

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

RYAN MICHAEL SCOTT,
Bar No. 029425

Respondent.

PDJ-2019-9018

**ORDER OF INTERIM
SUSPENSION**

[State Bar No. 18-2831]

FILED MAY 8, 2019

On April 3, 2019, the State Bar of Arizona moved for Interim Suspension (Motion) of Respondent, Ryan Michael Scott, Bar No. 029425 under Rule 61, Ariz. R. Sup. Ct. The allegations in the Motion were supported by a separate affidavit which attached bank records as Exhibits A-E. Mr. Scott filed his Response to Motion for Interim Suspension (Response) on April 22, 2019. His response stated: he had no prior history of misconduct; he was unable to provide an explanation regarding the missing \$10,000; he had no accurate accounting of his services or fee agreement but believes there may have been communications about a fee agreement; he had personal difficulties arising from his divorce; he had co-mingled the monies of his clients with his personal funds; and he intends to close his practice.

An evidentiary hearing was held on May 7, 2019. Bar Counsel Kelly Flood appeared for the State Bar of Arizona. Ryan Michael Scott appeared representing himself. Exhibits 1-23 were admitted. At the hearing, Mr. Scott stated he was

invoking his right not to testify. He did not dispute the allegations in the complaint and while not admitting any of the allegations, agreed that it was appropriate and that all should be made findings by the Presiding Disciplinary Judge (PDJ).

Having agreed that the evidence warranted a finding of probable cause, Mr. Scott argued mitigation. He stated he was working as a contract lawyer for Benjamin Dodge of *Dodge & Vega Law Firm* and represents approximately seventy (70) clients through that arrangement. He stated he had a physician diagnose medical concerns regarding him. He stated his arrears in child support had been resolved. He stated that restitution had been made [Exhibit 23]. However, there was no physical evidence provided to the State Bar prior to or at the evidentiary hearing of those positions or other mitigation he claimed. Specifically, there was no evidence that the restitution check had been received or cashed by the client.

The State Bar had substantive evidence that the monies of his client were put in his operating account and his personal accounts.

Rule 61(c)(2) sets forth the procedural grounds by which an interim suspension may be sought. Under Rule 61(a), an interim suspension may be entered upon a showing of probable cause that a lawyer "is engaging in conduct that has caused or is likely to cause immediate and substantial harm to clients, the public, or the administration of justice."

Probable cause is most frequently defined in criminal cases. "Probable cause" to search is information sufficient to justify a belief by a reasonable person that the offense has been or is being committed, and that items connected with crime will be found in a place that the officer proposes to search. *State v. Swanson* 172 Ariz. 579 (1992). "Probable cause" for arrest without warrant is something less than proof needed to convict and something more than a raw unsupported suspicion; it is a suspicion or belief of guilt that is well-grounded. *State V. Vaughn* 471 Ariz.744 (1970).

State v. Houlf, 27 Ariz. App. 633 (1976), states a definition that is well suited to attorney regulation. Probable cause "exists when the facts and circumstances within the law enforcement officer's knowledge, and of which he has reasonably trustworthy information, is sufficient, in itself, to warrant a reasonable man to conclude that a crime has been or is being committed by the suspect." In attorney regulation, probable cause is established when information is presented that is enough to justify a belief by a reasonable person that an ethical violation has been committed or is being committed by the respondent.

There is probable cause to believe that Mr. Scott misappropriated approximately \$10,000.00 in client funds. He took no steps to provide restitution until the State Bar acted in requesting an interim suspension. An interim suspension is necessary to protect Mr. Scott's clients and the public from further potential harm.

Now Therefore,

IT IS ORDERED finding probable cause that Ryan Michael Scott, Bar No. 029425 has engaged in conduct that has caused or is likely to cause immediate and substantial harm to clients, the public, or the administration of justice.

IT IS ORDERED under Rule 61, **Ryan Michael Scott, Bar No. 029425** is suspended from the practice of law effective May 7, 2019 on an interim basis.

IT IS FURTHER ORDERED as provided in Rule 61(d), such interim suspension shall continue in force until final disposition of all pending disciplinary proceedings against Ryan Michael Scott, unless vacated or modified. Nothing precludes the parties from entering into an agreement to resolve this matter.

IT IS FURTHER ORDERED freezing all trust accounts of Ryan Michael Scott until further order of the PDJ. Expenditures from that account may be made by a signed agreement between the State Bar and Ryan Michael Scott, otherwise only by order of the PDJ.

IT IS FURTHER ORDERED under Supreme Court Rule 72(a), Ryan Michael Scott shall immediately notify all clients of the terms of this order within ten (10) days from the date of this order, and upon the effective date of the suspension shall timely file with the Disciplinary Clerk and the Supreme Court, notice of compliance with this order as provided by Rule 72(e).

IT IS FURTHER ORDERED setting a telephonic status review pursuant to Rule 61(c)(D), on **August 5, 2019 at 9:30 a.m.** The State Bar is reminded it must expeditiously proceed with any related disciplinary investigation and proceeding. This status review shall automatically be vacated without further order upon the filing by the State Bar of a complaint regarding this matter.

DATED this 7th day of May 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/mailed
this 8th day of May 2019 to:

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