payments.

19. Respondent failed to tell Complainant about the impending dismissal for failure to make payments, or of the dismissal itself.

20. Respondent did not seek Mr. Schubart's appointment as special counsel in the bankruptcy court to handle the condemnation matter that was pending but stayed in Pinal County Superior Court.

21. In April 2014, by motion and order, Mr. Schubart withdrew from that representation.

22. On May 8, 2014, Complainant filed a handwritten letter in Bankruptcy Court in which he complained about Respondent and asked what he could do to reinstate his case.

23. Complainant asserted that he and his helpers had been unable to reach Respondent for over six months.

24. Complainant attached as exhibits copies of Ms. Marsh's emails to Respondent detailing her efforts to get information from him for Complainant's benefit, to which Respondent failed to respond.

25. Complainant also attached as an exhibit letters from Mr. Schubart that lamented Respondent's failure to communicate or take action.

26. The exhibits Complainant attached to his letter would qualify as attorney/client privileged material under other circumstances.

27. On May 29, 2014, Complainant *in pro per* filed a handwritten Motion to Reinstate "due to non-existent communication between Attorney of Record and Debtor," and an emergency Motion to Stay.

28. Respondent contacted Complainant immediately after the filing of the Motion to Reinstate, sounding shocked that an inmate could file anything on his own.

29. The court conducted a hearing on June 11, 2014.

30. Complainant appeared by phone.

31. Respondent told Complainant he would appear in court but did not do so.

32. The court denied Complainant's request due to concerns over whether he could ever get a plan approved or even qualified for Ch. 13 treatment. He had no "regular income" other than gifts from his mother that likely did not qualify as "regular income" under the bankruptcy code and his plan called for balloon payments at certain intervals that did not qualify as "regular payments" under the code. Also, it appeared that the condemnation case would not produce enough money to pay all creditors' claims and leave anything for Complainant so it was pointless to impose a stay.

33. The Court suggested to Complainant that he report Respondent to the State Bar to address his lack of attentiveness.

34. During the bankruptcy, Complainant's realtor obtained an offer on his property.

35. The realtor asked Respondent to obtain a payoff figure in order to submit the offer to the bankruptcy court for approval.

36. Respondent did not respond to her.

37. In November 2013 Complainant's realtor emailed Respondent and criticized him for his failure to respond and lack of professionalism.

38. She accused him of declining all of Complainant's phone calls ignoring ADOT representatives, and causing them to lose the buyer that initially offered to buy Complainant's property.

39. She wrote: "Everyone feels that they have been given the runaround from you, and Mr. Hussak can only do so much from where he is. You are supposed to be representing him, and he is your client, who has paid you to do so."

40. On June 2, 2014, at 8:26 a.m., the realtor forwarded her email to Ms. Marsh. Ms. Marsh sent it to Respondent as another example of his failure to communicate. At 10:55 a.m., Respondent emailed Ms. Marsh, "Can you or Martin please give me a call this afternoon?"

41. Respondent agreed to re-file the Ch. 13 case for free and according to Complainant has been "somewhat there" ever since. However, the case has been dismissed and reinstated three times due to Respondent not timely filing documents.

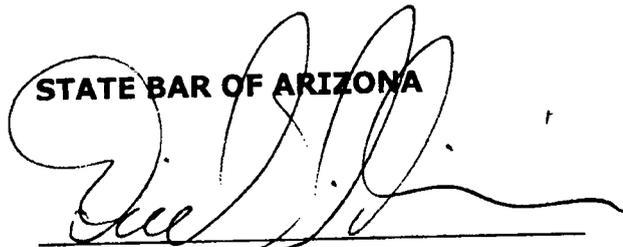
42. Complainant was capable of communicating with Respondent from prison. Complainant's corrections officer, COIII Briseno, diligently called Respondent on Complainant's behalf, and both mailed and emailed relevant documents to Respondent.

43. In September 2014, Respondent filed a notice converting the Ch. 13 case to a Ch. 7 case. A discharge was granted in the Ch. 7 case on February 3, 2015.

44. Respondent failed to respond to the bar's mailed and emailed requests for information dated July 2 and 29, 2014, and bar counsel's phone message for and email to him on March 24, 2015.

45. By engaging in the misconduct described above, Respondent violated Arizona Supreme Court Rule 42, ERs 1.2, 1.3, 1.4, 3.2, 8.1, and 8.4(d), and Rule 54(d).

DATED this 17th day of June, 2015.

STATE BAR OF ARIZONA


David L. Sandweiss
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 17th day of June, 2015.

by: Jackie Daventon
DLS:jld

FILED

MAY 21 2015

STATE BAR OF ARIZONA

BY *Linda E. Montoya*

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

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

**ALAN R. SOLOT
Bar No. 006587**

Respondent.

No. 14-1398

PROBABLE CAUSE ORDER

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on May 8, 2015, 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 8-0-1¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 14-1398.

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 21st day of May, 2015.

Daisy Flores/kmm

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

¹ Committee member Judge Lawrence F. Winthrop did not participate in this matter.

Original filed this 22nd day
of May, 2015, with:

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Copy mailed this 22nd day
of May, 2015, to:

Alan R. Solot
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Tucson, Arizona 85716-3861
Respondent

Copy emailed this 22nd day
of May, 2015, to:

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by: Jackie Dowden