IN THE

SUPREME COURT OF THE STATE OF ARIZONA

BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE

1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, **GRANT H. GOODMAN,** **Bar No. 009463** Respondent.	**PDJ-2013-9065** **REPORT AND ORDER IMPOSING SANCTIONS** [State Bar Nos. 11-2739, 11-3298, and 12-2716] **FILED JANUARY 13, 2014**

On December 9, 10, and 11, 2013, the Hearing Panel ("Panel"), composed of Edward Luterbach, a public member, Ralph Wexler, an attorney member, and the Presiding Disciplinary Judge, William J. O'Neil ("PDJ"), held a three-day hearing pursuant to Rule 58(j), Ariz. R. Sup. Ct. Shauna R. Miller appeared on behalf of the State Bar of Arizona ("State Bar"). Grant H. Goodman appeared pro per. Rule 615 of the Arizona Rules of Evidence, the witness exclusion rule, was invoked in the parties' joint pre-trial memorandum.[1] In addition, the Panel carefully considered the stipulated factual paragraphs of the parties Joint Prehearing Statement, admitted exhibits, and the State Bar's Prehearing Memorandum. The Panel now issues the following "Report and Order Imposing Sanctions," pursuant to Rule 58(k), Ariz. R. Sup. Ct.

[1] Consideration was given to sworn testimony of Grant H. Goodman, Sid A. Horwitz, Esq., Michael J. Valente, Andrea Valenti, Judge Colin F. Campbell (retired), Geoffrey M.T. Sturr, Esq., Tyler O. Swensen, Esq., Richard L. Brooks, Esq., and David W. Eichman.

I. SANCTION IMPOSED:

RESPONDENT IS DISBARRED AND PAYMENT OF COSTS OF THESE DISCIPLINARY PROCEEDINGS IMPOSED.

II. BACKGROUND AND PROCEDURAL HISTORY

On July 21, 2011, Mr. Goodman was placed on interim suspension by the PDJ (PDJ 2011-9054) and after hearing before a hearing panel in this court for the ethical violations alleged in the previous disciplinary matter, the Panel ordered a two year suspension retroactive to the July 21, 2011, interim suspension. The Supreme Court entered an order affirming the decision of the hearing panel (SB-12-0038-AP). At the time of the filing of the State Bar's complaint in the present matter, Mr. Goodman remained a suspended member of the State Bar.

A Probable Cause Order was entered December 21, 2012. The State Bar filed its Complaint on July 30, 2013. On July 31, 2013, the Complaint was served on Mr. Goodman by certified, delivery restricted, mail, as well as by regular first class mail, pursuant to Rules 47(c) and 58(a)(2), Ariz. R. Sup. Ct. On August 21, 2013, Mr. Goodman filed his Answer denying all paragraphs of the State Bar's Complaint, including the general allegation that at all relevant times he was a lawyer licensed in Arizona having been admitted May 12, 1984.

The Complaint contained four counts alleging more than 25 violations of the Arizona Rules of Professional Conduct, specifically, ER 1.1 (competence), ER 1.3 (diligence), ER 1.4 (communication), ER 1.5(a)(unreasonable), (b) (scope) and (c) (contingent fee in writing), ER 1.6 (confidentiality of information), ER 1.9(c) (duties to former clients), ER 1.15(d) (safekeeping property) and (e) (separate disputed property), ER 1.16(d) (scope of representation), ER 3.1 (meritorious claims and contentions), ER 3.2 (expediting litigation), ER 3.3 (candor toward tribunal), ER

3.4(c) (fairness to opposing party and counsel), ER 4.1 (statement to others), ER 4.4 (respect for rights of others), ER 5.5(a) (unauthorized practice of law), 8.1(d) (failure to respond to disciplinary authority), ER 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) and (d) (conduct prejudicial to the administration of justice). The Complaint also alleged Mr. Goodman violated Rules 54 (c) knowing violation of any rule or order), 54(d) (refusal to cooperate) and 72 (notice to clients and others), Ariz. R. Sup. Ct.

On September 11, 2013, the Initial Case Management Conference ("ICMC") was held and the matter was set for a five-day hearing. An Order regarding the ICMC was filed and provided to the parties pursuant to Rule 58(c), Ariz. R. Sup. Ct. On September 19, 2013, the State Bar notified this Court that the complaining witness in Count Three of the State Bar's Complaint was an attorney appointed to the pool of volunteer attorney members pursuant to Supreme Court Rule 52. As a result, this Court on September 19, 2013, issued an order to the Disciplinary Clerk that Mr. Brooks shall not be appointed to serve on any hearing panels until the present matter is concluded. [See Order re: Notice re: Witness Richard L. Brooks.]

The State Bar argued that Mr. Goodman violated all of the rules cited in the Complaint and that disbarment is appropriate. Mr. Goodman argued that the complaint against him should be dismissed.

III. FINDINGS OF FACT

The Panel hereby adopts and incorporates as part of this report the stipulated factual paragraphs 1 through 3 contained in the parties Joint Prehearing Statement. [Joint Prehearing Statement, pp. 1-2.]

At all relevant times, Grant H. Goodman ("Mr. Goodman") was a lawyer, having first been admitted to practice law in the state of Arizona on May 12, 1984. [Joint Prehearing Statement, p. 2; Testimony of Grant Goodman, December 11, 2013.] At the time the complaint in this matter was filed Mr. Goodman was a suspended member of the State Bar of Arizona. [Ex. 1, Bates 1.]

This matter involves three different matters in which Mr. Goodman was counsel for various clients and one matter in which he was alleged to have engaged in legal practice while a suspended member of the State Bar. [See Complaint; Joint Prehearing Statement at p. 3-13.]

Count One ("Horwitz matter")

Mr. Valente met and attended grade school, high school, and for a time the same college as Mr. Goodman. At the time of the representation by Mr. Goodman, Mr. Valente's education included a high school degree and some college courses. Mr. Goodman had come into the office of Mr. Valente "looking for work." [Testimony of Michael J. Valente ("Valente"), Dec. 9, 2013.] Mr. Valente had three collection cases he was dealing with. Mr. Goodman quoted him a fee of $15,000 to $20,000 for the work. [Id.] As a result Mr. Valente agreed to hire him. Mr. Goodman represented client Michael J. Valente and his business, Michael J. Valente Contracting Inc., as Plaintiff in an action to recover an amount nearing $400,000, from the Blackbourns in Maricopa Superior Court No. CV2009-036318, at the time of his initial suspension from the practice of law.

Mr. Valente had never been involved in complex litigation involving large sums of money. As a result he relied and believed he was entitled to rely upon the opinions and

advice of Mr. Goodman. There was no written fee agreement. Mr. Goodman ultimately charged him over $200,000. [Ex. 3 and Testimony of Mr. Valente]

Mr. Goodman advised Mr. Valente that he had a good chance to recover the $400,000 despite the filing of bankruptcy by Engle Homes and filed suit on behalf of Mr. Valente. [Testimony of Valente] Unknown to Mr. Valente at the time, shortly after the complaint was filed, a Motion to Dismiss was filed by the defendants on December 10, 2009. No response was filed by Mr. Goodman. [Id.] No copy of the motion was given to Mr. Valente. Mr. Goodman did not inform him that the case was ever in jeopardy. Mr. Goodman did not give copies of any of the Blackbourn pleadings to Mr. Valente. Instead Mr. Goodman would generally summarize the case in an extremely positive manner. [Id.]

Mr. Goodman did not file a response to the motion, but instead, on February 2, 2010, Mr. Goodman filed an amended complaint to avoid the dismissal of the case. Mr. Valente did not understand the legal underpinnings of the amended complaint and relied entirely upon Mr. Goodman for such filing. [Exhibit 3 and Testimony of Mr. Valente] On February 24, 2010, the defendants filed a Motion to Dismiss the Amended Complaint. Mr. Horowitz informed that court, "A comparison of the Motion to dismiss the Amended complaint with the Motion to Dismiss the Complaint reveals that it is by and large a "cut and paste" pleadings with minor exceptions related to the additional claim of unjust enrichment which does not appear in the initial Complaint." [Ex. 3, Bates 22.]

On December 13, 2010, the Court issued a minute entry denying the motion citing that such motions are not favored. However, the Court stated the Amended Complaint was unlikely to survive a motion for summary judgment. [Exhibit 3, Bates

22.] Mr. Valente was never informed, nor unaware of the minute entry or of the statements of the court until after Summary Judgment was granted against him. [Testimony of Mr. Valente.]

Mr. Valente was not meaningfully aware that the Blackbourns had filed a motion for summary judgment in March that Mr. Goodman was not planning to and did not respond to, and what the ramifications of a ruling granting that motion were. [Testimony of Valente.] Mr. Valente testified he trusted Mr. Goodman's assertions about the strength of the case and that he heavily relied on Mr. Goodman's judgment and information as to what was occurring in the case because he was not very "knowledgeable about legal things" and felt it was Mr. Goodman's duty to do the right thing and that he "trusted Grant's word." [Testimony of Valente.]

Due to Mr. Goodman's recent suspension from the State Bar and as required by Rule 72, Ariz. R. Sup. Ct., on or about July 28, 2011, Mr. Goodman requested another attorney, Mr. Sid A. Horwitz, to take over representation of the Valente matter. Many years earlier when Mr. Horwitz had first began the practice of law he met Mr. Goodman. Mr. Goodman touted the viability of the cases, expressing his opinion to Mr. Horwitz that they were all great cases and each in a present posture to make money. [Testimony of Mr. Horwitz ("Horwitz"), Dec. 9, 2013.]

Mr. Goodman accompanied Mr. Valente to an initial meeting with Mr. Horwitz, which occurred on or about August 1, 2011. [Testimony of Horwitz and Valente.] During that initial meeting, while reviewing the file materials, Mr. Horwitz learned that summary judgment had been entered against Mr. Valente and that Mr. Goodman had not filed a response to the Blackbourn's motion for summary judgment or filed any Rule 56 related pleadings. [Testimony of Horwitz.] In addition, Mr. Horwitz learned that on

May 23, 2011, the Blackbourns had filed a Motion for Certain Defendants' Award of Attorneys' fees in an amount in excess of $100,000 to which Mr. Goodman also did not file a response. [Id.]

Mr. Goodman told Mr. Horwitz he was unable to file a response to the summary judgment motion because the Blackbourns allegedly had concealed material evidence and failed to meet their disclosure obligations. Mr. Horwitz testified that he did not accept those explanations. Based upon our review of the exhibits, we do not either. Regardless, Mr. Goodman never filed any pleadings seeking to compel any alleged deficiencies in disclosure. [Testimony of Horwitz.]

Based on the meeting, Mr. Horwitz undertook representation of Mr. Valente. [Testimony of Horwitz.] Mr. Goodman also requested Mr. Horwitz to represent him in the bar proceedings then pending again him. [Id.] Mr. Horwitz declined expressing that it would be a conflict. [Id.] Mr. Horwitz reviewed as much of Mr. Valente's file as necessary to assess how to advise and represent Mr. Valente. Mr. Horwitz never received the Valente file from Mr. Goodman and instead obtained many of the pleadings from the client or the court. [Id.] Mr. Horwitz advised Mr. Valente to abandon any effort to obtain a reversal of the summary judgment order and focus his efforts on fighting the request for attorneys' fees. [Testimony of Horwitz and Valente.]

Mr. Horwitz chose a course of action he believed would most benefit Mr. Valente. Mr. Horwitz met with Mr. Valente at length and together they put together their pleading for the court. [Ex. 3.] He testified that although Mr. Goodman failed to respond to the motion for attorneys' fees, he (Horwitz) requested an evidentiary hearing on the matter which allowed Mr. Valente to avoid the court's award of the attorneys' fees due to Mr. Goodman's failure to respond to the motion. [Testimony of

Horwitz; Exhibit 3.] Eventually, the matter was resolved by agreement between Mr. Valente and the Blackbourns settling the attorneys' fees dispute for approximately $40,000. [Testimony of Horwitz, Valente, and Andrea Valenti ("Valenti"), Dec. 9, 2013.]

On November 22, 2011, in what is a largely non-responsive correspondence to the State Bar, Mr. Goodman claimed he was the cause of the settlement of the case during the time of his interim suspension.

> Not a bad result-but the result had nothing to (do) with Horwitz, or Mariscal Weeks for that matter-the result was dependent upon Goodman's ability to litigate to fruition the underlying claims, claims of fraudulent concealment-waived by Horwitz, within hours of taking on the file-while waiving a court order requiring post-dismissal argument on fully briefed issues pertaining to a fraud on the court, by officers of the court, suppression of material evidence, fraudulent concealment, and breach of a host of contempt statutes and rules-all provided in '11-2739 HORWITZ 0001-000369'. [Exhibit 2 bates 13-14]

A review of the record as well as the testimony of both Mr. Horwitz and Mr. Goodman, were all to the contrary. Mr. Goodman did nothing to bring resolution of the case and could not after his July 21, 2011 interim suspension. We find such contention more than misleading.

At one point Mr. Goodman, in his testimony, simply admitted to not responding to the motion for summary judgment. [Testimony of Goodman, Dec. 9, 2013.] However, Mr. Goodman also testified that he did file a response to the motion for summary judgment, but that he did so "five days late." We find no evidence that Mr. Goodman filed a response to the motion for summary judgment. His testimony to the contrary was not credible and unsupported by the record. In a third stated position he blamed the trial judge and swore the "case was effectively dumped by Judge Burke."

He avowed that view was echoed throughout the Ninth Circuit. [Testimony of Goodman.]

Mr. Goodman often referred to Exhibit 4, filed May 16, 2011, and Exhibit 5, filed June 1, 2011, titled Motion for New Trial/Motion to Vacate Order, and Exhibit 7 a cross-motion and cross-complaint, filed June 10, 2011, seeking reversal of summary judgment and sanctions against the Blackbourns and their counsel. There was also Exhibit 6, a reply he electronically filed on June 21, 2011. However, the pleadings he referred to were filed *after* the Superior Court granted summary judgment in favor of the Blackbourns on or about May 12, 2011. [Exs. 4-7, Bates 33-144.] We also note in his own pleadings prove that Mr. Goodman was aware of and received the defendants' "Summary Decision" lodged with the court on May 5, 2011. [Ex. 4, Bates 34, Line 1.] That lodging did not prompt him either to file anything with the court regarding the summary judgment sought.

As with the pleadings Mr. Goodman filed and that were exhibits in this matter, Mr. Goodman's testimony involved more conclusory statements and closing argument than actual testimony. As such, his testimony, as it were, coupled with a review of Exhibits 4 through 7, is that after the Superior Court entered its summary judgment order, Mr. Goodman filed pleadings asserting that the Blackbourns had not disclosed in the course of discovery the materials appended to their motion for summary judgment and therefore, the court did not have the "affidavits, documents, sworn testimony, [and] answers to discovery" necessary to reach a decision on the motion. [Ex. 4, Bates 34, 37-39.]

Mr. Goodman also testified that he was not required to respond to a motion for summary judgment because the trial court was obligated to apparently obtain and

review the depositions, interrogatories, and other discovery to determine whether the record supported summary judgment and the court failed to do so because the Blackbourns failed to disclose said material information and documents. [Testimony of Goodman.] However, the evidence is clear that Mr. Goodman did not file motions to compel disclosures during the time frame such disclosures were due, nor did he file a Rule 56 affidavit making an offer of proof regarding the material facts allegedly not disclosed that supported Mr. Valente's position that summary judgment should be denied. [Testimony Horwitz and Goodman.]

Mr. Goodman and Mr. Valente both testified that Mr. Goodman did not provide an engagement letter or fee agreement to Valente outlining the scope of representation. Both men also testified that Mr. Goodman never provided regular statements accounting for the work done on the Blackbourn case, or other cases, demonstrating an earning of the approximate $250,000 fee paid by Valente to Goodman. [Testimony Goodman and Horwitz.] Despite this sum paid to him, Mr. Goodman threatened to sue both Mr. Valente and Mr. Horwitz because he wanted more fees. [Testimony of Mr. Horowitz]

Regardless of the exact amount paid by Mr. Valente to Mr. Goodman for the Blackbourn case specifically, Mr. Goodman admitted in his testimony and had previously admitted to Mr. Horwitz that there was no engagement letter nor fee agreement and no regular accounting or statements as to the work he performed in the case. We find the testimony of Mr. Goodman in Exhibit 38 Bates SBA000558 Lines 11-19 regarding a separate count in this matter where there also was no fee agreement, a compellingly broad statement against interest.

> And I did it. Do I need to apologize for not having a fee contract? I think under the circumstances neither one of us

> would do it again." And I do try to help people out all the time to get me paid when you can and I am still one of the old school. I just refuse to do a fee contract because it scares them off, and I was born and raised here. Whatever the state bar wants you to do with the fee contract I understand it."

Mr. Goodman failed to adequately respond to the State Bar's charging letter. On August 26, 2011, the State Bar wrote Mr. Goodman regarding this count. The letter, which was received by Mr. Goodman stated, "Failure to fully and formally respond to, or cooperate with, the investigation is, in itself, grounds for discipline." [Ex. 2, Bates 2.] At one point, via email, he asserted that he intentionally would not respond. [Ex. 2, Bates 6.] On another date, via email, he also admitted he fully understood his ethical obligations regarding disciplinary investigations. [Ex. 9, Bates 146.] Mr. Goodman did have some communication with the State Bar, but he did not actually respond to the allegations or respond to the State Bar's requests for information. Mr. Goodman did send the State Bar 369 pages of bates stamped documents without any accompanying declaration that explained if and why those 369 pages were relevant to the allegations against him. [Ex. 9, Bates 149.] He also sent two emails, both of which were unresponsive. [Ex. 2, Bates 2-15]

Mr. Goodman made defamatory statements about Mr. Horwitz when he sent the 369 pages and threatened to litigate the allegations in Superior Court through lawsuits against Bar Counsel, Ms. Miller, and various other persons, including Mr. Horwitz. [Ex. 2, Bates 6; Ex. 9, Bates 146.] We note Mr. Goodman did request, and was granted, at least one extension of time to respond, but never responded despite his assertions that he would do so. [Ex. 2 at Bates 8-11.] When asked by the State Bar to provide an accounting for the approximate $250,000 he charged Valente, Mr. Goodman refused

and asserted that the State Bar should be obtaining those documents from Mr. Horwitz. [Ex. 9, Bates 146, 148-149.] The record corroborates Mr. Goodman's later admission that he did not have any documentation related to the case or to the accounting of his work on the case. [Ex. 9, Bates 149.] On September 20, 2011 he succinctly asserted his refusal to adhere to his duty to respond:

> As of July 21st the Arizona State Bar disenfranchised me, cancelled membership codes and access, and as a result I have nothing whatsoever to do with the Arizona State Bar. I am not responsive to the Arizona State Bar unless in some tangential fashion related to a non-existent hearing. [Exhibit 2, Bates 6]

We find Mr. Goodman intentionally refused to adhere to his ethical responsibility as a professional to respond to the State Bar.

Count Two (Summit Builders/Goodman Entities)

Mr. Goodman was suspended from the State Bar of Arizona effective July 21, 2011. At the time Mr. Goodman was suspended from the State Bar of Arizona he was counsel on a matter before the United States District Court for the District of Arizona, *Jeffrey C. Stone, Inc. d/b/a Summit Builders Construction Corporation v. Greenberg Traurig, LLP, et. al.*, No. CV 09-2454-PHX-MHM (hereinafter "Summit Builders"). In that matter, Mr. Goodman represented Summit Builders against twenty-seven defendants alleging that Summit Builders was owed more than $9 million in construction contracts that were unpaid when lenders went bankrupt.

On March 21, 2011 and July 26, 2011, Judge Murgia ordered attorneys' fees in favor of a number of the defendants and against "both Summit and its counsel, Grant Goodman." [Ex. 10, Bates 150-162.] Relevant here, Judge Murgia ordered sanctions against Mr. Goodman for making repeated misrepresentations about law and fact to the court in responses to several defendants' motions to dismiss and oral argument on

those motions as well as misrepresentations to the court in response to an order to show cause issued by the court. [Ex. 10, Bates 154.] In that order the court also required defendants' counsel and Mr. Goodman to serve the order on the State Bar for "whatever further investigation, review, or action it may deem appropriate." [Ex. 10, Bates 162.]

On August 24 and 26, 2011, after the interim suspension was entered against Mr. Goodman, he filed a notice of appeal and amended notice of appeal, respectively, in the Summit Builders case. He listed his bar number adjacent to his name on the pleading, but also listed "Pro Per for GOODMAN, P.A., Grant H. Goodman" just below his name and contact information. [See Exs. 13-14, Bates 169-177.]

The State Bar, in response to having received the referral from Judge Murgia's office regarding the above order imposing attorneys fees against Mr. Goodman in the Summit Builders case, sent an email on November 29, 2011, to Mr. Goodman asking him for details as to how and when the interests in the Summit Builders matter were assigned to him. [Ex. 15, Bates 179.] Mr. Goodman provided a rambling email response several hours later with an attachment. In that email Mr. Goodman wrote that:

> The order of July 21, 2011, in which you, Murgia, Cahill, O'Neil and the SBA were getting exactly what you all thought you wanted, immediately converted Goodman defenses, counter-claims, cross-claims, **and all affirmative damages**, which included partial damages assessed as 'sanctions', fines, contempt, criminal contempt, impairment of contract and fees; to Grant H. Goodman, personally, **pro per** – on the same date.
>
> [Ex. 15, Bates 178.]
>
> *(Bold print and underlining is included in the correspondence)*

Again, although Mr. Goodman's response is nearly incomprehensible, it appears the above sentence is an assertion that when the Office of the Presiding Disciplinary Judge entered its July 21, 2011, interim suspension order, suspending Mr. Goodman

until a determination was made after hearing on a pending complaint alleging violation of ethical rules, that suspension automatically assigned all interests in the Summit Builders matter to Mr. Goodman. However, several lines later Mr. Goodman writes "[I]n sum, the **Stone v. Greenberg Taurig** entire case was not assigned to Grant H. Goodman, but the damage to Grant H. Goodman, personally, and/or Goodman, P.A. **via**. . ." the award of attorneys fees by Judge Murgia's orders of March 21 and July 25, 2011, and referral to the State Bar were assigned to Mr. Goodman personally in a separate Superior Court of Maricopa County action, No. CV2008-033330. [Ex. 15, Bates 178-179.] Attached to this nearly incomprehensible email was a document titled "Assignment Agreement" signed by Mr. Goodman and by Teri B. Goodman on September 15, 2011 and revised on October 13, 2011. [Ex. 15, Bates 180-182.] Both the email and Mr. Goodman's testimony indicate that the assignment he was referring to and the Assignment Agreement attached to the email were related not to the federal district court case the State Bar was inquiring about, but rather was drafted and filed in response to a request from Maricopa County Superior Court Judge John Rea in a separate case.[2] [See Ex. 15, Bates 179; Testimony Goodman, Dec. 10, 2013.] The assignment document does list Summit Builders twice. The Agreement is less than articulate as to what interests were assigned and in what manner they were assigned. The document is not signed by anyone related to Summit Builders Corporation.

On December 31, 2008, Mr. Goodman filed a lawsuit on behalf of himself, his wife and several corporations, at least two of which he was a shareholder (hereinafter

[2] That case is subject of the second part of Count Two in the State Bar's complaint in this matter. [See Complaint, paras. 36-44.]

"Goodman Entities").[3] The litigation was lengthy and on September 23, 2011, after Mr. Goodman had been placed on interim suspension, he filed a special action in the Arizona Court of Appeals. The State Bar presented three pleadings where Mr. Goodman listed himself as "Pro Per for Appellants." [See Exs. 16-18, Bates 183, 205, and 223.] Mr. Goodman changed the case caption to include "as Assignors-Assignees" rather than Guarantors-Sureties in the trial court pleadings, he listed himself and his attorney number on the first page of the Appellant's Opening Brief as "Pro Per for Goodman Individuals/Entities." [Ex. 16, Bates 183] In the Appellants' Goodman Reply Brief and Appellants' Goodman Joinder, filed October 29, 2012, Mr. Goodman listed himself and his wife as "Pro Per for Goodman Individuals/Entities." [See Exs. 17-18, Bates 205, 223.]

Mr. Goodman's testimony was hard to decipher and fractured, often being more argument than actual testimony. However, we speculate that Mr. Goodman's position was that the Assignment Agreement filed in Maricopa County Superior Court covered the Summit Builders matter in federal court and it allowed him to go forward and represent his interests, the interests of his professional association, Goodman P.A., and the interests of his various business entities because the assignment made the professional associations' and the business entities' interests the same as his personal interests. If that is the position, we decline to believe it. [Testimony Goodman, Dec. 10, 2013.]

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[3] Grant Goodman, and Teri B. Goodman, husband and wife, and as Guarantors-Sureties for GTI Capital Holdings, LLC, and G.H. Goodman Invest. Co., LLC; GHG Inc. (managing agent for Stirling Bridge, LLC a limited liability company); Stirling bridge LLC (a Delaware limited liability company); and Northern Highlands I and II (Arizona limited liability companies) v. Greenberg Traurig, LLP; Quarles& Brady, LLP; and Michael W. Carmen, Ltd. CV2008-03330.

Count Three (Brooks)

In mid-2009, Richard L. Brooks ("Mr. Brooks") retained Mr. Goodman to assist him with an uninsured motorist claim with Mr. Brooks' insurance carrier, Progressive Preferred Insurance (hereinafter "Progressive"). [Testimony of Richard L. Brooks, Dec. 10, 2013; Goodman, Dec. 10, 2013.] Mr. Brooks had been in an auto accident in February 2009, where the driver of the vehicle that hit him left the scene. [Testimony of Brooks.] Mr. Brooks suffered injuries requiring surgeries and substantial rehabilitation. [Id.]

Mr. Brooks testified that he met Mr. Goodman when he was seeking to rent office space for his own legal practice. [Id.] During a meeting where Mr. Brooks and Mr. Goodman discussed rental space at Mr. Goodman's office space, the subject of the trouble Mr. Brooks was having with Progressive and his uninsured motorist claim arose. [Id.] Goodman asserted he could assist Mr. Brooks for free, but Mr. Brooks preferred to pay him hourly. The two agreed that Mr. Goodman would undertake to represent Mr. Brooks in an effort to resolve the uninsured motorist claim. [Testimony of Brooks and Goodman.] Both Mr. Goodman and Mr. Brooks testified that no written fee agreement was drafted by Mr. Goodman nor provided to Mr. Brooks. [Id.] Mr. Brooks testified the agreement as to the fees for Mr. Goodman's services were that Mr. Goodman would charge an hourly rate and that he agreed to Mr. Goodman's hourly rate of $400. [Testimony of Brooks.] Mr. Goodman, however, testified that the agreement was for the typical contingent fee of one-third of the amount recovered. [Testimony of Goodman.]

Progressive agreed to pay the policy limits of $100,000 and issued a check in that amount. According to the testimony, Mr. Goodman endorsed the check and had

Mr. Brooks pick up the check for deposit into his personal account. [Testimony of Brooks and Goodman, Ex. 38, Bates 533, lines 19-23.] When the two discussed Mr. Goodman's fee, a dispute arose. Mr. Goodman asserted he was entitled to $15,000 on an hourly fee basis. [Id.] Mr. Brooks requested invoices or some form of accounting demonstrating the number of hours Mr. Goodman put into the case to justify that amount. [Testimony of Brooks.] Mr. Goodman testified before us that he was entitled to that amount as a contingency fee, but his testimony of seeking $15,000 is in contrast to his assertion that he and Mr. Brooks agreed to the standard one-third contingency. In an apparent attempt to rectify the contradiction, Mr. Goodman testified that the $15,000 was a concession to try to resolve the dispute as to whether there was an hourly fee agreement or a one-third contingency fee agreement. [Testimony of Goodman.]

Mr. Brooks testified he wrote Mr. Goodman a check for $15,000 to demonstrate good faith in paying Mr. Goodman at an hourly rate. However, Mr. Brooks testified he made clear that he would need time to get money into his account to cover the check and the two agreed that Mr. Goodman would not deposit the check until the funds were available. [Testimony of Brooks.] Mr. Brooks testified the agreement was that he would deposit the insurance settlement check and once it cleared, he would transfer $15,000 to the account from which the check was written and then Mr. Goodman could deposit the check into his trust account pending his providing Mr. Brooks an accounting of the hours worked on the matter at his hourly rate demonstrating that $15,000 was earned. [Testimony of Brooks, Ex. 26, Bates 426; Exhibit 27, Bates 429, Section 6; Exhibit 38, Bates 530-31.]

Ultimately, something happened causing the insurance check to be cancelled. While there was some conflicting testimony, it appears Mr. Brooks had failed to sign the check when depositing it. [Testimony Brooks and Goodman.] Regardless, Mr. Goodman had immediately tried to deposit the $15,000 written by Mr. Brooks despite the fact that as he indicated in his December 9, 2009 email to Mr. Goodman, he would need time for the insurance check to clear in order for funds to be available. The check was returned for insufficient funds. [Testimony Brooks; Ex. 25.] Mr. Goodman testified that he was unaware that time was required for a check to clear before a draw could be made upon the deposit. [Testimony of Goodman.]

A second check for $100,000.00 was issued by Progressive. On December 11, 2009, Mr. Brooks went to Mr. Goodman's office and endorsed the settlement check for deposit into Mr. Goodman's trust account. [Ex. 26, Bates 426-427.] Mr. Goodman put the $100,000 into his trust account. On December 13, 2009, via email, Mr. Brooks terminated the attorney-client relationship with Mr. Goodman and requested that a copy of his file be prepared for him to pick up in person on December 15, 2009. [Id.] On December 14, 2009, Mr. Goodman indicated, via email, he was "in the process of calculating time spent and costs" substantially contradicting his testimony in this matter and verifying an hourly fee agreement, not a contingency agreement. [Ex. 26, Bates 426.]

At the time the second settlement check from Progressive was issued, Mr. Goodman continued to claim he was owed $15,000 as a "reduced" contingency fee. [Testimony of Goodman.] Mr. Brooks testified that he continued to request an accounting, or a detailed bill, from Mr. Goodman as to the amount of time spent working on the case substantiating that the hours spent on the case at Mr. Goodman's

hourly rate amounted to $15,000. [Testimony of Brooks.] The testimony of Mr. Goodman was inconsistent, often contradicted by his own writings and not credible.

Mr. Goodman never provided such an accounting and continually claimed that the agreement was for a contingency fee. However, Mr. Goodman also testified that he sought $15,000 from the moment that he received the first $100,000 settlement check from Progressive. Eventually he justified the amount of $15,000, by stating that once a dispute arose between himself and Mr. Brooks as to the fee, he reduced the contingent amount to fifteen percent rather than one-third. [Testimony of Goodman.] However, as noted above, as of Mr. Goodman's December 14, 2009, email he was "in the process of calculating time spent and costs" indicating an hourly fee agreement, not a contingency agreement. [Ex. 26, Bates 426.] The interpleader filed by Mr. Goodman stated an hourly fee that was discounted. [Ex. 25, Bates 429, sec. 6.]

Mr. Goodman's December 14, 2009, email in response to Mr. Brooks email terminating their attorney-client relationship acknowledges his termination by informing Mr. Brooks that his file "will be ordered for copying and delivery for your pick-up on the 15th." Mr. Goodman further asserted that there were outstanding medical liens against the settlement. [Id.]

Mr. Goodman occasionally testified that he knew there were outstanding medical liens because there was language in the release document. When confronted with the absence of such language in the release he altered his testimony claiming a letter that accompanied the check from Progressive required payment of existent liens. [Ex. 31, Bates 463; Testimony of Goodman.] It is the same kind of bold purported statements of fact that he made before Judge Donahoe for which there was no documentary evidence. "that they were going to pay back those medical care provided that *required*

to be paid back as a term of contract under the documents signed while under my control, as Mr. Brook's attorney of record..." [Ex. 38, Bates 483, lines 13-16 (emphasis added).] "Nobody ever stepped up to the plate to say we will honor the original conditions and contracts that were entered into so that we can have this $100,000." [Ex. 38, Bates 486, lines 4-6.]

> That would be his own handwriting on multiple release documents required by the insurance company and that would also include some form of confirmation where my office is being asked to indemnify the settling carrier to the extent that legitimate third party med pay claims have not been reimbursed. [Exhibit 38, Bates 485 lines 4-9]

In that same hearing before Judge Donahoe, Mr. Goodman asserted to Mr. Brooks while cross-examining him, "...if you didn't rely on Goodman, who had access to the insuring agreements requiring right of subrogation and your requirement to honor repayment..." [Ex. 38, Bates 511, line 2-5] This was followed by an avowal to Judge Donahoe, "Well, Judge, in this file we had submitted the original signed documents where Mr. Brooks warranted, and through his signature, validated that he would ensure that any outstanding payments due medical care providers would be taken care of." [Ex. 38, Bates 512, lines 10-14] He later again asserted to the court, "there was a document that was not included in that package, that was copied to Osborn Maledon that—or given to him under the guise of Osborn Maledon, that the carrier dumped on my law firm the responsibility to ensure that all outstanding medical pay issues were taken care of out of the settlement." [Ex. 38, Bates 571, lines 15-20]

But no such documents were presented to that court or in this matter. We decline to conclude that the letter which accompanied the release from Progressive is what Mr. Goodman was referring to or that he was confused or simply committed

error. We find a consistent pattern of untruthfulness and that he was intentionally misleading that court and this hearing panel to bolster his positions.

Mr. Goodman did not do any kind of research to verify the existence of such liens. [Testimony of Goodman.] The research he did do stated the opposite of his position. [Ex. 40, Bates 597, lines 17-21.] Mr. Goodman's email verified he had no actual or constructive knowledge that there were indeed outstanding medical liens, as he demanded that Mr. Brooks "calculate the medical expenses you must authorize for repayment out of the IOLTA account." [Ex. 26, Bates 426.] Mr. Brooks testified that he informed Mr. Goodman there were no such liens and that all times he had either paid medical bills in full or he was making payments to medical providers, as he was still undergoing treatment and rehabilitation. [Testimony Brooks.]

Mr. Goodman testified before Judge Donahoe of his extensive experience in personal injury work. While we question that testimony, Mr. Goodman presented himself a vastly experienced individual personal injury litigator. "I believe the client sought me out because I am a litigator. My practice has turned to commercial litigation over the last decade or so. In my younger days I used to handle 100 to 150,000 PI work in a given time." [Ex. 38, Bates 555, lines 17-18.] We struggle to comprehend with such experience how he would be unaware that a settlement check takes time to clear before funds can be drawn on it. Or basic law that a driver's underinsured benefits is statutorily excluded from medical liens. A.R.S. § 33-931.

Mr. Goodman refused to issue a check in any amount to Mr. Brooks for the settlement agreement. He assured Mr. Brooks by email that "Funds will not be released from the firm Trust Account until we arrive at a reconciliation of the

outstanding issued referenced above." [Ex. 26, Bates 426.] Notwithstanding that promise, he transferred $15,000 from his trust account to his operating account as satisfaction of what he claimed was an earned fee and he refused to issue a check for any part of the $85,000 that remained in trust on the basis of the alleged medical liens.

Mr. Brooks hired separate counsel to assist him in recovering the monies paid by Progressive and held by Mr. Goodman as well as to resolve the fee dispute. [Testimony of Brooks and Colin Campbell, Dec. 10, 2013.] Mr. Brooks retained Colin Campbell and Geoffrey Sturr of Osborn Maledon. On December 16, 2009, Mr. Campbell sent a letter via email and first-class mail to Mr. Goodman indicating that Osborn Maledon now represented Mr. Brooks regarding the settlement with Progressive Insurance and the fee dispute. [Ex. 34, Bates 466.] Mr. Campbell also directed that the $100,000 settlement amount be transferred from Mr. Goodman's trust account to the trust account of Osborn Maledon. [Id.]

Mr. Goodman responded via email and asserted that all of the $100,000 from the Progressive settlement check was still in his trust account and would remain there until his fees were paid by Mr. Brooks. He also asserted once Osborn Maledon provided an accounting of what medical providers were owed money by Mr. Brooks, Goodman would pay those providers out of the trust and issue the remainder, minus his claimed fees, to Osborn Maledon's trust account. [Ex. 29, Bates 453.] Mr. Campbell responded by letter indicating that his prior request was for the $100,000 to be transferred to his firm's trust and that it would remain there until the fee dispute was resolved and any medical providers that were owed monies were paid. [Ex. 29, Bates 456.] Mr. Campbell also asserted that Mr. Goodman could not retain any part of the settlement amount beyond the disputed

fee amount under Arizona's ethical rules. [Id.] Mr. Campbell also offered fee arbitration through the State Bar in order to resolve the fee dispute. [Id.] The following day, Mr. Campbell sent an email to Mr. Goodman indicating they had checked the Maricopa Court Recorder's website and that no medical liens appeared to be filed related to Mr. Brooks' February accident. [Id., Bates 458.]

On January 9, 2010, Mr. Goodman filed an interpleader action in Maricopa Superior Court as to the $100,000 settlement check by Progressive. In the interpleader complaint, Mr. Goodman indicated he had already transferred $15,000 from his trust account to his operating account to satisfy his fee, contrary to his assertions to Mr. Campbell noted above. [Ex. 27, Bates 429, para. 8.] Mr. Goodman also was untruthful to the court in stating that he never received any direct communication from Brooks that Brooks had terminated the attorney-client relationship. [Id. at Bates 430, paras. 11-12; compare Ex. 26.] Mr. Goodman did acknowledge again, however, that he had required Mr. Brooks to provide an accounting of medical providers owed, indicating Goodman still had no independent knowledge that medical liens actually existed. [Ex. 27, Bates 430, paras. 9, 13.]

On February 23, 2010, Mr. Sturr, of Osborn Maledon, took over the representation of Mr. Brooks from Mr. Campbell and filed a motion for summary judgment and statement of facts in support of that motion. [Exs. 28-29.] The motion not only sought summary judgment in favor of Mr. Brooks asserting there was no merit to Mr. Goodman's claims, but also seeking the reasonable attorney's fees Mr. Brooks incurred having to defend the interpleader action. [Ex. 28, Bates 434.] On May 20, 2010, Judger Donahoe issued an order granting the motion for summary judgment noting Mr. Goodman had not responded to it, dismissed the

interpleader action, and ordered the $85,000 that had been interpleaded, be immediately released. [Ex. 36.]

In addition, Mr. Sturr filed a counterclaim on Mr. Brooks behalf seeking return of the $15,000 Mr. Goodman transferred from his trust account to his operating account or in the alternative return of any amount of that $15,000 the court deemed not earned by Mr. Goodman. [Ex. 37.] Mr. Goodman did not respond to the counterclaim and default was sought by Mr. Sturr on Mr. Brooks behalf. [Ex. 38, Bates 477; Ex. 39, Bates 577.] On October 29, 2010, an evidentiary hearing was held before Judge Donahoe to resolve the counterclaim. [Ex. 38.]

On April 7, 2010, while the interpleader was still being litigated, Mr. Goodman caused a letter to be drafted by David Eichman, as a contract attorney for Goodman P.A., to sixteen (16) medical providers that disclosed the details of the settlement agreement, the fee dispute between Mr. Goodman and Mr. Brooks, the correspondences between Osborn Maledon and Mr. Goodman, and requested that the medical providers notify Mr. Goodman if there were indeed any outstanding medical liens. [Ex. 30.]

Ultimately, Judge Donahoe issued a Judgment on December 21, 2010, on Mr. Brooks' motion for default judgment on the amended counterclaim against Mr. Goodman. The Judgment was for the $15,000 that Mr. Goodman withheld and wrongfully transferred from his trust account plus interest. The court further awarded Mr. Brooks $730 in costs and attorneys' fees in the amount of $10,862, plus interest until the judgment was paid in full. [Ex. 39, Bates 581.]

To compound matters, Mr. Goodman appealed the Judgment of the Superior Court. The matter was fully briefed [Exs. 40-42.] and the Court of Appeals,

Division One issued a memorandum decision on January 3, 2012, affirming Judge Donahoe's judgment. [Exs. 46-47]. As of the hearing in this disciplinary matter, none of the judgment had been paid by Mr. Goodman. [Testimony Mr. Brooks and Mr. Sturr.]

Count Four (Viske)

Ms. Gail Viske retained Mr. Goodman to represent her in relation to the probate her mother's estate and potential claims involving wrongful death of her mother and Medicare fraud. Ms. Viske did not appear to testify before this Panel. Mr. Goodman testified that he did agree to represent Ms. Viske [Testimony of Goodman, Dec. 11, 2013.] A fee agreement letter indicating that Ms. Viske was required to pay and had already paid a $25,000 retainer fee, was admitted into evidence. [Ex. 51.]

Mr. Goodman testified that the types of claims Ms. Viske sought his representation for were investigated, but that ultimately he did not file any pleadings on her behalf because he determined that none of the claims had merit. [Testimony of Goodman.] Mr. Goodman also testified that he informed Ms. Viske that he had been suspended from the State Bar as required by law.

When the State Bar received Ms. Viske's complaint they sought responses from Mr. Goodman as to the scope of representation, all records substantiating communication between Ms. Viske and Mr. Goodman, a copy of Mr. Goodman's file related to Ms. Viske, and proof that he notified Ms. Viske that he had been suspended from the practice of law. [See Complaint, para. 80; Exs. 52, 54-57, 59-60.] Mr. Goodman replied via email, but his responses did not meet the requests of the State Bar and Mr. Goodman did not adequately respond to most of the State Bar's allegations and requests.

IV. CONCLUSIONS OF LAW AND DISCUSSION OF DECISION

A. Count One (Horwitz)

The Panel finds clear and convincing evidence that Mr. Goodman violated the ethical rules detailed below as as alleged in paragraphs 21-24 and 26-28 of Count One of the Complaint. The Panel does not find clear and convincing evidence that Mr. Goodman's conduct violated ER 3.4(c) as alleged in paragraph 25 of the Complaint.

ER 1.1

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 1.1 requiring a lawyer to provide competent representation to a client through the legal knowledge, skill, thoroughness and preparation necessary for the representation. Competent handling of a particular matter includes use of methods and procedures meeting the standards of competent practitioners. Generally, in civil matters, the methods and standards of competent practitioners involves use of basic discovery devices, use of motions to alert the court of the failings of opposing counsel, and use of the pleading process to refute or overcome motions by opposing counsel.

In relation to Count One (Horwitz) of the State Bar's Complaint, Mr. Goodman failed to provide competent representation to Mr. Valente in the case against the Blackbourns. Mr. Goodman failed to file motions to compel discovery responses, failed to file a response to the Balckbourns' motion for summary judgment and failed to respond to the Blackbourns motion for attorneys' fees. [Testimony of Horwitz, Dec. 9, 2013]. The pleadings filed by Mr. Goodman *after* the Superior Court entered summary judgment were not the types of pleadings a competent attorney would file to oppose summary judgment or to bring the court's

attention to an opposing party's failure to adequately respond to discovery requests. In addition, the pleadings filed my Mr. Goodman were, by his own admission, not timely filed. [Testimony Goodman, Dec. 9, 2013.] The pleadings he did file are troubling. It appears he cuts and pastes footnotes from cases without citing the cases from which the footnote it used. He also cuts and pastes what appears to be footnotes from cases as though it was his own language and offers them as exhibits. [Ex. 4 Bates 42-45.] His purported exhibits are not the document but rather parts cut and pasted and out of context. [Ex. 4-5.]

A competent attorney can demonstrate an understanding of the basic procedural steps and rules of procedure in a civil matter required for discovery and for summary judgment. The evidence supports Mr. Goodman's lack of competence in his representation of Valente against the Blackbourns. Mr. Goodman's lack of competent representation led to summary termination of Mr. Valente's case in a manner contrary to his interests and also caused Mr. Valente significant additional costs in the form of approximately $40,000 in attorneys' fees to be paid to the Blackbourns and costs for the hiring of Mr. Horwitz to assist in resolving the issues caused by Mr. Goodman's incompetent representation.

ER 1.3

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 1.3 as alleged in Count One (Horwitz). Ethical Rule 1.3 requires a lawyer to act with reasonable diligence and promptness in representing a client. A lawyer is required to pursue matters on behalf of a client despite obstruction by another party. Rule 42, E.R. 1.3, Ariz. R. Sup. Ct. (Comment, 2003 Amendment). Pursuit

of matters must involve prompt action because procrastination can lead to destruction of a client's position. Id. at Comment 3.

Mr. Goodman failed to file a response to the Blackbourns' motion for summary judgment which led to summary judgment in favor of the Blackbourns. This was a destruction of Mr. Valente's position in that it ended the litigation in a manner against Mr. Valente's interests. Mr. Goodman asserted that the reason he failed to respond to the motion for summary judgment was because the Blackbourns failed to meet their disclosure requirements during discovery, leaving Mr. Goodman without access to material documents and facts to support opposition to the motion.

The Panel finds that Mr. Goodman's assertions are without merit. The evidence demonstrates Mr. Goodman's repeated and consistent untruthful assertions to this Panel and to the tribunals in the underlying manner. Although Mr. Goodman repeatedly invited this Panel to collaterally consider the lower court's ruling in the case underlying Count One, the Panel declines. The Panel's focus is on the Complaint before it, but we do consider arguments put forth below and facts presented below, as contained in exhibits admitted in the matter before this Panel, in order to determine Mr. Goodman's credibility and his state of mind.

In doing so, the Panel finds strong evidence that Mr. Goodman's assertions as to why he failed to file a response to the Blackbourns motion for summary judgment are without merit and lack candor toward this Panel and the lower court. Mr. Goodman asserted to this Panel, and to the Maricopa Superior Court, in his post summary judgment pleadings that the Blackbourns failed to disclose material evidence in its discovery disclosures. [Exs. 4-6.] However, in those very post-

summary judgment pleadings Mr. Goodman copied and pasted entire portions of a deposition wherein he repeatedly referred to material documents he claimed just pages before defense counsel failed to disclose. [See Ex. 4, Bates 55-58 compared to Bates 37, lines 10-13, 20-24; Bates 39.] The pleadings that were filed by Mr. Goodman were filed well after the time to respond to the motion for summary judgment had passed and in fact, were filed after summary judgment was granted.

Moreover, the Panel also finds that Mr. Goodman failed to timely respond to the Blackbourns motion for certain defendants' attorneys' fees, amounting to a failure to act with reasonable diligence and promptness. Although Mr. Goodman testified that he responded, although untimely, as evidenced by a pleading filed June 10, 2011, that pleading does not involve any content that contests or otherwise opposes a motion for attorneys' fees. [See Ex. 7.]

ER 1.4

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 1.4(a)(1) through (4) as alleged in Count One (Horwitz). In relevant part, Rule 1.4(a) states that a lawyer shall:

> (1) promptly inform a client of any decision or circumstance with respect to which the client's informed consent . . . is required . . .;
> (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
> (3) keep the client reasonably informed about the status of the matter

Rue 44, ER 1.4(a) Ariz. Sup. Ct.

Mr. Valente testified that he was not meaningfully aware that the Blackbourns had filed a motion for summary judgment. More importantly, he had no knowledge that Mr. Goodman was not responding to that motion or that the trial court had ruled against Mr. Valente's interests on that motion. Mr. Valente testified

that the first time he became aware summary judgment had been granted against him was when he initially met with Mr. Horwitz in July 2011, nearly two months after the court's order. Further, Mr. Valente was not aware that the Blackbourn's counsel requested the court award attorneys' fees in an amount nearing $100,000 and that Mr. Goodman also had not responded to that motion. Both a motion for summary judgment and a request for attorneys' fees are matters that a client must be informed about and consulted as to the consequences of a court's determination against the client's interests. A determination against the client's interests as to both motions could be detrimental not only to the survival of the cause of action but to the client themselves.

Here, the Panel is convinced Mr. Valente lacked any understanding that the summary judgment motion had been filed and that if the court granted the motion his claim not only would be terminated, but that he then faced the possibility of owing the Blackbourns reasonable attorney's fees of a substantial amount. The Panel is also convinced Mr. Goodman did not inform his client that he did not respond to either motion. Moreover, the granting of motion for summary judgment led to a substantial change in the status of the case and Mr. Goodman failed to inform his client of this substantial and detrimental decision.

ER 1.5

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 1.5(b) as alleged in Count One (Horwitz). In relevant part, ER 1.5(b) requires that the scope of representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing, before or within a reasonable time after commencing the representation. Mr. Goodman

admitted in his testimony that he failed to provide any written fee agreement explaining the scope of representation, basis or rate of his fee or expenses for which Mr. Valente would be responsible. Mr. Valente testified to this fact as well. Although Mr. Goodman testified there was at least one bill provided to Mr. Valente, that bill was clearly for a different matter and not in relation to the case against the Blackbourns that was at issue before this Panel. [Testimony of Goodman and Andrea Valenti, Dec. 9, 2013.]

ER 1.15(d)

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 1.15(d) as alleged in Count One (Horwitz). In relevant part, ER 1.15(d) states that a lawyer "upon request by the client or third person, shall promptly render a full accounting regarding such property." Attorney Horowitz was asked by Mr. Goodman to meet with Mr. Valente and to consider taking over representation of Mr. Valente's case against the Blackbourns when Mr. Goodman was suspended in July 2011 from the practice of law. Mr. Horwitz testified he did agree to represent Mr. Valente, specifically to assist Mr. Valente with the pending request for more than $100,000 in attorneys' fees by the Blackbourns' counsel, to which Mr. Goodman had failed to timely respond. [Testimony Horwitz, Dec. 9, 2013.] In the course of that representation, Mr. Horwitz testified he sought an evidentiary hearing on the request for attorneys' fees and filed proposed findings of fact and conclusions of law and offer of proof regarding same in order to try to avoid the court making a decision on the motion alone. [Id.]

In the course of preparing that pleading Mr. Horwitz testified he requested an accounting from Mr. Goodman regarding the work he had performed and the

amount he had billed for such work. Mr. Horwitz testified he never received an accounting from Mr. Goodman. The evidence demonstrates that Mr. Goodman received up to $250,000 from Mr. Valente to represent him on those collection matters. Mr. Valente testified he believed that he paid Mr. Goodman approximately $20,000 per case.

The State Bar, in its investigation of Mr. Horwitz' complaint about Mr. Goodman's representation of Mr. Valente, also requested an accounting of the hours worked on the Blackbourn matter and the amount charged for those hours justifying the earning of the fee. [Ex. 2.] Mr. Goodman willfully refused to provide that accounting to the State Bar by indicating he was "not responsive to the Arizona State Bar unless in some tangential fashion related to a non-existent hearing" which the Panel takes to be referring to the hearing on the 2011 Complaint that led to Mr. Goodman's current suspended status. [Ex. 2.] The chain of emails between the State Bar and Mr. Goodman clearly demonstrate that Mr. Goodman was aware of the bar charge and the State Bar's requests for information. Mr. Goodman alternately requested additional time to respond, and demanded the State Bar provide him the information they were seeking from him through their requests. [Ex. 2; Ex. 9.]

ERs 3.1, 3.2, and 4.4(a)

The Panel finds clear and convincing evidence that Mr. Goodman violated ERs 3.1 and 4.4(a) as alleged in Count One (Horwitz). In relevant part, ER 3.1 states that a lawyer shall not assert or controvert an issue unless there is a good faith basis in law and fact for doing so that is not frivolous. Ethical Rule 4.4(a) prohibits a lawyer from using means that have no substantial purpose other than to

embarrass, delay, or burden any other person. Ethical Rule 3.2 requires a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client.

Summary Judgment was entered against Mr. Valente on May 12, 2011. Mr. Goodman then filed a series of pleadings that had no basis in fact or law and served no purpose other than to delay the finality of the Superior Court's decision and ultimate termination of the litigation. On May 16, 2011, Mr. Goodman filed a Notice of Filing Exhibit Excerpts of Record and Motion for Reconsideration. The pleading contains 30 pages of information as exhibits to the Motion for Reconsideration, however, nowhere in the motion are there any references to those exhibits or argument as to how those exhibits demonstrate a reason the court should reconsider its granting of summary judgment. Moreover, the motion itself presents no law or fact indicating a basis to set aside summary judgment.

The motion is merely a string of language from other court cases, improperly cited and bearing little relation to a legal basis to set aside summary judgment. On June 1, 2011, Mr. Goodman filed a Motion for New Trial and Motion to Vacate Order containing the exact same 30 pages of attached exhibits as were attached to the May 16 pleading. A reply followed on June 21, 2011. On June 10, 2011, Mr. Goodman also filed a cross motion to strike the Blackbourns' request for attorneys' fees and motion for summary judgment and cross-claim seeking sanctions against the Blackbourns and their counsel.

Although Mr. Goodman repeatedly invited the court to consider the pleadings as evidence of some ill explained misconduct of the trial judge or misconduct by opposing counsel, the Panel declines to do so. The issues before this Panel only

involve the allegations of ethical violations in the State Bar's complaint. However, the Panel has reviewed the pleadings in order to determine the intent and mental state of Mr. Goodman in view of the ethical rules allegedly violated by the filing of said pleadings. The pleadings filed by Mr. Goodman were not proper pleadings in light of the status of the case. For example, the June 1 pleading was a motion for new trial. No trial had taken place in the case. The court had entered summary judgment, not a decision after trial. Moreover, summary judgment was entered based upon the motion alone, as Mr. Goodman had failed to file a response or any Rule 56(f) pleading in opposition or in support of opposition to the motion for summary judgment.

A review of the pleadings offered into evidence indicates that they involve a string of disjointed citation to case law that are not connected to facts. The pleadings contain conclusory statements and bear no assertions of fact, much like the testimony of Mr. Goodman. The 30 pages of attached exhibits to both the May 16 and June 1 pleadings are not connected in any manner to any argument in the motions themselves. The pleadings clearly demonstrate they lacked any basis in law or fact and were not filed in good faith.

The act of filing these frivolous pleadings well after the time for responding to the motion for summary judgment and well after the time to seek to have summary judgment set aside also violated ER 3.2.

ER 8.1(b) and Rule 54(d)(2)

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 8.1 and Rule 54 as alleged in Count One (Horwitz). In relevant part, ER 8.1(b) states that a lawyer shall not knowingly fail to respond to a lawful demand for

information from a disciplinary authority. The State Bar notified Mr. Goodman of the bar charge related to his representation of Mr. Valente and requested that he respond via a letter to Mr. Goodman's address of record on August 26, 2011. [Ex. 2.] The letter was returned to the State Bar, who then sent an email on September 19, 2011, in an effort to gain a current address. The next day Mr. Goodman responded via email indicating he would pick the letter up in person and did so, signing an acknowledgment of receipt of several letters with attachments and the complaint that had since been filed in the matter. In his September 20, 2011, email Mr. Goodman clearly stated he intended to not respond in any way to the State Bar. [Id., Bates 6.] Mr. Goodman subsequently made email requests for extensions of time to respond, but failed to meet those deadlines. [Ex. 2.] Moreover, he had other communications with the State Bar where he acknowledged his duty to respond to the bar charge and to cooperate in the Bar's investigation. [See Ex. 9.] However, Mr. Goodman candidly refused to provide an actual response, provide the documentation requested or otherwise respond or cooperate with the State Bar during its investigation.

ER 8.4(d)

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 8.4(d) as alleged in Count One (Horwitz). In relevant part, ER 8.4(d) states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. Mr. Goodman's conduct delayed the ultimate termination of the Summit Builders case and required opposing counsel to file responses to the frivolous motions filed in May and June of 2011 as well as required the trial court to review those pleadings and take appropriate action that could have

been time used toward resolving other cases that were pending before it. Moreover, Mr. Goodman's failure to respond to the Blackbourns application for attorneys' fees caused further delay in the resolution of that issue and cost not only the court time but cost all parties additional time and money in reaching an ultimate conclusion to the matter.

B. Count Two (Summit Builders/Goodman Entities)

The Panel finds clear and convincing evidence that Mr. Goodman violated the ethical rules detailed below as alleged in paragraphs 45-46 of Count Two of the Complaint.

ER 5.5(a) and Rule 54

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 5.5(a) and Rule 54(c) and (d) as alleged in Count two of the Complaint. ER 5.5(a) prohibits a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction. Mr. Goodman was suspended from the practice of law effective July 21, 2011. In both the Summit Builders and Goodman Entities matters, Mr. Goodman filed pleadings with the state and federal courts asserting that he represented third parties, his professional association and several business entities.

While Mr. Goodman may have been able to represent his personal interests as a pro per party in a legal matter, as any individual is allowed to do, he could not use an assertion of an assignment of third parties or business entities interests as a means to subvert the effect of his suspension from the practice of law. Nor are we persuaded the assignment applied to the case.

Mr. Goodman violated the court's order by appearing in court on behalf of his wife and his companies after his suspension was effective and failed to furnish information or respond promptly to the State Bar.

C. Count Three (Brooks)

The Panel finds clear and convincing evidence that Mr. Goodman violated the ethical rules detailed below as alleged in paragraphs 64-73 of Count Three of the Complaint.

ER 1.5

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 1.5(a), (b) and (c) as alleged in Count Three (Brooks). In relevant part, ER 1.5(a) provides that a lawyer shall not make an agreement for, charge or collect an unreasonable fee or an unreasonable amount for expenses with factors to aid in the determination of the reasonableness of the fee. As detailed above, ER 1.5(b) requires that there be a written fee agreement that details the scope of representation and the basis or rate of fee and expenses for which the client is responsible. Mr. Goodman admitted that no written fee agreement was drafted or provided to Mr. Brooks. Further, in relevant part, ER 1.5(c) requires that a contingent fee agreement shall be in a writing signed by the client. Mr. Goodman admitted at the hearing that no written contingent fee agreement was executed in relation to his representation of the Mr. Brooks. [Testimony of Goodman, Dec. 10, 2013.] Moreover, Mr. Goodman admitted to Judge Donahoe that he did not have a fee agreement when he testified, "Do I need to apologize for not having a fee contract? I think under the circumstances neither of us would do it again." [Ex. 38, Bates 558, lines 11-13.] He also admitted there was no written agreement to the

Court of Appeals. [Ex. 40, Bates 589, lines 9-12.] Further, Mr. Goodman admitted he understood that the ethical rules required him to have a written fee agreement and that he intentionally disregarded that ethical rule when he stated to Judge Donahoe: "I just refuse to do a fee contract because it scares them off . . . . Whatever the [s]tate [b]ar wants you to do with the fee contract, I understand it." [Id. at lines 16-19.] That there was a dispute between Mr. Goodman and Mr. Brooks as to the type of fee – hourly rate versus contingent fee – does not negate that there was no written agreement of any kind as to either type of fee.

ERs 1.6 and 1.9(c)

The Panel finds clear and convincing evidence the Mr. Goodman violated ERs 1.6 and 1.9(c) as alleged in Count Three (Brooks). In relevant part, ER 1.6(a) prohibits a lawyer from revealing information related to the representation of a client unless the client gives informed consent, the disclosure is implicitly authorized in order to carry out the representation or the disclosure is permitted or required by law. In relevant part, ER 1.9(c) states that a lawyer who has formerly represented a client in a matter should not thereafter use information relating to the representation to the disadvantage of the client or reveal information related to the representation except as permitted by the ethical rules.

Mr. Goodman caused a letter to be sent to sixteen (16) medical providers that disclosed information related to his representation of Mr. Brooks. The letter contained details about the fee dispute between Mr. Goodman and Mr. Brooks, details of communications between the two and between Mr. Goodman and subsequent counsel representing Mr. Brooks, and made false statements indicating that Mr. Brooks had a habit of "kiting" checks. [Testimony of Brooks, Goodman,

Tyler Swensen and David Eichman, December 10 and 11, 2013; Ex. 30.] Mr. Brooks did not consent to disclosure of such information, all of the information revealed, particularly the statements regarding Mr. Brooks passing of bad checks, was to the disadvantage of Mr. Brooks, and the ethical rules do not allow for disclosure of such information.

ER 1.15

The Panel finds clear and convincing evidence the Mr. Goodman violated ER 1.15(d) and (e) as alleged in Count Three (Brooks). Relevant to Count Two, ER 1.15(d) requires "a lawyer to promptly deliver to the client or third person and funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property." Mr. Goodman received, endorsed and placed into his trust account the $100,000 check from Progressive Insurance that was payment to Mr. Brooks for his uninsured motorist claim. Mr. Goodman then refused to deliver to Mr. Brooks any portion of those funds. Mr. Goodman claimed ownership of $15,000 of those funds as an earned fee, which was strongly disputed by Mr. Brooks. Mr. Goodman refused to deliver the remaining $85,000 to Mr. Brooks making an unsupported assertion that there were medical liens precluding disbursement of the funds. Moreover, when Mr. Brooks terminated the attorney client relationship with Mr. Goodman by email on December 13, 2009, and retained Mr. Campbell and Mr. Sturr of Osborn Maledon who requested that Mr. Goodman transfer the entirety of the funds to their trust account until resolution of all questions regarding who had the right to the funds was resolved, Mr. Goodman

again refused to deliver any portion of the funds. [Exs. 26, Bates 426-427; Ex. 29, Bates 450-459.]

This conduct violates the Rule 1.15(d) requirement that an attorney promptly deliver funds to a client or third person they are entitled to receive. Both Mr. Brooks and Attorney Campbell requested on more than one occasion that Mr. Goodman provide an accounting of the hours worked and amount charged for that work and any expenses charged for said work from Mr. Goodman. Mr. Goodman refused further violating ER 1.15(d).

As to the dispute over the $15,000 that Mr. Goodman claimed he was entitled to as his fee for his work on Mr. Brooks' case, ER 1.15(e) states:

> When in the course of representation a lawyer possesses property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

Comment 3 to the 2003 Amendment to ER 1.15 states that "[T]he disputed portion of the funds must be kept in a trust account and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion shall be promptly distributed." Mr. Goodman not only refused to distribute promptly the $85,000 that Mr. Brooks was entitled to, but he transferred the $15,000 he alleged he was owed from his trust account to his operating account violating ER 1.15(e) and after having assured he would properly hold those funds separately.

Mr. Goodman's assertions that he was required to withhold the $85,000 because there were medical liens against the settlement amount is not only factually unsupported but is contrary to law. The $100,000 paid to Mr. Brooks by

Progressive Insurance was from his uninsured motorist coverage, which medical providers do not have a right to obtain medical liens against. Any funds distributed to Mr. Brooks under his uninsured motorist coverage were his and not subject to medical liens or otherwise subject to third-party claims.

Even if medical liens could be attached to the settlement amount, Mr. Goodman did not have evidence of the existence of any such liens other than a single sentence in a letter from Progressive that accompanied the settlement check. Mr. Goodman's actions demonstrate that he had no facts to support an assertion of existing medical liens. Despite his assertions that such liens existed, he repeatedly instructed Mr. Brooks and Attorneys Campbell and Sturr to produce evidence of those liens. When informed by Mr. Campbell that the County Recorder's website had been searched and no such liens were found, Mr. Goodman still refused to deliver the funds to either Mr. Brooks or the trust account of Osborn Maledon. That Mr. Goodman had no basis to withhold the $85,000 from Mr. Brooks is driven home not just by the fact that legally there could be no such liens against the settlement amount, but that on April 7, 2010, when Mr. Goodman had interpleaded the funds in Maricopa County Superior Court, he caused a letter to be sent to sixteen (16) of Mr. Brooks medical providers asking them if they had any such liens and if so would they forward documentation in support of them.

ER 1.16(d)

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 1.16(d) as alleged in Count Three. In relevant part, ER 1.16(d) states that "[U]pon the client's request, the lawyer shall provide the client with . . . all documents reflecting work performed for the client." Mr. Goodman never provided Mr. Brooks

or the attorneys that subsequently represented Mr. Brooks with invoices or any other documentation demonstrating the time spent working on the case and the costs incurred for that work.

ER 3.1

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 3.1 as alleged in Count Three. In relevant part, ER 3.1 prohibits lawyers from bringing a claim unless there is a good faith basis in law and fact for doing so that is not frivolous. Mr. Goodman had no legitimate legal or factual basis to file an interpleader action involving $85,000 of the $100,000 settlement check issued to Mr. Brooks by Progressive Insurance under his uninsured motorist coverage.

Mr. Goodman testified that he interpled the $85,000 because there were medical liens against the settlement. However, there could be no such medical liens because by law such liens cannot attach to settlements between an insured and their own insurance company under an under-insured or uninsured motorist claim. The amount issued to Mr. Brooks under his uninsured motorist coverage was his alone and not subject to any type of lien, unlike a settlement or judgment in a personal injury action. Even in personal injury cases where a plaintiff obtains a settlement or judgment from the liable party, a lawyer may only interplead that settlement or judgment amount if there is "substantial grounds for dispute as to the person entitled to the funds." Rule 42, ER 1.15, comment 4, Ariz. R. Sup. Ct.

Mr. Goodman had absolutely no facts or information that there were any such liens or claims to $100,000 paid to Mr. Brooks under his uninsured motorist coverage. The evidence demonstrated that Mr. Goodman initially made such an assertion based upon language in a letter from Progressive Insurance that

accompanied the second settlement check. [Ex. 31.] However, Mr. Goodman did not have actual knowledge of any matured legal or equitable claims against the settlement amount as evidenced by his repeated depends that Mr. Brooks, his subsequent counsel, and Mr. Brooks medical providers themselves provide him information as to any such claims. [Exs. 26, Bates 426-427; Ex. 29, Bates 450-459.] In addition, once the matter was litigated before Judge Donahoe, Mr. Goodman was even more aware that his clams lacked merit and his appeal of Judge Donahoe's judgment was particularly frivolous and without merit.

ER 3.3

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 3.3 as alleged in Count Three. In relevant part, ER 3.3 states that a lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of materials fact or law previously made to the tribunal by the lawyer. Mr. Goodman asserted to the Maricopa Superior Court that there were outstanding medical liens lodged against the settlement amount distributed to Mr. Brooks by his insurance carrier, Progressive Insurance. Mr. Goodman made these statements without knowledge of their truth and continued to make such assertions and argue that law supported his refusal to disburse the $85,000 he interpled when faced with law and facts to the contrary.

ERS 4.1 AND 4.4

The Panel finds clear and convincing evidence that Mr. Goodman violated ERs 4.1 and 4.4 as alleged in Count Three of the Complaint. In relevant part, ER 4.1 states that a lawyer, during the course of representing a client, shall not knowingly make a false statement of material fact or law to a third person. During the

pendency of the interpleader action involving the $85,000 of the $100,000 issued to Mr. Brooks by his insurance company under his uninsured motorist coverage, Mr. Goodman caused a contract employee to issue a letter to sixteen (16) medical providers that made false statements that medical providers had gone unpaid by Mr. Brooks and that Mr. Brooks had a "behavior of writing bad checks" to the detriment of Mr. Brooks. [Ex. 30.] There was no evidence that Mr. Brooks had not paid or was not in good standing with medical providers. The assertion that Mr. Brooks wrote any bad checks was without merit. The only possible basis for such an assertion was the check for $15,000 that Mr. Brooks wrote to Mr. Goodman in 2009, that Mr. Goodman deposited against his knowledge that Mr. Brooks account lacked funds and against an express agreement with Mr. Brooks that Mr. Goodman would hold the check until the proceeds from the first check issued by Progressive cleared. [See Ex. 25.]

In relevant part ER 4.4(a) prohibits a lawyer from using means that have no substantial purpose other than to embarrass, delay, or burden any other person. There was no basis for sending a letter to Mr. Brooks medical providers other than to embarrass and burden Mr. Brooks. The letter is particularly egregious in that is reveals substantial information protected by the attorney-client privilege that did not need to be disclosed in order to determine if there were medical liens by those providers. Such information could have been obtained without revealing the intricacies of the attorney-client relationship, the dispute between Mr. Brooks and Mr. Goodman and without making assertions that were injurious to the reputation of Mr. Brooks. Of significant import, Mr. Goodman could have done as Attorney Campbell did and searched the County Recorder website to determine if any such

liens existed – or researched the law regarding under-insured and uninsured motorist coverage and the ability to obtain liens to learn that no such liens could exist or did exist.

ER 8.4

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 8.4(c) and (d) as alleged in Count Three. In relevant part, ER 8.4(c) states it is professional misconduct for an attorney to engage in conduct that involves dishonesty, fraud, deceit or misrepresentation and ER 8.4(d) states it is professional misconduct to engage in conduct that is prejudicial to the administration of justice.

Mr. Goodman's conduct involved dishonesty and deceit. A review of the record, particularly the exhibits, demonstrates that Mr. Goodman would assert on one day that he had retained in his trust account the $15,000 he claimed was owed to him as his fee only to make a statement days later that he had transferred the money out of his trust account. There is ample evidence that Mr. Goodman transferred the funds out of his account very near the time he received the $100,000 settlement check on Mr. Brooks' behalf and repeatedly asserted, falsely, to attorneys and the court that he had not done so.

Mr. Goodman's conduct in relation to not only what he purported was his fee, but in particular with regard to the remaining $85,000 that belonged to Mr. Brooks was egregious and prejudicial to the administration of justice. Mr. Brooks was entitled to those funds. More importantly, he required those funds to continue payment of medical bills and to obtain future treatment for the extensive injuries he suffered. [Testimony of Brooks, Dec. 10, 2013.] Mr. Goodman was uninformed as

to the law relating to uninsured motorist coverage and the inability to attach medical liens to a settlement under such coverage, yet he continued to come up with reasons why his misconduct was justified, constantly changing his arguments despite continually being faced with information and law to the contrary. The litigation that ensured was a waste of valuable court time and resources and deprived Mr. Brooks of that which was rightfully his.

D. Count Four (Viske)

The Panel finds clear and convincing evidence that Mr. Goodman violated the ethical rules detailed below as alleged in paragraphs 85, 86, and 88 of Count Four of the Complaint.

ER 1.5

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 1.5 as alleged in Count Four. In relevant part, ER 1.5(d)(3) states that a lawyer shall not enter into an arrangement for, charge, or collect a fee denominated as "earned upon receipt," "nonrefundable" or in similar terms unless the client is simultaneously advised in writing that the client may nevertheless discharge the lawyer at any time and in that event may be entitled to a refund of all or part of the fee based upon the value of the representation pursuant to paragraph (a) of ER 1.5.

The fee letter Mr. Goodman provided to Ms. Viske contains language indicating that Ms. Viske had paid a "$25,000 earned fee" for services rendered and later the letter states that the "firm is requesting an earned fee retainer as discussed," however, there is no language in the letter indicating that Ms. Viske was entitled to terminate the attorney-client relationship at any time and may be entitled to a refund. [Ex. 51.]

ER 1.15(d)

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 1.15 as alleged in Count Four. In relevant part, ER 1.15(d) requires a lawyer to promptly render a full accounting regarding property, such as fees, when requested by a client or third party. The State Bar requested that Mr. Goodman provide an accounting of time spent on Ms. Viske's matter. [Ex. 59, Bates 702.] Mr. Goodman failed to respond and provide such an accounting and instead demanded that the State Bar must provide him with such accounting. [Ex. 60, Bates 703-704.]

ER 8.1(b) and Rules 54 and 72

The Panel finds clear and convincing evidence that Mr. Goodman violated ER 8.1 as alleged in Count Four. In relevant part, ER 8.1(b) states that a lawyer shall not knowingly fail to respond to a lawful demand for admission from a disciplinary authority. The State Bar informed Mr. Goodman of the bar charge related to Ms. Viske's complaint and requested his response. [Ex. 54.]

Rule 54(d)(2) provides in relevant part that the failure to furnish information or respond constitutes grounds for discipline. The State Bar continued to request information from Mr. Goodman over a period of time, however, Mr. Goodman either failed to respond or his responses did not address the State Bar's specific requests. [Exs. 54-57, 59-61.] Mr. Goodman's emails to the State Bar reflect he was aware of their requests and of any deficiencies in any information he did provide. [Id.]

Rule 72(a) provides in relevant part that within 10 days after an order or judgment issued, a respondent suspended shall provide notice to clients, adverse parties and other counsel by registered or certified mail of the fact that they are disqualified to act as a lawyer. Mr. Goodman failed to notify Ms. Viske of his suspension effective July 11, 2011.

The Panel does not find clear and convincing evidence that Mr. Goodman's conduct violated ERs 1.3, 1.4, and 1.16(d) as alleged in paragraphs 83-84 and 87 of the Complaint.

V. SANCTIONS

In determining an appropriate sanction, the Panel considered the American Bar Association's *Standards for Imposing Lawyer Sanctions* ("*Standards*") as a guideline. Rule 58(k), Ariz. R. Sup. Ct. The appropriate sanction turns on the unique facts and circumstances of each case. *In re Wolfram*, 174 Ariz. 49, 59, 847 P.2d 94, 104 (1993).

Analysis under the ABA *Standards*

Generally, when weighing what sanction to impose, the Panel considers 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, 33, 35, 90 P.3d 764, 770 (2004). *See also Standard* 3.0.

Although the *Standards* do not account for multiple charges of lawyer misconduct, the sanction imposed should at least be consistent with the sanction for the most serious misconduct that has been found. *Theoretical Framework*, p. 7. Consideration is also given to the degree of harm caused by the misconduct. *Matter of Scholl*, 200 Ariz. 222, 224-225, 25, P.3d 710 (2001).

In these matters, Mr. Goodman knowingly, if not intentionally and with the intent to obtain a benefit for himself, violated his duties owed to the legal system, his former clients, and as a professional.

Standard 5.1, Failure to Maintain Personal Integrity, is applicable to Mr. Goodman's violation of ERs 8.1(b) and 8.4(c). *Standard* 5.11 provides that:

> Disbarment is generally appropriate when:
> (a) [not applicable]
> (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.

Mr. Goodman violated ER 8.1(b) by knowingly, if not intentionally, failing to respond to requests for additional information from bar counsel related to the misconduct in Count One (the Horwitz matter) and Count Four (Viske). [See paragraphs 20 and 80 of Complaint.] In addition, Mr. Goodman violated ER 8.4(c) by knowingly if not intentionally, filing a meritless interpleader action in Count Three (Brooks) that had no legal or factual basis and by falsely alleging there was a dispute to $85,000 of the $100,000 judgment awarded to Brooks. [See paragraph 71 of Complaint.]

Standard 6.1, False Statements, Fraud and Misrepresentation is applicable to Respondent's violations of ERs 3.3(a), 4.1(a) and 8.4(d). *Standard* 6.11 provides that:

> Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and cause serious or potentially serious injury to a party, or causes serious or potentially serious adverse effect on the legal proceeding.

Mr. Goodman violated ER 3.3(a)(3) by falsely asserting in the complaint to the interpleader action in Count Three (Brooks), that there was a dispute to $85,000 of the $100,000 settlement issued by Progressive Insurance.

Mr. Goodman violated ER 4.1(a) by sending defamatory correspondence to Mr. Brooks treating physicians and insurance companies which falsely stated that the medical providers were not paid, that Mr. Brooks refused to provide copies of his medical bills, and Mr. Brooks had a habit of writing bad checks.

Further, Mr. Goodman violated ER 8.4(d) in Count One (Horwitz matter) by filing a number of pleadings in the form of a motion for new trial, motion for sanctions, and motion for reconsideration that were incomprehensible and that had no basis in law or fact and were ultimately untimely filed, failed to respond to the Blackbourns' summary judgment motion and motion for attorneys' fees. In addition, Mr. Goodman wasted the time and resources of the Maricopa Superior Court and Court of Appeals, Division One, in the Brooks matter by pursuing a frivolous interpleader action and a frivolous appeal.

Standard 6.2, Abuse of the Legal Process is applicable to Respondent's violation of ERs 3.1 and 4.4(a). *Standard* 6.21 provides that:

> 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 cause serious injury or potentially serious injury to a party, or causes serious or potentially serious interference with a legal proceeding.

Mr. Goodman violated ERs 3.1 and 4.4(a) in the Horwitz matter by filing pleadings, particularly the complaint, amended complaint, motion for new trial, motion for sanctions, and motion for reconsideration that were frivolous and had no substantial purpose other than to embarrass, delay or burden the Blackbourns. Respondent also failed to take steps to conduct appropriate discovery or submit facts to support Valente's claims and failed to respond to a motion for summary judgment and a motion for attorneys' fees. Mr. Goodman also violated ERs 3.1 and 4.4 in the Brooks matter by filing an interpleader action that lacked merit and that contained false statements and by sending a defamatory letter to Mr. Brooks treating doctors and insurers, falsely stating that medical providers had not been

paid and that Mr. Brooks had a "behavior of writing bad checks" that embarrassed and burdened Mr. Brooks and caused delay in resolving his case.

Standard 7.0, Violation of Duties Owed as a Professional is applicable to Respondent's violation of ERs 1.5(b), 1.16(d) 5.5(a), 8.1(b) and Rule 54. *Standard* 7.1 provides that:

> 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.

Mr. Goodman violated ERs 1.5(b) and 8.1(b) and Rule 54 of the Arizona Rules of the Supreme Court in the Horwitz/Valente matter by failing to provide the scope of representation and fee agreement in writing and for failing to provide an accounting of how the fee was earned, and failing to provide the State Bar with information it requested in the course of the investigation. Mr. Goodman also violated ER 5.5(a) and Rule 54 of the Arizona Rules of the Supreme Court in Count Two (Summitt Builders/Goodman/Entitles) by trying to circumvent his suspension through an assignment of his and other business entities' rights to himself and then prosecuting them as a pro per (self-represented) litigant. Mr. Goodman also violated ERs 1.5 and 1.16, in the Brooks matter (Count Three) by not providing a written fee agreement, unilaterally changing the fee agreement with Mr. Brooks, charging a fee without explanation, not providing any writing of the alleged change in fee agreement and failing to deliver the $85,000 of the $100,000 settlement Mr. Brooks was entitled to upon receipt of the settlement check, and at the latest, when requested by Mr. Brooks and by his subsequent counsel.

Given the facts of this matter and upon consideration of the *Standards* applied to Respondent's most serious misconduct, the Panel determined that the

presumptive sanction is disbarment. Mr. Goodman's misconduct was knowing if not intentional, and with the intent to obtain a benefit for himself and causing actual injury to his clients.

***Standard* 9.0, Aggravating and Mitigating Factors**

In attorney discipline proceedings, aggravating factors need only be supported by reasonable evidence. *In re Matter of Peasley*, 208 Ariz. 27, 90 P.3d 764 (2004). The Panel finds the evidence supports the existence of the following aggravating factors: 9.22(a) prior disciplinary offense, 9.22(b) (dishonest or selfish motive), 9.22(c) a pattern of misconduct, 9.22(d) (multiple offenses), 9.22(e) bad faith obstruction of the disciplinary proceedings, 9.22(g) (refusal to acknowledge wrongful nature of conduct), 9.22(i) (substantial experience in the practice of law), and 9.22(j) indifference to making restitution.

No evidence of mitigation was offered by Mr. Goodman or the State Bar, nor does the Panel find evidence in support of mitigation.

VI. CONCLUSION

The Panel has weighed the facts and circumstances in this matter and has considered the applicable *Standards* including the aggravating and mitigating factors. Because honesty, candor and a due respect for the rule of law are cornerstones of the legal profession, misconduct such as Mr. Goodman's cannot and will not be tolerated. Respondent must therefore be disbarred.

IT IS ORDERED disbarring Grant H. Goodman, Bar No. 009463 effective immediately and his name is hereby stricken from the roll of lawyers. Mr. Goodman 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 that Mr. Goodman shall comply with all orders or judgments imposed by Arizona courts.

IT IS FURTHER ORDERED that Mr. Goodman shall comply with all provisions of Rule 72, Ariz. R. Sup. Ct., including notice to clients and others.

IT IS FURTHER ORDERED that Mr. Goodman shall pay the costs associated with these disciplinary proceedings.

DATED this 13th day of January, 2014.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

CONCURRING

Edward J. Luterbach

Edward Luterbach, Volunteer Public Member

Ralph J. Wexler

Ralph J. Wexler, Volunteer Attorney Member

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 13th day of January, 2014.

Copies of the foregoing mailed/emailed
this 13th day of January, 2014, to:

Shauna R. Miller
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Respondent Pro Per

Sandra Montoya
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by: MSmith

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **GRANT H. GOODMAN,** **Bar No. 009463** Respondent.	**PDJ-2013-9065** **JUDGMENT OF DISBARMENT** [State Bar Nos. 11-2739, 11-3298, 12-2716 **FILED: FEBRUARY 24, 2014**

This matter having come before the Hearing Panel of the Supreme Court of Arizona, the Hearing Panel having duly rendered its decision, and no appeal having been filed pursuant to Rule 59(a), Ariz.R.Sup.Ct., accordingly:

IT IS HEREBY ORDERED that Respondent, **GRANT H. GOODMAN**, is hereby disbarred from the State Bar of Arizona and his name is hereby stricken from the roll of lawyers effective **January 13, 2014.** Mr. Goodman 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 that Respondent, **GRANT H. GOODMAN** 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 that Respondent, Grant Goodman pay those costs and expenses awarded to the State Bar of Arizona in the amount of

$4,300.87. 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 24th day of February, 2014.

/s/ *William J. O'Neil*

The Honorable William J. O'Neil
Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 24th day of February, 2014.

Copies of the foregoing mailed/emailed
this 24th day of February, 20134 to:

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