

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

---

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

**JAMES J. SCHOLLIAN,  
Bar No. 022015**

Respondent.

**PDJ-2015-9084**

**FINAL JUDGMENT AND ORDER**

[State Bar No. 14-2970]

**FILED MARCH 4, 2016**

This matter was heard by a Hearing Panel which rendered its decision under Rule 58, Ariz. R. Sup. Ct. No appeal has been filed and time to appeal has expired.

Accordingly,

**IT IS ORDERED** Respondent, **JAMES J. SCHOLLIAN, Bar No. 022015**, is disbarred from the practice of law effective February 10, 2016, and his name hereby stricken from the rolls of lawyers 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 February 10, 2016.

Mr. Schollian is no longer entitled to the rights and privileges of a lawyer but remains subject to the jurisdiction of the court. Respondent 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. Schollian shall pay restitution in the following amounts to the following individuals:

**Restitution**

Isabell Sales (Count One)	\$600.00
Jack Bale and Stephanie Wison (Count Two)	\$10,000.00

**IT IS FURTHER ORDERED** Mr. Schollian shall pay the outstanding Judgement in Count Three totaling \$97,458.23.

**IT IS FURTHER ORDERED** Mr. Schollian shall pay the costs and expenses of the State Bar of Arizona in the amount of \$2,027.15. 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 4<sup>th</sup> day of March, 2016.

*William J. O'Neil*

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

Copies of the foregoing  
Mailed this 7<sup>th</sup> day of March, 2016, and  
E-mailed this 4<sup>th</sup> day of March, 2016.

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Respondent

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by: AMcQueen

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**JAMES J. SCHOLLIAN,**  
**Bar No. 022015**

Respondent.

**PDJ-2015-9084**

**DECISION AND ORDER  
IMPOSING SANCTIONS**

[State Bar File Nos. 14-2970, 14-3147,  
15-0622, and 15-2030]

**FILED FEBRUARY 10, 2016**

**PROCEDURAL HISTORY**

Probable Cause Orders issued on March 4, 2015, August 4, 2015 and August 24, 2015. The complaint was filed on August 31, 2015. Mr. Schollian filed his answer on October 5, 2015. At the October 13, 2015, initial case management conference, the parties reported a third probable cause finding was made by the Attorney Discipline Probable Cause Committee. Mr. Schollian approved amending the complaint and asked the three charges be tried together. In anticipation of the amended complaint the parties agreed the hearing would be set one hundred fifty (150) days from the filing of the original complaint to remain in compliance with Supreme Court Rule 58(j)(1). The PDJ set the hearing on January 29, 2016 and a telephonic final prehearing conference on January 19, 2016. The amended complaint was filed on October 19, 2015, and Mr. Schollian filed his amended answer on December 3, 2015.

On January 8, 2016, the State Bar filed notice Mr. Schollian had failed to participate in the scheduled settlement conference. On January 13, 2016, the State Bar moved for sanctions as Mr. Schollian did not serve a disclosure statement as

required under Rule 58(e). The motion also asserted he had not complied with the initial case management orders by failing to provide the State Bar with his exhibits and did not participate in the preparation of the joint hearing statement mandated under Rule 58(i). By order of the PDJ filed January 15, 2016, Mr. Schollian was directed to file a response to the motion for sanctions not later than January 22, 2016.

On January 19, 2016, the final case management conference was held. Senior Bar Counsel, Shauna R. Miller, appeared on behalf of the State Bar of Arizona. Mr. Schollian, appeared *pro per*. Mr. Schollian acknowledged he had not provided the State Bar with a disclosure statement and he had failed to participate in the settlement conference scheduled by the settlement officer. Mr. Schollian stated he could have attended that conference. The hearing date was confirmed and Mr. Schollian informed it would be an aggravation/mitigation hearing, if sanctions were granted. A formal confirming signed order issued that same date. Mr. Schollian failed to file a response to the State Bar's motion for sanctions. Civil Rule 7.1(b) is applicable to disciplinary proceedings under Supreme Court Rule 48(b). The failure to file a response "may be deemed a consent to the ...granting of the motion, and the court may dispose of the motion summarily." The PDJ ordered the answer of Mr. Schollian stricken with default entered and effective against him. Under Supreme Court Rule 58(d) all allegations in the complaint/amended complaint were deemed admitted.

On January 29, 2016, the Hearing Panel, comprised of Harlan Crossman, attorney member, Ben Click, public member, and Judge William J. O'Neil considered the evidence and heard argument. On the day of hearing, Mr. Schollian attempted to file copies of a request to appear telephonically and motion to set aside the default. Each pleading contained an incomplete telephone number to call Mr. Schollian. The

clerk attempted to contact Mr. Schollian on two separate occasions at his number on record with the State Bar of Arizona (602) 692-9681, which phone number supplied the final numeral. Each time the call went directly to what was assumed to be the voicemail for Mr. Schollian. The clerk could not leave a message, as the mailbox was full. See Hearing Minute Entry filed January 29, 2016. Mr. Schollian did not participate in the scheduled hearing. The State Bar requested disbarment and restitution be imposed.

The facts listed below are those set forth in the SBA's complaint and were deemed admitted by the default of Mr. Schollian. Although the allegations are deemed admitted by default, this hearing panel has made an independent determination that the State Bar has proven by clear and convincing evidence Mr. Schollian violated the ethical rules

#### **GENERAL ALLEGATIONS**

1. Mr. Schollian is an Arizona lawyer, having been licensed to practice on October 22, 2002.
2. Mr. Schollian was suspended for four years, effective July 8, 2015.

#### **COUNT ONE (File No. 14-2970/Sales)**

3. Mr. Schollian worked with the Perel Law Firm (the Firm) in August 2013. He became the managing attorney in October or December 2013.
4. On February 26, 2014, Isabel Sales (Ms. Sales) contacted the firm about her son Daniel Bautista's DUI charge. She paid \$700 at the initial consultation and later deposited \$1,000 into the Firm's Chase bank account; \$500 was for the DUI and \$500 was for an immigration matter involving her son.

5. On March 4, 2014, Ms. Sales called the Firm and told them her son had been moved from the Durango jail to immigration services. Prior to that time, neither Mr. Schollian nor any other member of the Firm went to the jail to consult with Mr. Bautista.
6. On March 5, 2014, Mr. Schollian went to visit Mr. Bautista at the Durango jail. Ms. Sales was charged \$600 for Mr. Schollian's preparation and travel to the Durango jail.
7. Ms. Sales called the firm to terminate the representation, but she was told she still owed the Firm money.
8. On April 18, 2014, the Firm sent two demand letters to Ms. Sales, one for the DUI matter and one for the immigration matter. In both, Ms. Sales was told if she did not pay \$500 for each case no later than April 27, 2014, the Firm would file a civil lawsuit against her.
9. In late July or early August 2014, Mr. Schollian quit working at the Firm, and another attorney became the managing attorney.
10. On September 30, 2014, Ms. Sales reported Mr. Schollian to the State Bar. On October 21, 2014, the State Bar sent a letter to Mr. Schollian asking him to respond to Ms. Sales' allegations.
11. In his November 10, 2014, response to the State Bar, Mr. Schollian advised that Ms. Sales had received a \$1,100 refund.
12. In his November 10, 2014, response, Mr. Schollian falsely stated he did not know that Martin Perel had received a bar charge based on Ms. Sales' allegations. However, in a June 2, 2014, email to the State Bar, Mr. Schollian acknowledged Mr. Perel had received a charge based on Ms. Sales' allegations.

13. By engaging in the above-referenced misconduct, the Hearing Panel finds clear and convincing evidence Mr. Schollian violated the following ethical rules:
  1. Rule 42, Ariz. R. Sup. Ct., **ER 1.5(a)** – Mr. Schollian charged and collected an unreasonable fee;
  2. Rule 42, Ariz. R. Sup. Ct., **ER 1.16(d)** – Mr. Schollian failed to ensure that Ms. Sales received a timely refund of her unearned fees.
  3. Rule 42, Ariz. R. Sup. Ct., **ER 8.1(a)** – Mr. Schollian knowingly made false statements to the State Bar.

**COUNT TWO (File No. 14-3147/Bale and Wilson)**

14. Jack Bale and Stephanie Wilson (Bale/Wilson) hired Mr. Schollian to represent them in their Chapter 11 bankruptcy. They paid Mr. Schollian a \$10,000 fixed rate fee.
15. Mr. Schollian told Bale/Wilson the process would take six to twelve months and it would cause the removal of two second mortgages from different properties, plus the reduction of the first mortgages on their four rentals.
16. Mr. Schollian filed the required schedules and met with the trustee. Mr. Schollian prepared the motions to address the second mortgages, and Bale/Wilson reviewed them. Mr. Schollian told them the motions had been filed.
17. The plan was confirmed on December 9, 2013. Later Bale/Wilson discovered the motions they had signed to address the mortgages, had not been filed.
18. Bale/Wilson had several abrupt and evasive phone conversations in January and February 2014 with Mr. Schollian. It was not explained to them the second mortgages were still their responsibility until they hired new attorneys in February 2014.

19. A screening letter was sent to Mr. Schollian on October 21, 2014 giving Mr. Schollian twenty days to respond. Mr. Schollian failed to respond.
20. A second letter was sent to Mr. Schollian on February 26, 2015, providing Mr. Schollian with supplemental information from Bale/Wilson. Mr. Schollian was given until March 6, 2015 to respond. Mr. Schollian did not respond.
21. By engaging in the above-referenced misconduct, Mr. Schollian violated the following ethical rules:
  1. Rule 42, Ariz. R. Sup. Ct., **ER 1.2(a)** – Mr. Schollian failed to abide by a clients’ decisions concerning the objectives of representation.
  2. Rule 42, Ariz. R. Sup. Ct., **ER 1.4** – Mr. Schollian failed to reasonably communicate with the client or provide reasonable updates regarding the status of the lawsuit(s);
  3. Rule 42, Ariz. R. Sup. Ct., **ER 1.5(a)** – Mr. Schollian charged and collected an unreasonable fee;
    - a. Rule 42, Ariz. R. Sup. Ct., **ER 8.1(b)** – Mr. Schollian knowingly failed to respond to the State Bar.
    - b. Rule 42, Ariz. R. Sup. Ct., **ER 8.4(d)** – The conduct of Mr. Schollian was prejudicial to the administration of justice.
    - c. Rule **54(d)** Ariz. R. Sup. Ct. – Mr. Schollian failed to furnish information or promptly respond to an inquiry by the State Bar.

**COUNT THREE (File No. 15-0622/ State Bar)**

22. Carolyn Geddes (Mrs. Geddes) operated University Dental, Inc., a dental practice (University Dental). University Dental defaulted on a promissory note and business loan agreement secured with a deed of trust and UCC Financing Statement which encumbered the real estate and assets of the practice. On April 9, 2010, lender Meridian Bank (Meridian) applied for Appointment of Receiver.

23. On April 12, 2010, University Dental, Mrs. Geddes, and her husband Lynn Geddes (Mr. Geddes) were each served with the Application for Appointment of Receiver, and related documents.
24. On April 14, 2010, Mrs. Geddes filed Articles of Dissolution for University Dental with the Arizona Corporation Commission. She also set up a new entity, "Dental Group on University Drive, LLC" and obtained a new tax ID number for the new entity.
25. Between April 15 and April 18, 2010, Mrs. Geddes hired movers to remove the dental equipment, asked staff to remove records (including patient charts), changed the mailing address to an employee's residence and set up a temporary office in the living room of an employee. Mail and account receivables for University Dental were given to both Mr. and Mrs. Geddes. Mrs. Geddes also withdrew \$11,876.00 from the dental practice's bank account between April 15 and May 5, 2010.
26. An evidentiary hearing on the receivership was set for April 29, 2010 and Mr. and Mrs. Geddes appeared. At its conclusion, Mrs. Geddes advised she would turn over University Dental's records and equipment to the Receiver. During the evidentiary hearing, Mr. and Mrs. Geddes failed to advise the court, opposing counsel, or Mr. Schollian, Mrs. Geddes had filed Articles of Dissolution for University Dental.
27. After reviewing the form of order, discussing it with Mr. Schollian, and modifying it to include the ability of Mr. and Mrs. Geddes to file for personal bankruptcy, they agreed to the Receivership Order. However, the Receivership Order prohibited filing a bankruptcy petition without first obtaining court permission.

28. On April 30, 2010, the Receivership Order was filed. On May 3, 2010, the Receiver conducted an inspection of the business premises and discovered the dental practice had been dismantled. In a letter to Mr. Schollian dated May 5, 2010, the Receiver demanded turnover of all assets of University Dental.
29. On May 7, 2010, Mr. Schollian, knowing that the Geddes were prohibited from filing a bankruptcy petition without the court's permission, filed a personal Chapter 7 Bankruptcy Petition on behalf of Mr. and Mrs. Geddes. The Bankruptcy schedules listed as free and clear of any liens, all of University Dental's assets as personal property of Mr. and Mrs. Geddes.
30. On May 14, 2010, the Receiver and Meridian learned of the Chapter 7 Bankruptcy and filed a Joint Motion for Relief from the Automatic Stay with the Bankruptcy Court, which was granted on May 20, 2010.
31. On May 11, 2010, the Receiver filed an emergency motion for an order-to-show-cause why Mr. and Mrs. Geddes should not be held in contempt of court. The Receiver added Mr. Schollian to the motion on May 27, 2010. Mr. Schollian was allowed to withdraw as Mr. and Mrs. Geddes attorney.
32. On May 19, 2010, Mr. Schollian, on behalf of Mr. and Mrs. Geddes, filed a Chapter 7 Bankruptcy on behalf of University Dental, which was dismissed on May 28, 2010 for failure to file the required schedules.
33. On February 14, 2011, the court found Mr. Schollian and Mr. and Mrs. Geddes had violated the court's Receivership Order by failing to seek permission to file the bankruptcies.
34. The court granted the Receiver's Motion for Contempt and ordered Mr. Schollian and Mr. and Mrs. Geddes be "jointly and severally liable to Receiver and

Meridian for damages caused by their actions in the total amount of \$97,458.23...”

35. The \$97,458.23 judgment has not been paid.
36. Mr. Schollian was sent a screening letter on March 17, 2015, and was asked to respond to the allegations no later than April 6, 2015. Mr. Schollian failed to respond.
37. By engaging in the above-referenced misconduct, Mr. Schollian violated the following ethical rules:
  - a. Rule 42, Ariz. R. Sup. Ct., **ER 3.4(c)** – Mr. Schollian knowingly disobeyed an obligation under the rules of the tribunal.
  - b. Rule 42, Ariz. R. Sup. Ct., **ER 8.1(b)** – Mr. Schollian knowingly failed to respond to the State Bar’s request for information.
  - c. Rule 42, Ariz. R. Sup. Ct., **ER 8.4(d)** – Mr. Schollian’s conduct was prejudicial to the administration of justice.
  - d. Rule **54(c)** Ariz. R. Sup. Ct. – Mr. Schollian knowingly violated a court order.
  - e. Rule **54(d)** Ariz. R. Sup. Ct. – Mr. Schollian failed to furnish information or promptly respond to an inquiry by the State Bar.

**COUNT FOUR (File No. 15-2030/State Bar)**

38. On April 23, 2015, Mr. Schollian entered into a consent agreement with the State Bar for a four-year suspension, effective July 8, 2015. The State Bar agreed to the effective date of July 8, 2015, because Mr. Schollian wanted to wrap up his cases or help his clients find new representation.

39. The consent agreement specifically states that Mr. Schollian must fully comply with Rule 72, Ariz. R. Sup. Ct., immediately after the order and judgment was filed. The final order and judgment was filed May 8, 2015. Rule 72 states in part:

Within ten (10) days after the date of an order or judgment issued by the presiding disciplinary judge [...] a Mr. Schollian suspended [...] shall notify the following persons by registered or certified mail, return receipt requested, of the order or judgment, and of the fact that the lawyer is disqualified to act as lawyer after the effective date of same:

- a. all clients being represented in pending matters; and
- b. any co-counsel in pending matters; and
- c. any opposing counsel in pending matters ...; and
- d. each court and division in which Mr. Schollian has any pending matter, whether active or inactive.

40. Mr. Schollian was to have notified clients, co-counsel, opposing counsel, and each court and division no later than May 18, 2015, that his suspension would begin on July 8, 2015. Mr. Schollian failed to provide the required notification.

41. On July 23, 2015, Jessica Sabo, staff attorney for Chapter 13 Bankruptcy Trustee Edward J. Maney, notified the State Bar that Mr. Schollian had failed to notify bankruptcy clients or any bankruptcy trustees of his pending suspension. Mr. Schollian failed to file notices of withdrawal in at least five bankruptcy cases.

42. In three bankruptcy matters, the judges filed orders to show cause; in two other bankruptcy cases, Craig Friedrichs, staff attorney to Chapter 13 Bankruptcy Trustee Russell Brown, filed applications for orders to show cause. The five cases are:

- a. Estes (2:11-bk-06898-SHG) – the application for OSC filed on July 20, 2015, Mr. Schollian did not appear at the September 1, 2015 hearing, and he was removed from the case by the court on September 9, 2015;
- b. McWethy (2:11-bk-28268-SHG) – the application for OSC filed on July 20, 2015, Mr. Schollian did not appear at the September 1, 2015 hearing, and he was removed from the case by the court on September 2, 2015;

- c. Blasi (2:10-bk-16831-GBN) – the application for OSC filed on May 18, 2015, Mr. Schollian did not appear at the June 23, 2015 hearing, and he was removed from the case by the court on June 23, 2015;
- d. Miranda (2:11-bk-27225-BKM) – the court entered order removing Mr. Schollian from the case on July 7, 2015; and
- e. Nelch III (2:12-bk-00010-DPC) - the court entered order removing Mr. Schollian from the case on July 7, 2015.

43. On August 12, 2015, Mr. Schollian was sent a screening letter to his address of record with the State Bar, and asked to respond to the allegations he violated ERs 1.16(a), 8.4(d) and Supreme Court Rule 72(a). His response was due no later than September 1, 2015.

38. Mr. Schollian failed to respond.

39. By engaging in the above-referenced misconduct, Mr. Schollian violated the following ethical rules:

- a. Rule 42, Ariz. R. Sup. Ct., **ER 1.16(a)** – (a lawyer shall withdraw from the representation of a client if the representation will result in violation of the Rules of Professional Conduct).
- b. Rule 42, Ariz. R. Sup. Ct., **ER 8.4(d)** – (conduct prejudicial to the administration of justice).
- c. **Rule 72(a)** Ariz. R. Sup. Ct. – (a suspended lawyer shall notify clients, adverse parties, opposing counsel, and the courts, within 10 days of the order).

In determining a sanction, the court utilizes the American Bar Association's Standards for Imposing Lawyer Sanctions (*Standards*) under Rule 57(a)(2)(E). The

Standards promote consistency in imposing sanctions by identifying factors courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary.

Consideration is also given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct, and the existence of aggravating and mitigating factors. *In re Peasley*, 208 Ariz. 27, 35, 90 P.3d 764, 772; *Standard* 3.0.

Here, Mr. Schollian's most egregious misconduct was his knowing violation of ERs 3.4(c), and 8.1(b). His misconduct caused actual injury to the opposing parties and to the legal system. There was potential injury to the profession because of his misconduct. Therefore, the *Standards* to consider are *Standards* 5.1, 6.21, and 7.0.

#### Standard 5.11

Disbarment is generally appropriate when:

- (b) a lawyer engages in any intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

#### Standard 6.21

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

#### Standard 7.1

Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

The Theoretical Framework of the *Standards* directs multiple charges of misconduct should receive one sanction consistent with the sanction appropriate for the most serious instance of misconduct. The presumptive sanction is disbarment. Rather than imposing individual sanctions for each ethical rule violation, the Framework states "multiple instances of misconduct should be considered as aggravating factors." *ABA Standards*, p. 6.

### **Aggravation/Mitigation**

Standard 9.22. Aggravating factors include:

(a) prior disciplinary offenses – PDJ 2014-9107. Mr. Schollian was suspended for four years for violating Rule 42, ERs 3.3(a)(1), 3.4(c), 4.1(a), 5.1(a), 5.3(a), 8.1(a), 8.4(c) and (d), and Rule 54(c), Ariz. R. Sup. Ct. To date, he remains suspended. *In re Redondo*, 176 Ariz. 334, 338, 861 P.2d 619, 623 (1993) ("a graded response from reprimand, to suspension, to disbarment is sometimes appropriate, depending on the severity of the subsequent conduct."). Because Mr. Schollian was previously suspended for similar misconduct, the presumptive sanction is disbarment.

(b) a pattern of misconduct – a pattern of misconduct exists if Mr. Schollian either has a prior disciplinary record involving the same or similar wrongdoing, or if Mr. Schollian's misconduct involves multiple clients. *Matter of Levine*, 174 Ariz. 146, 847 P.2d 1093 (1993). The discipline history of Mr. Schollian involves similar misconduct and his misconduct involves multiple clients.

(c) multiple offenses –

This court has applied the aggravating factor of multiple offenses to a lawyer's misconduct that involved multiple clients or multiple matters. For example, we found multiple offenses when a lawyer violated duties

owed to two clients, a former client, the court, and opposing parties in a one-year period. ... We also found multiple offenses when a lawyer brought several frivolous claims against multiple defendants on behalf of one client. ... But we do not think this aggravating factor is limited to such situations.

*In re Peasley*, 208 Ariz. 27, 37-38, 90 P.3d 764, 774-75 (2004)(Internal citations omitted). We find a pattern of misconduct as the discipline history of Mr. Schollian involved multiple clients and multiple matters.

(d) bad faith obstruction of the disciplinary process – Mr. Schollian failed to cooperate with the State Bar throughout these proceedings and failed to meaningfully participate in these disciplinary proceedings.

(g) refusal to acknowledge wrongful nature of conduct – Mr. Schollian refuses to acknowledge he did anything wrong and has shown no remorse for his misconduct.

(i) substantial experience in the practice of law – Mr. Schollian was licensed to practice in Arizona on October 22, 2002.

*Standard 9.32.* Mitigating factors: There are no mitigating factors.

### **Case law analysis**

The following case law supports the State Bar's recommendation that Mr. Schollian be disbarred.

The Commission is of the opinion that the underlying conduct exhibited by respondent is not necessarily so egregious by itself as to warrant disbarment. However, there are additional considerations which warrant disbarment. First, respondent has shown a total disregard for the disciplinary process and the legal profession. Failure to cooperate with disciplinary authorities is a significant aggravating factor in considering proper discipline. *Matter of Pappas*, 159 Ariz. 516, 527, 768 P.2d 1161, 1171 (1989).

[...]

Disbarment is warranted when a lawyer who has previously been disciplined intentionally or knowingly violates the terms of that order and,

as a result, causes injury or potential injury to a client, the public, the legal system, or the profession. The most common case is one where a lawyer has been suspended but, nevertheless, practices law. The courts are generally in agreement in imposing disbarment in such cases. As the court explained in *Matter of McInerney*, 389 Mass. 528, 451 N.E.2d 401, 405 (1983), when the record establishes a lawyer's willingness to violate the terms of his suspension order, disbarment is appropriate "as a prophylactic measure to prevent further misconduct by the offending individual." *ABA Standards for Imposing Lawyer Sanctions, Standard 8.1* (1986). *Standard 7.1* provides:

Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

*ABA Standards, Standard 7.1.*

*Matter of Tarletz*, 165 Ariz. 243, 244-45, 798 P.2d 381, 382-83 (1990). Mr. Schollian has shown total disrespect for the legal profession's responsibility to regulate itself, for obeying court orders, and for protecting his clients.

### **CONCLUSION**

**IT IS ORDERED** disbarring Mr. Schollian effective immediately.

**IT IS FURTHER ORDERED** Mr. Schollian shall pay restitution to the following individuals in the following amounts:

#### **Restitution**

Isabell Sales (Count One)	\$600.00
Jack Bale and Stephanie Wison (Count Two)	\$10,000.00

**IT IS FURTHER ORDERED** Mr. Schollian shall pay the outstanding Judgement in Count Three totaling \$97,458.23.

**IT IS FURTHER ORDERED** Mr. Schollian shall pay the State Bar's costs and expenses in these disciplinary proceedings. There are no costs or expenses incurred

by the disciplinary clerk and/or Presiding Disciplinary Judge's Office with these disciplinary proceedings.

**DATED** this 10<sup>th</sup> day of February 2016.

*William J. O'Neil*

---

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

Copy of the foregoing emailed/mailed  
this 10th day of February, 2016, to:

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Respondent

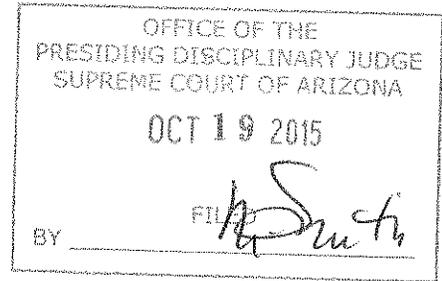
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**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**JAMES J. SCHOLLIAN,  
Bar No. 022015,**

Respondent.

**PDJ 2015-9084**

**AMENDED COMPLAINT**

[State Bar File Nos. 14-2970, 14-3147,  
15-0622, 15-2030]

The State Bar, under Rule 47(b)(2) Ariz. R. Sup. Ct., files this amended complaint. The original complaint has not been revised, except to add Count Four, file no. 15-2030, starting on page eight. The allegations against Respondent are as follows:

**GENERAL ALLEGATIONS**

1. At all times relevant, Respondent was an Arizona lawyer, having been licensed to practice on October 22, 2002.
2. Respondent was suspended for four years, effective July 8, 2015.

**COUNT ONE (File no. 14-2970/Sales)**

3. Respondent began working with the Perel Law Firm (the Firm) in August 2013. He became the managing attorney in October or December 2013.
4. On February 26, 2014, Isabel Sales (Ms. Sales) contacted the firm about her son Daniel Bautista's DUI charge. She paid \$700 at the initial consultation and

- later deposited \$1,000 into the Firm's Chase bank account; \$500 was for the DUI and \$500 was for an immigration matter involving her son.
5. On March 4, 2014, Ms. Sales called the Firm and told them her son had been moved from the Durango jail to immigration services. Prior to that time, neither Respondent nor any other member of the Firm went to the jail to consult with Mr. Bautista.
  6. On March 5, 2014, Respondent went to visit Mr. Bautista at the Durango jail. Ms. Sales was charged \$600 for Respondent's preparation and travel to the Durango jail.
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  8. On April 18, 2014, the Firm sent two demand letters to Ms. Sales, one for the DUI matter and one for the immigration matter. In both, Ms. Sales was told that if she did not pay \$500 for each case no later than April 27, 2014, the Firm would file a civil lawsuit against her.
  9. In late July or early August 2014, Respondent quit working at the Firm, and another attorney became the managing attorney.
  10. On September 30, 2014, Ms. Sales reported Respondent to the State Bar. On October 21, 2014, the State Bar sent a letter to Respondent asking him to respond to Ms. Sales' allegations.
  11. In his November 10, 2014, response to the State Bar, Respondent advised that Ms. Sales had received a \$1,100 refund.
  12. In his November 10, 2014, response, Respondent falsely says that he did not know that Martin Perel had received a bar charge based on Ms. Sales'

allegations. However, in a June 2, 2014, email to the State Bar, Respondent acknowledged that Mr. Perel had received a charge based on Ms. Sales' allegations.

13. By engaging in the above-referenced misconduct, Respondent violated the following ethical rules:
  - a. Rule 42, Ariz. R. Sup. Ct., **ER 1.5(a)** – Respondent charged and collected an unreasonable fee;
  - b. Rule 42, Ariz. R. Sup. Ct., **ER 1.16(d)** – Respondent failed to ensure that Ms. Sales received a timely refund of her unearned fees.
  - c. Rule 42, Ariz. R. Sup. Ct., **ER 8.1(a)** – Respondent knowingly made false statements to the State Bar.

**COUNT TWO (File no. 14-3147/Bale and Wilson)**

14. Jack Bale and Stephanie Wilson (Bale/Wilson) hired Respondent to represent them in their Chapter 11 bankruptcy. They paid Respondent a \$10,000 fixed rate fee.
15. Respondent told Bale/Wilson that the process would take six to twelve months and that it would result in the removal of two second mortgages from different properties, plus the reduction of the first mortgages on their four rentals.
16. Respondent filed the required schedules and met with the trustee. Respondent prepared the motions to address the second mortgages, and Bale/Wilson reviewed them. Respondent told them the motions had been filed.
17. The plan was confirmed on December 9, 2013, after which Bale/Wilson found out that the motions they had signed to address the mortgages, had not been filed.

18. Bale/Wilson had several abrupt and evasive phone conversations in January and February 2014 with Respondent, but it wasn't until they hired new attorneys in February 2014 that it was explained to them that the second mortgages were still their responsibility.
19. A screening letter was sent to Respondent on October 21, 2014 giving Respondent twenty days to respond. Respondent failed to respond.
20. A second letter was sent to Respondent on February 26, 2015, providing Respondent with supplemental information from Bale/Wilson. Respondent was given until March 6, 2015 to provide a response. Respondent did not respond.
21. By engaging in the above-referenced misconduct, Respondent violated the following ethical rules:
  - a. Rule 42, Ariz. R. Sup. Ct., **ER 1.2(a)** – Respondent failed to abide by a clients' decisions concerning the objectives of representation.
  - b. Rule 42, Ariz. R. Sup. Ct., **ER 1.4** – Respondent failed to reasonably communicate with the client or provide reasonable updates regarding the status of the lawsuit(s);
  - c. Rule 42, Ariz. R. Sup. Ct., **ER 1.5(a)** – Respondent charged and collected an unreasonable fee;
    - a. Rule 42, Ariz. R. Sup. Ct., **ER 8.1(b)** – Respondent knowingly failed to respond to the State Bar.
    - b. Rule 42, Ariz. R. Sup. Ct., **ER 8.4(d)** – Respondent's conduct was prejudicial to the administration of justice.
    - c. Rule **54(d)** Ariz. R. Sup. Ct. – Respondent failed to furnish information or promptly respond to an inquiry by the State Bar.

**COUNT THREE (File no. 15-0622/ State Bar)**

22. Carolyn Geddes (Mrs. Geddes) operated University Dental, Inc., a dental practice (University Dental). University Dental defaulted on a promissory note and business loan agreement secured with a deed of trust and UCC Financing Statement which encumbered the real estate and assets of the practice. On April 9, 2010, lender Meridian Bank (Meridian) filed an Application for Appointment of Receiver.
23. On April 12, 2010, University Dental, Mrs. Geddes, and her husband Lynn Geddes (Mr. Geddes) were all personally served with the Application for Appointment of Receiver, and related documents.
24. On April 14, 2010, Mrs. Geddes filed Articles of Dissolution for University Dental with the Arizona Corporation Commission. She also set up a new entity, "Dental Group on University Drive, LLC" and obtained a new tax ID number for the new entity.
25. Between April 15 and April 18, 2010, Mrs. Geddes hired movers to remove the dental equipment, asked staff to remove records (including patient charts), changed the mailing address to an employee's residence and set up a temporary office in the living room of an employee. Mail and account receivables for University Dental were given to both Mr. and Mrs. Geddes. Mrs. Geddes also withdrew \$11,876.00 from the dental practice's bank account between April 15 and May 5, 2010.
26. An evidentiary hearing on the receivership was set for April 29, 2010, and Mr. and Mrs. Geddes appeared at that hearing with Respondent. At the conclusion of the hearing, Mrs. Geddes advised that she would turn over University

- Dental's records and equipment to the Receiver. During the evidentiary hearing, Mr. and Mrs. Geddes failed to advise the court, opposing counsel, or Respondent, that Mrs. Geddes had filed Articles of Dissolution for University Dental.
27. After reviewing the form of order, discussing it with Respondent, and modifying same to include the ability of Mr. and Mrs. Geddes to file a personal bankruptcy petition, they agreed to the terms of the Receivership Order. However, the Receivership Order prohibited the filing of a bankruptcy petition without first obtaining permission from the court.
  28. On April 30, 2010, the Receivership Order was filed. On May 3, 2010, upon inspection of the business premises, the Receiver found out that the dental practice had been dismantled. In a letter to Respondent dated May 5, 2010, the Receiver demanded turnover of all assets of University Dental.
  29. On May 7, 2010, Respondent, knowing that the Geddes were prohibited from filing a bankruptcy petition without the court's permission, filed a personal Chapter 7 Bankruptcy Petition on behalf of Mr. and Mrs. Geddes. The Bankruptcy schedules listed as free and clear of any liens, all of University Dental's assets as personal property of Mr. and Mrs. Geddes.
  30. On May 14, 2010, the Receiver and Meridian learned of the Chapter 7 Bankruptcy and filed a Joint Motion for Relief from the Automatic Stay with the Bankruptcy Court, which was granted on May 20, 2010.
  31. On May 11, 2010, the Receiver filed an emergency motion for an order-to-show-cause why Mr. and Mrs. Geddes should not be held in contempt of court.

The Receiver added Respondent to the motion on May 27, 2010. At that point, Respondent was allowed to withdraw as Mr. and Mrs. Geddes attorney.

32. On May 19, 2010, Respondent, on behalf of Mr. and Mrs. Geddes, filed a Chapter 7 Bankruptcy on behalf of University Dental, which was dismissed on May 28, 2010 for failure to file the required schedules.
33. On February 14, 2011, the court found that Respondent and Mr. and Mrs. Geddes had violated the court's Receivership Order by failing to seek permission to file the bankruptcies.
34. The court granted the Receiver's Motion for Contempt and ordered that Respondent and Mr. and Mrs. Geddes be "jointly and severally liable to Receiver and Meridian for damages caused by their actions in the total amount of \$97,458.23...."
35. The \$97,458.23 judgment has not been paid.
36. Respondent was sent a screening letter on March 17, 2015, and was asked to respond to the allegations no later than April 6, 2015. Respondent failed to respond.
37. By engaging in the above-referenced misconduct, Respondent violated the following ethical rules:
  - a. Rule 42, Ariz. R. Sup. Ct., **ER 3.4(c)** – Respondent knowingly disobey an obligation under the rules of the tribunal.
  - b. Rule 42, Ariz. R. Sup. Ct., **ER 8.1(b)** – Respondent knowingly failure to respond to the State Bar's request for information.
  - c. Rule 42, Ariz. R. Sup. Ct., **ER 8.4(d)** – Respondent's conduct was prejudicial to the administration of justice.
  - d. Rule **54(c)** Ariz. R. Sup. Ct. – Respondent knowingly violated a court order.

- e. Rule **54(d)** Ariz. R. Sup. Ct. – Respondent failed to furnish information or promptly respond to an inquiry by the State Bar.

**COUNT FOUR (File no. 15-2030/State Bar)**

38. On April 23, 2015, Respondent entered into a consent agreement with the State Bar for a four-year suspension, effective July 8, 2015. The State Bar agreed to the effective date of July 8, 2015, because Respondent wanted to wrap up his cases or help his clients find new representation.

39. The consent agreement specifically states that Respondent must fully comply with Rule 72, Ariz.R.Sup.Ct., immediately after the order and judgment was filed. The final order and judgment was filed May 8, 2015. Rule 72 states in part:

Within ten (10) days after the date of an order or judgment issued by the presiding disciplinary judge [...] a respondent suspended [...] shall notify the following persons by registered or certified mail, return receipt requested, of the order or judgment, and of the fact that the lawyer is disqualified to act as lawyer after the effective date of same:

- a. all clients being represented in pending matters; and
- b. any co-counsel in pending matters; and
- c. any opposing counsel in pending matters ...; and
- d. each court and division in which respondent has any pending matter, whether active or inactive.

40. Respondent should have notified clients, co-counsel, opposing counsel, and each court and division no later than May 18, 2015, that his suspension would begin on July 8, 2015. Respondent failed to provide the required notification.

41. On July 23, 2015, Jessica Sabo, staff attorney for Chapter 13 Bankruptcy Trustee Edward J. Maney, notified the State Bar that Respondent had failed to notify bankruptcy clients or any bankruptcy trustees of his pending suspension. Respondent failed to file notices of withdrawal in at least five bankruptcy cases.

42. In three bankruptcy matters, the judges filed orders to show cause; in two other bankruptcy cases, Craig Friedrichs, staff attorney to Chapter 13 Bankruptcy Trustee Russell Brown, filed applications for orders to show cause. The five cases are:

- a. Estes (2:11-bk-06898-SHG) – the application for OSC filed on July 20, 2015, Respondent did not appear at the September 1, 2015 hearing, and he was removed from the case by the court on September 9, 2015;
- b. McWethy (2:11-bk-28268-SHG) – the application for OSC filed on July 20, 2015, Respondent did not appear at the September 1, 2015 hearing, and he was removed from the case by the court on September 2, 2015;
- c. Blasi (2:10-bk-16831-GBN) – the application for OSC filed on May 18, 2015, Respondent did not appear at the June 23, 2015 hearing, and he was removed from the case by the court on June 23, 2015;
- d. Miranda (2:11-bk-27225-BKM) – the court entered order removing Respondent from the case on July 7, 2015; and
- e. Nelch III (2:12-bk-00010-DPC) - the court entered order removing Respondent from the case on July 7, 2015.

43. On August 12, 2015, Respondent was sent a screening letter to his address of record with the State Bar, and was asked to respond to the allegations that he violated ERs 1.16(a), 8.4(d) and Supreme Court Rule 72(a). Respondent's response was due no later than September 1, 2015.

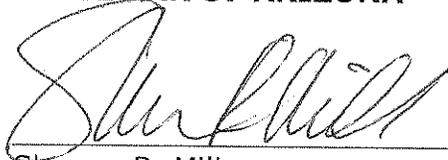
38. Respondent failed to respond.

39. By engaging in the above-referenced misconduct, Respondent violated the following ethical rules:

- a. Rule 42, Ariz. R. Sup. Ct., **ER 1.16(a)** – (a lawyer shall withdraw from the representation of a client if the representation will result in violation of the Rules of Professional Conduct).
- b. Rule 42, Ariz. R. Sup. Ct., **ER 8.4(d)** – (conduct prejudicial to the administration of justice).
- c. **Rule 72(a)** Ariz. R. Sup. Ct. – (a suspended lawyer shall notify clients, adverse parties, opposing counsel, and the courts, within 10 days of the order).

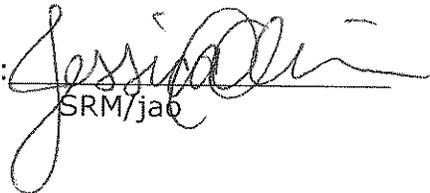
**DATED** this 19<sup>th</sup> day of October, 2015.

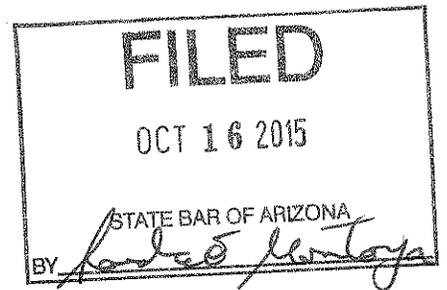
**STATE BAR OF ARIZONA**



Shauna R. Miller  
Senior Bar Counsel - Litigation

Original filed with the Disciplinary Clerk of  
the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 19<sup>th</sup> day of October, 2015.

by:   
SRM/jao



**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 J. SCHOLLIAN  
Bar No. 022015**

Respondent.

No. 15-2030

**PROBABLE CAUSE ORDER**

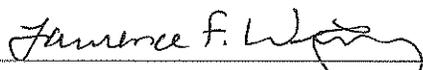
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on October 9, 2015, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 5-0-4<sup>1</sup>, the Committee finds probable cause exists to file a complaint against Respondent in File No. 15-2030.

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

Parties may not file motions for reconsideration of this Order.

**DATED** this 16 day of October, 2015.

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

<sup>1</sup> Committee members Ben Harrison, Karen E. Osborne, Jeffrey G. Pollitt, and William J. Friedl did not participate in this matter.

Original filed this 10<sup>th</sup> day  
of October, 2015, with:

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

Copy mailed this 19<sup>th</sup> day  
of October, 2015, to:

James J. Schollian  
1146 North Mesa Drive, Suite 102  
Box 262  
Mesa, Arizona 85201-3562  
Respondent

Copy emailed this 19<sup>th</sup> day  
of October, 2015, to:

Attorney Discipline Probable Cause Committee  
of the Supreme Court of Arizona  
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Phoenix, Arizona 85007  
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by: 