

**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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

**GREG CLARK,**  
**Bar No. 009431**

Respondent.

**PDJ 2021-9032**

**DECISION AND ORDER  
IMPOSING SANCTIONS**

[State Bar No. 20-1011]

**FILED JULY 28, 2021**

**PROCEDURAL HISTORY**

The State Bar of Arizona filed a one-count complaint against Respondent Greg Clark on April 26, 2021. On April 27, 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 issued on May 25, 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 W. Keith Turner heard argument and considered the record before it. Senior Bar Counsel Craig D. Henley appeared on behalf of the State Bar. Mr. Clark did not appear.

Exhibits 1-30 were admitted into evidence. By virtue of the default, 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 12, 1984.
2. In March of 2018, Complainant Alaina Campa was charged with Possession or Use of Dangerous Drugs - a class 4 felony - in CR2018-112281. Ms. Campa was on probation from an earlier case (CR2015-103513 - possession or use of dangerous drugs) when she was charged with the new offense.
3. Ms. Campa hired Respondent on or about September 26, 2018 to represent her in the pending matters. The representation agreement called for a \$7,500 non-refundable flat fee for representation "regarding pending charges filed in the Maricopa County Superior Court Case No. CR2018-112218." The scope of representation includes services from the time of hiring through conclusion of the matter. The agreement "does not include representation of the Client in any re-trial of the matter, should a mistrial be declared."
4. On or about June 12, 2019, Ms. Campa was charged with two additional felony offenses in CR2019-127165.
5. Respondent entered a notice of appearance in CR2019-127165 on or about June 21, 2019. He prepared a brief "Addendum to Alaina Campa Fee Agreement" that

did not clearly define the scope of the representation or what the additional \$3,500 fee would cover.

6. Respondent counseled Ms. Campa to exonerate her bond in CR2018-112218 so she could receive pre-sentence incarceration credit while in jail for the offense giving rise to CR2019-127165. Ms. Campa followed Respondent's advice and had her bond exonerated.

7. Respondent entered into an agreement with Aliana Campa and/or Alicia Gallegos, Ms. Campa's mother, to purchase vehicles, including a Mercedes, to offset a portion of Respondent's fee. Respondent did not produce a writing including the terms of the transaction and an advisement to seek the advice of independent legal counsel and did not obtain his client's signed informed consent regarding the agreement.

8. Ms. Campa signed a plea agreement on or about November 20, 2019 that resolved the 2018 and 2019 matters.

9. Respondent sent coverage counsel to Ms. Campa's sentencing on January 8, 2020. Ms. Campa was sentenced to concurrent terms of 1.5 years in the Department of Corrections. She received 242 days of presentence incarceration credit in the 2015 probation matter, 212 days in the 2019 case, and 16 days in the 2018 case.

10. Ms. Campa should have received 212 days of presentence incarceration credit in the 2018 case. The presentence report, which was available at the sentencing

hearing Respondent did not attend, shows the incorrect 16-day presentence incarceration calculation. Respondent did not affirmatively address the error with the court or his client.

11. Ms. Campa discovered the error and contacted Respondent's office four times, beginning on April 7, 2020, in an attempt to have Respondent address the presentence incarceration credit miscalculation. Respondent did not bring the miscalculation to the court's attention until May of 2020.

12. On or about May 11, 2020, Respondent filed a one-paragraph "Motion to Correct Sentence," asking the court to give Ms. Campa 212 days of presentence incarceration credit in the 2018 matter. The court granted the motion in July of 2020.

13. Respondent improperly attempted to charge Ms. Campa \$1,000 for the motion, despite having charged her a flat fee for representation through sentencing. Ensuring that a criminal defendant client receives proper presentence incarceration credit is part of representing the client at sentencing.

### **CONCLUSIONS OF LAW**

Clear and convincing evidence establishes that Respondent violated Rule 42, Ariz. R. Sup. Ct., specifically, ER 1.3 (diligence), ER 1.5(a) and (b) (fees), ER 1.8(a)(1)-(3) (conflicts of interest), and ER 8.4(d) (conduct prejudicial to the administration of justice).

### **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, 1.5(a) and (b), and 1.8(a)(1)-(3)). He also violated duties owed to his client and the legal system by violating ER 8.4(d).

**Mental State and Injury:**

Respondent knowingly engaged in a business transaction with a client without complying with ER 1.8. His lack of diligence in representing Ms. Campa’s interests in connection with her sentencing may initially have been negligent, but given the client’s repeated efforts to have him correct the error, his lack of diligence at some point became either knowing or intentional. Respondent’s fee-related violations arose from self-interest.

The following *Standards* apply:

*Standard 4.41*: Disbarment is generally appropriate when:

(b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client (ER 1.3 violation)

Standard 4.31: Disbarment is generally appropriate when a lawyer, without the informed consent of client:

(a) engaged in representation of a client knowing that the lawyer's interests are adverse to the clients with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to the client (ER 1.8 violation)

Standard 6.13

Reprimand is generally appropriate when a lawyer is negligent either in determining whether statements or documents are false statements or in taking remedial action when material information is being withheld, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding. (ER 8.4(d) violation)

### **AGGRAVATING AND MITIGATING FACTORS**

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

1. 9.22(a): prior disciplinary offenses;
  - PDJ 2019-9096 (SB19-1409): suspension of 6 months and 1-day for violating Rule 42, Ariz. R. Sup. Ct., ERs 1.2, 1.3, 1.4, 1.16(d), 3.2, 8.1, 8.4(c), 8.4(d), and Rule 54(d)(2), Ariz. R. Sup. Ct.
  - SB15-0690, 15-1685, & 15-2526: suspension of 60 days plus probation for two years for violations of Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4(a)(3) and (4), 1.5(a), 1.16(d) and Rule 54(d)(2), Ariz. R. Sup. Ct.
  - SB06-1353, 06-1300, 06-0298, & 05-0665: informal reprimand for violating Rule 42, Ariz. R. Sup. Ct., ER 1.8(a).
  - SB02-1830 & 02-1934: informal reprimand plus probation for violations of Rule 42, Ariz. R. Sup. Ct., ERs 1.3, 1.4, 1.5 and ER 1.16(d).

- SB02-0356: informal reprimand for violating Rule 42, Ariz. R. Sup. Ct., ER 1.4.
  - SB98-2060: censure for violating Rule 42, Ariz. R. Sup. Ct., ER 8.1(b), and Rules 43 and 51(h)(1), Ariz. R. Sup. Ct.
  - SB95-2033: censure for violating Rule 42, Ariz. R. Sup. Ct., ERs 1.1, 1.3, and 8.4.
2. 9.22(b): dishonest or selfish motive; and
  3. 9.22(i) substantial experience in the practice of law.

The record does not establish the existence of any mitigating factors.

### 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). Prior discipline is an aggravating factor that weighs heavily against a respondent attorney. *In re Brady*, 186 Ariz. 370, 375 (1996). Mr. Clark has an extensive disciplinary history – some of which involves conduct similar to that at issue here. He is currently serving a long-term suspension.

For the foregoing reasons, the hearing panel orders as follows:

- a) Respondent Greg Clark shall be disbarred, effective immediately.

b) Mr. Clark 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.

A final judgment and order will follow.

**DATED** this 28<sup>th</sup> 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  
W. Keith Turner, Public Member

Copy of the foregoing emailed  
this 28<sup>th</sup> day of July, 2021, to:

Greg Clark  
45 W. Jefferson Street, Suite 510  
Phoenix, Arizona 85003-2316  
Email: [gclarkatty@aol.com](mailto:gclarkatty@aol.com)  
Respondent

Craig D. Henley  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, Arizona 85016-6266  
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by: SHunt



**BEFORE THE PRESIDING DISCIPLINARY JUDGE**

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MEMBER OF THE STATE BAR OF  
ARIZONA,

**GREG CLARK,**  
**Bar No. 009431**

Respondent.

**PDJ 2021-9032**

**FINAL JUDGMENT AND  
ORDER**

[State Bar No. 20-2011]

**FILED AUGUST 12, 2021**

The hearing panel issued its decision on July 28, 2021 imposing an immediate disbarment and the payment of 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 July 28, 2021 pursuant to Rule 60(d). No objection has been filed.

**IT IS THEREFORE ORDERED** that Respondent **GREG CLARK, Bar No. 009431**, is disbarred from the from the State Bar of Arizona and his name is stricken from the roll of lawyers effective July 28, 2021 as set forth in the Panel's Decision and Order Imposing Sanctions. Mr. Clark 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 shall comply with the requirements of Rule 72, Ariz. R. Sup. Ct., including notifying clients, counsel and courts of his disbarment.

**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 12<sup>th</sup> day of August 2021.

*Margaret H. Downie*  
\_\_\_\_\_  
**Margaret H. Downie**  
**Presiding Disciplinary Judge**

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

Greg Clark  
45 W. Jefferson Street, Suite 510  
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Email: [gclarkatty@aol.com](mailto:gclarkatty@aol.com)  
Respondent

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by: SHunt