

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

LAURA A. LEHAN,
Bar No. 012342

Respondent.

PDJ-2015-9022

FINAL JUDGMENT AND ORDER

[State Bar File Nos. 14-1674, 14-
2287, and 14-2298]

FILED JUNE 16, 2015

This matter having come on for hearing before the Hearing Panel of the Supreme Court of Arizona, it having duly rendered its decision, no appeal having been filed and the time to appeal having expired, accordingly,

IT IS HEREBY ORDERED Respondent **LAURA A. LEHAN**, is disbarred practice of law effective May 27, 2015, for conduct in violation of her duties and obligations as a lawyer as disclosed in the Hearing Panel's Decision and Order Imposing Sanctions filed on May 27, 2015. Ms. Lehan's name is hereby stricken from the roll of lawyers and she 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 Ms. Lehan 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 Ms. Lehan shall pay restitution as follows:

- \$2,000.00 to Benjamin Gurgon (Count Three)

IT IS FURTHER ORDERED Ms. Lehan shall return client Erica Smith's documents.

IT IS FURTHER ORDERED Ms. Lehan shall pay the costs and expenses of the State Bar of Arizona in the amount of \$2,000.00.

DATED this 16th day of June, 2015.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed this 16th day of June, 2015, to:

Hunter F. Perlmeter
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Laura A. Lehan
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Respondent

Lawyer Regulation Records Manager
State Bar of Arizona
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Phoenix, Arizona 85016-6288

by: JAlbright

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**LAURA A. LEHAN
Bar No. 012342**

Respondent.

PDJ 2015-9022

**DECISION AND ORDER IMPOSING
SANCTIONS**

[State Bar Nos. 14-1674, 14-2287, and
14-2298]

FILED MAY 27, 2015

PROCEDURAL HISTORY

The State Bar of Arizona ("SBA") filed its complaint on March 18, 2015. On March 19, 2015, the complaint was served on Ms. Lehan by certified, delivery restricted mail, and by regular first class mail, under Rules 47(c) and 58(a) (2), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge ("PDJ") was assigned to the matter. A Notice of Default was properly issued on April 15, 2015. Ms. Lehan filed no answer or otherwise defended during the default period, and default was effective on May 7, 2015, at which time a notice of aggravation and mitigation hearing was sent to all parties notifying them of a hearing set for May 27, 2015 at 9:30 a.m., at the State Courts Building, 1501 West Washington, Phoenix, Arizona 85007-3231. On that date, Hunter F. Perlmeter appeared on behalf of the State Bar of Arizona. Laura A. Lehan did not appear. The Hearing Panel, composed of the PDJ, Scott I. Palumbo, attorney member and Thomas C. Schleifer, Ph.D., public member, heard this matter.

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

Due process requires a hearing panel to independently determine whether, under the facts deemed admitted, ethical violations have been proven by clear and convincing evidence. The hearing panel must also exercise discretion in deciding whether sanctions should issue for the respondent's misconduct. If the hearing panel finds that sanctions are warranted, then it independently determines which sanctions should be imposed. It is not the function of the hearing panel to endorse or "rubber stamp" any request for sanctions.

We find there is clear and convincing evidence to support the allegations within the complaint. The State Bar requests disbarment and restitution. We find that sanction satisfies the purpose of lawyer discipline.

FINDINGS OF FACT

The facts listed below are those set forth in the SBA's complaint and "shall be deemed admitted" by the effective entry of default under Supreme Court Rule 58(d). We find there is clear and convincing evidence to support the admitted allegations.

1. Ms. Lehan was a lawyer licensed to practice law in Arizona having been first admitted to practice in Arizona on October 21, 1988.

2. On April 30, 2014, Ms. Lehan was suspended for six months and one day in consolidated case no. PDJ 2013-9100 and PDJ 2014-9011 effective May 15, 2014, for her conduct in five matters. Ms. Lehan violated ER(s) 1.2, 1.3, 1.4, 1.15, 1.16(d), 3.4(c), and 8.4(d). She has not sought reinstatement.

COUNT ONE (File No. 14-1674/ Wagner)

3. Ms. Lehan represented Robert Wagner (Wagner) in a child custody case (Maricopa County Superior Court case no. DR 1999-013738) for approximately two years on a flat fee of \$5,000.

4. Ms. Lehan appeared on Wagner's behalf at two hearings and made several court filings until her suspension from the practice of law.

5. Ms. Lehan did not inform Wagner of her suspension. He was advised of the suspension by another attorney and has been unsuccessful in his attempts to contact Ms. Lehan concerning a partial refund. [SBA Ex. 1.]

6. After Ms. Lehan abandoned his case, Wagner and his ex-wife stipulated to dismiss the child custody action.

7. Ms. Lehan has failed to respond to the bar charge and has failed to offer a refund. [SBA Ex. 2-4, 6.]

COUNT TWO (File No. 14-2287/Smith)

8. Complainant Erica Smith (Smith) hired Ms. Lehan on a contingency fee agreement to represent her in a personal injury case. Ms. Lehan filed a civil complaint on his behalf on June 14, 2013. (Maricopa County Superior Court case no. CV2013-003957). [SBA Ex. 7.]

9. During the representation, Ms. Lehan lost documents and failed to return phone calls.

10. Ms. Lehan failed to inform Smith of her suspension from the practice of law in early 2014. Complainant learned of the suspension from the State Bar.

11. Ms. Lehan has failed to return phone calls from Smith, who has attempted to obtain paperwork she provided to Ms. Lehan.

12. Ms. Lehan has failed to respond to the bar charge. [SBA Ex. 8-10, 12.]

COUNT THREE (File No. 14-2298/Gurgon)

13. Complainant Ben Gurgon (Gurgon) hired Ms. Lehan to help him obtain joint custody of his son. Ms. Lehan collected \$2,000 from Complainant on May 24, 2012. [SBA000023.]

14. Ms. Lehan wrote a letter to the mother of Gurgon's son on December 31, 2013, requesting joint custody.

15. Ms. Lehan also drafted, but never filed, a Motion to Establish Joint Legal Decision Making; Parenting Time and Child Support.

16. Upon being suspended in the spring of 2014, Ms. Lehan failed to notify Gurgon of her suspension by certified mail as required by Rule 72(a). She told Gurgon orally that she had been suspended and that another attorney, Steve Feola might assist him with his case. Feola, however, required additional funds that Gurgon did not wish to spend.

17. Gurgon attempted to communicate with Ms. Lehan regarding a partial refund on a few occasions concerning his matter, but received no substantive response. [SBA Ex. 13.]

18. Ms. Lehan has failed to respond to the bar charge or offer a refund. [SBA Ex. 14-16, 18.]

Rule Violations:

19. Ms. Lehan violated ER 1.4(a) requiring a lawyer to reasonably consult with her client.

20. Ms. Lehan violated ER 1.15 requiring a lawyer to safeguard client property and render an accounting upon request or refund unearned fees.

21. Ms. Lehan violated ER 1.16(d) requiring a lawyer upon termination of representation to try to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee not earned. Upon the client's request, the lawyer shall provide the client all of the client's documents, and all documents reflecting work performed by the client.

22. Ms. Lehan violated ER 8.1(b) requiring a lawyer to respond to a lawful demand for information from a disciplinary authority.

23. Ms. Lehan violated Rule 54(d) requiring a lawyer to promptly respond to an inquiry from bar counsel.

24. Ms. Lehan violated Rule 72(a) requiring a lawyer within 10 days after an order suspending her to notify clients by registered or certified mail, return receipt requested, of the order or judgment of suspension and that the lawyer is disqualified to act as a lawyer after the effective date of the suspension.

25. Ms. Lehan violated Rule 72(c) requiring a lawyer to return client property upon being suspended.

CONCLUSIONS OF LAW

Ms. Lehan failed to file an answer or otherwise defend against the allegations in the SBA's complaint. She made no response to the State Bar inquires. Default was effective and the allegations are deemed admitted under Rule 58(d), Ariz. R. Sup. Ct. Based upon the evidence and the facts deemed admitted, the Hearing Panel finds by clear and convincing evidence that Ms. Lehan violated: Rule 42, Ariz. R. Sup. Ct., specifically E.R.s 1.4(a), 1.15, 1.16(d), 8.1(b), Rule 54(d), and Rule 72(a) and (c).

ABA STANDARDS ANALYSIS

The American Bar Association's *Standards for Imposing Lawyer Sanctions* ("*Standards*") are a "useful tool in determining the proper sanction." *In re Cardenas*, 164 Ariz. 149, 152, 791 P.2d 1032, 1035 (1990). In imposing a sanction, the following factors should consider: (1) the duty violated; (2) the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating factors. *Standard 3.0*.

Duties violated:

Ms. Lehan violated her duty to her clients by violating ERs 1.4(a), 1.15, 1.16(d), 8.1(b), Rule 54(d), and Rule 72(a) and (c).

Mental State and Injury:

Ms. Lehan violated her duty to clients, implicating *Standard 4.4*. *Standard 4.41* states Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client;

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

Ms. Lehan abandoned the practice, knowingly failed to perform services for clients, and engaged in a pattern of neglect of client matters. All of Ms. Lehan's failures caused serious or potentially serious injury to clients. Therefore, *Standard 4.41* applies.

AGGRAVATING AND MITIGATING FACTORS

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

- *Standard 9.22(a)* Prior disciplinary offenses
- *Standard 9.22(c)* A pattern of misconduct
- *Standard 9.22(d)* Multiple offenses
- *Standard 9.22(e)* bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency.
- *Standard 9.22(i)* substantial experience in the practice of law
- *Standard 9.22(j)* indifference to making restitution

The Hearing Panel finds there are no mitigating factors present in the record.

CONCLUSION

The Supreme Court "has long held that 'the objective of disciplinary proceedings is to protect the public, the profession and the administration of justice and not to punish the offender.'" *Alcorn*, 202 Ariz. 62, 74, 41 P.3d 600, 612 (2002) (quoting *In re Kastensmith*, 101 Ariz. 291, 294, 419 P.2d 75, 78 (1966)). It is also the purpose of lawyer discipline to deter future misconduct. *In re Fioramonti*, 176 Ariz. 182, 859 P.2d 1315 (1993). It is also a goal of lawyer regulation to protect and

instill public confidence in the integrity of individual members of the SBA. *Matter of Horwitz*, 180 Ariz. 20, 881 P.2d 352 (1994).

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

1. Ms. Lehan shall be disbarred from the practice of law, effective immediately.
2. Ms. Lehan shall pay all costs and expenses incurred by the SBA. There are no costs incurred by the Office of the Presiding Disciplinary Judge.
3. Ms. Lehan shall return Erica Smith's documents. (Count Two).
4. Ms. Lehan shall pay the following in restitution: Two Thousand Dollars (\$2,000.00) to Benjamin Gurgon, (Count Three).

A final judgment and order shall follow.

DATED this 27th day of May, 2015.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Thomas C. Schleifer

Thomas C. Schleifer, Volunteer Public Member

Scott I Palumbo

Scott I. Palumbo, Volunteer Attorney Member

Copies of the foregoing mailed/emailed
this ___ day of May, 2015.

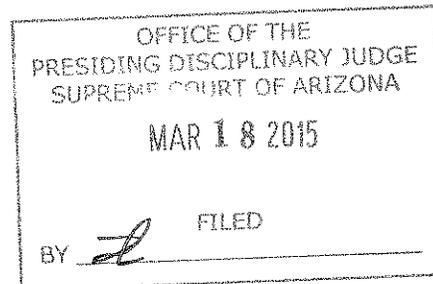
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**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

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

**LAURA A. LEHAN,
Bar No. 012342,**

Respondent.

PDJ 2015-9022

COMPLAINT

[State Bar No. 14-1674, 14-2287,
14-2298]

Complaint is made against Respondent as follows:

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on October 21, 1988.

COUNT ONE (File no. 14-1674/Wagner)

2. Respondent represented Robert Wagner (Wagner) in a child custody case (Maricopa County Superior Court case no. DR 1999-013738) for approximately two years on a flat fee of \$5,000.

3. Respondent appeared on Wagner's behalf at two hearings in the case and made a number of court filings up until her suspension from the practice of law in the spring of 2014.

4. Respondent did not inform Wagner of her suspension. He was advised of the suspension by another attorney and has been unsuccessful in his attempts to contact Respondent concerning a partial refund.

5. After Respondent abandoned his case, Wagner and his ex-wife stipulated to dismiss the child custody action.

6. Respondent has failed to respond to the bar charge.

COUNT TWO (File no. 14-2287/Smith)

7. Complainant Erica Smith (Smith) hired Respondent on a contingency fee agreement to represent her in a personal injury case (Maricopa County Superior Court case no. CV2013-003957).

8. Respondent filed a civil complaint on June 14, 2013.

9. During the representation, Respondent lost documents and failed to return phone calls.

10. Respondent failed to inform Smith of her suspension from the practice of law in early 2014. Complainant learned of the suspension from the State Bar.

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14. Respondent wrote a letter to the mother of Gurgon's son on December 31, 2013, requesting joint custody.

15. Respondent also drafted, but never filed a Motion to Establish Joint Legal Decision Making; Parenting Time and Child Support.

16. Upon being suspended in the spring of 2014, Respondent failed to notify Gurgon of her suspension by certified mail as required by Rule 72(a). She did tell Gurgon orally that she had been suspended and that another attorney, Steve Feola might be able to assist him with his case. Feola, though, required additional funds that Gurgon did not wish to spend.

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21. Respondent violated ER 1.16(d) that requires a lawyer upon termination of representation to take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned. Upon the client's request, the lawyer shall provide the client all of the client's documents, and all documents reflecting work performed by the client.

22. Respondent violated ER 8.1(b) that requires a lawyer to respond to a lawful demand for information from a disciplinary authority.

23. Respondent violated Rule 54(d) that requires a lawyer to promptly respond to an inquiry from bar counsel.

24. Respondent violated Rule 72(a) that requires a lawyer within 10 days after the date of an order suspending her to notify clients by registered or certified mail, return receipt requested, of the order or judgment of suspension and of the fact that the lawyer is disqualified to act as a lawyer after the effective date of the suspension.

25. Respondent violated Rule 72(c) that requires a lawyer to return client property upon being suspended.

DATED this 18th day of March, 2015.

STATE BAR OF ARIZONA



Hunter F. Perlmeter
Staff Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 18th day of March, 2015.

by: 
HFP/jao

FILED

MAR 04 2015

STATE BAR OF ARIZONA

BY

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

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

**LAURA A. LEHAN
Bar No. 012342**

Respondent.

Nos. 14-1674, 14-2287 and 14-2298

PROBABLE CAUSE ORDER

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on February 20, 2015, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 6-0-3¹, the Committee finds probable cause exists to file a complaint against Respondent in File Nos. 14-1674, 14-2287 and 14-2298.

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

Parties may not file motions for reconsideration of this Order.

DATED this 3 day of March, 2015.



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

¹ Committee members Ella G. Johnson, Ben Harrison and Donald G. Manning did not participate in this matter.

Original filed this 4th day
of March, 2015, with:

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Respondent

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by: 