

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

PAUL M. CRANE,
Bar No. 010586

Respondent.

PDJ 2021-9024

**DECISION AND ORDER
IMPOSING SANCTIONS**

[State Bar No. 20-1592]

FILED JULY 27, 2021

PROCEDURAL HISTORY

The State Bar filed a one-count complaint against Respondent Paul M. Crane on April 14, 2021. On April 15, 2021, the complaint was served on Respondent 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. A notice of default was issued on May 21, 2021 due to Respondent's failure to file an answer or otherwise defend. Respondent did not thereafter appear in these proceedings. As a result, default became effective on June, 14, 2021, at which time notice of an aggravation/mitigation hearing was sent to all parties.

On July 26, 2021, a hearing panel comprised of Presiding Disciplinary Judge Margaret H. Downie, attorney member Judge William J. O'Neil (Ret.), and public member Richard L. Westby heard argument and considered the record before it. Senior Bar Counsel David L. Sandweiss appeared on behalf of the State Bar. Mr. Crane did not

appear. Exhibits 1-8 were admitted into evidence. The facts set forth in the State Bar's complaint have been deemed admitted.

FINDINGS OF FACT

1. Respondent was admitted to the State Bar of Arizona on May 10, 1986. On June 9, 2020, he was administratively suspended for non-payment of dues.

2. In September 2019, Antonia Lopez retained Respondent to evaluate her legal rights against a solar power company (Titan Solar) and its financing arm (Mosaic). Mrs. Lopez paid Respondent's fee of \$200.00.

3. Respondent later asked Mrs. Lopez to obtain an English language version of the Mosaic contract because he was unable to read Spanish.

4. Mrs. Lopez told Respondent that, despite many attempts, she could not reach anyone at Mosaic or Titan, so Respondent said he would try to reach them. Respondent also was unable to reach anyone at Mosaic or Titan.

5. In November 2019, Respondent told Mrs. Lopez he would not proceed with the representation unless she signed a retention agreement. Mrs. Lopez signed a retention agreement and, on November 25, 2019, paid Respondent a \$1,500 "retainer."

6. Mrs. Lopez and her husband met with Respondent at his home on December 23, 2019 to discuss options.

7. Respondent required more money, so Mrs. Lopez paid him an additional \$2,500 by January 8, 2020.

8. Mrs. Lopez subsequently reached Respondent by phone only a couple of times out of many tries, and Respondent replied to only two of her many emails.

9. During one conversation, Respondent told Mrs. Lopez he had gone to Sedona but would file suit upon his return. Respondent did not file suit.

10. Mrs. Lopez' last communication with Respondent was by email on March 13, 2020. Since then, Respondent has responded to none of her numerous phone messages or emails asking for the status of her legal matter.

11. Mrs. Lopez went to Respondent's house, but he no longer lives there.

12. Respondent has not notified Mrs. Lopez of his June 2020 suspension from the practice of law.

13. On July 21, 2020, State Bar intake counsel Nicole Kaseta emailed Respondent with a request that he contact her to discuss Mrs. Lopez' charge. Respondent did not respond. Ms. Kaseta tried to reach Respondent again on July 27, 2020, but he again did not respond.

14. Respondent failed to respond to bar counsel's screening investigation letters dated July 30, 2020 and February 19, 2021.

CONCLUSIONS OF LAW

Clear and convincing evidence establishes that Respondent violated Rule 42, Ariz. R. Sup. Ct., specifically, ERs 1.3, 1.4, 1.5, and 8.1, as well as Rules 54 and 72, Ariz. R. Sup. Ct.

ABA STANDARDS ANALYSIS

Sanctions imposed against lawyers “shall be determined in accordance with the American Bar Association *Standards for Imposing Lawyer Sanctions* (“Standards”).” Rule 58(k), Ariz. R. Sup. Ct. In fashioning a sanction, the hearing panel considers the following factors: (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:

Respondent violated duties owed to his client (ERs 1.3, 1.4, 1.5 and Rule 72), as well as duties owed as a professional (ER 8.1 and Rules 54 and 72).

Mental State:

Respondent acted at least knowingly, and perhaps intentionally, in failing to follow through on his representation of Mrs. Lopez. Respondent also failed to advise Mrs. Lopez of his administrative suspension, though nothing in the record establishes his actual notice of that suspension. Although the State Bar may properly rely on Respondent’s address of record, mail sent to that address has been returned. For this

reason, the panel cannot find that Respondent knowingly or intentionally failed to cooperate with the State Bar in these proceedings. He did, however, fail to comply with Rule 32(c)(4)(iii), which requires all “members” to provide the State Bar with a current street address, email address, telephone number, and any other post office address the member may use. A suspended member is considered a “member” of the State Bar. *See* Rule 32(c)(1).

Injury:

Complainant suffered a monetary injury, having paid Respondent \$4,200 and received no corresponding benefit.

The hearing panel concludes that the following *Standards* apply:

Standard 4.42 Suspension is generally appropriate when:

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

Standard 7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury to a client, the public, or the legal system.

AGGRAVATING AND MITIGATING FACTORS

Based on the record before it, the hearing panel finds the existence of the following aggravating factors:

1. *Standard 9.22(a)*: prior disciplinary offenses – Respondent received a censure (currently, a reprimand) and was placed on probation for two years (CLE, LOMAP, MAP, and costs) in 2008.
2. *Standard 9.22(i)*: substantial experience in the practice of law.

The record establishes the existence of one mitigating factor -- *Standard 9.32(m)*: remoteness of prior offenses.

Given Respondent's abandonment of his client and his failure to refund fees that were clearly excessive under the circumstances, the hearing panel concludes the presumptive sanction of suspension, payment of restitution to Mrs. Lopez in the sum of \$4,200, and assessment of costs is appropriate. A suspension of one year is necessary to protect the public and ensure that if Respondent applies for reinstatement, he is required to demonstrate, among other things, rehabilitation. *See* Rule 65, Ariz. R. Sup. Ct.

CONCLUSION

The purpose of lawyer discipline is to protect the public and the administration of justice, as well as to deter both the respondent attorney and members of the bar at large from engaging in the same or similar misconduct. *In re Zawada*, 208 Ariz. 232, 236 (2004). Attorney discipline also aims "to instill public confidence in the Bar's integrity." *In re Phillips*, 226 Ariz. 112, 117 (2010).

Based on the foregoing, the hearing panel orders as follows:

- a) Respondent Paul M. Crane is suspended from the practice of law in Arizona for a period of one year, effective immediately;

b) Respondent shall pay all costs and expenses incurred by the State Bar. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in this proceeding;

c) Respondent shall pay restitution in the sum of \$4,200 to Antonia Lopez within thirty (30) days of entry of the final judgment and order.

A final judgment and order will follow.

DATED this 27th day of July 2021.

/s/ signature on file
Margaret H. Downie, Presiding Disciplinary Judge

/s/ signature on file
Judge William J. O'Neil (Ret.), Attorney Member

/s/ signature on file
Richard L. Westby, Public Member

Copy of the foregoing emailed
this 27th day of July, 2021, to:

Paul M. Crane
929 W. Pierson Street
Phoenix, Arizona 85013-2485
Email: paulcrane@msn.com
Respondent

David L. Sandweiss
Senior Bar Counsel
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
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PAUL M. CRANE,
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**FINAL JUDGMENT AND
ORDER**

[State Bar No. 20-1592]

FILED AUGUST 12, 2021

The hearing panel issued its decision on July 27, 2021 imposing a one-year suspension and the payment of restitution and costs. No appeal has been filed pursuant to Rule 59, Ariz. R. Sup. Ct. The State Bar filed its Statement of Costs and Expenses on August 4, 2021 pursuant to Rule 60(d). No objection has been filed.

IT IS THEREFORE ORDERED that Respondent **PAUL M. CRANE, Bar No. 010586**, is suspended from the practice of law in Arizona for one-year effective July 27, 2021, for his conduct in violation of the Arizona Rules of Professional Conduct.

IT IS FURTHER ORDERED that Respondent shall comply with the requirements of Rule 72, Ariz. R. Sup. Ct., including notifying clients, counsel and courts of his suspension.

IT IS FURTHER ORDERED that Respondent shall pay restitution to Antonia Lopez in the sum of \$4,200.00.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses of the State Bar of Arizona in the sum of \$2,000.00. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 12th day of August 2021.

Margaret H. Downie

Margaret H. Downie
Presiding Disciplinary Judge

COPY of the foregoing e-mailed
on this 12th day of August 2021, to:

Paul M. Crane
929 W. Pierson Street
Phoenix, Arizona 85013-2485
Email: paulcrane@msn.com
Respondent

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: SHunt