

EXHIBIT 5

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BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**DAVID S. GINGRAS
Bar No. 021097**

Respondent.

PDJ 2022-9037

COMPLAINT

[State Bar No. 21-2455]

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, 2004.

COUNT ONE (File no. 21-2455/Ivchenko)

2. Andrew Ivchenko, Complainant, is an attorney who had represented multiple plaintiffs in litigation against a mugshot website operator. The litigation had been ongoing for approximately three years and involved nearly a dozen lawsuits.
3. Some of the lawsuits included Mr. Ivchenko's wife as a plaintiff. She was arrested in 2018 and her mugshot appeared on the mugshot websites.
4. Mr. Ivchenko had initiated some of the lawsuits on behalf of anonymous plaintiffs identified only as either "John Doe" or "Jane Doe."
5. Respondent represented the defendants, Travis Grant, Mariel Grant, and Kyle Grant. The Grant family owned and operated the mugshot websites at issue.¹
6. On October 25, 2021, Respondent presented Mr. Ivchenko and a Florida attorney, John Zielinski, a settlement offer by email.² The email explained that the defendants were willing to resolve all pending matters, but they were not willing to issue payment to any plaintiff and all plaintiffs must accept the offer. Before Mr. Ivchenko responded, the Florida attorney rejected this offer,

¹ The mugshot websites are no longer operational.

² Mr. Zielinski was representing a different plaintiff in a different suit: *Doe v. Grant*, 2021-CV-960, filed in Seminole County, Florida.

resulting in the offer being immediately rescinded as to any and all other plaintiffs.

7. On October 27, 2021, Respondent and his client emailed about an “article” that the client had written and posted on one of his mugshot websites. The article’s content focused on Mr. Zielinski’s firm and different plaintiffs in a lawsuit that did not involve Mr. Ivchenko. The article explained the Grants had offered settlement but that Mr. Zielinski’s firm’s greed was preventing everyone from being able to settle.
8. After the client shared this article with Respondent, Respondent suggested that he write “a short article” about Mr. Ivchenko that was similar in nature because it could “cause [Mr. Ivchenko] SEVERE damage.” The client agreed: “I will definitely post if you pen an article for me.”
9. Respondent sent the draft message to his client later that day.
10. The message was directed at people who had hired Mr. Ivchenko to help them remove their mugshot from the website.
11. The message stated:

Do you have a mugshot on this website? Have you previously hired a lawyer named Andrew Ivchenko to help get your mugshot removed? If so, we have some extremely important information for you, so please read this carefully. Here's the deal—for the past several years, we have been dealing with frivolous lawsuits filed by a lawyer named Andrew Ivchenko. So far, every one of these lawsuits against us has failed. Between 2019 and 2021, Mr. Ivchenko filed and then voluntarily dropped (abandoned) three lawsuits against us. In several of these cases, Mr. Ivchenko was forced to pay our court costs. A fourth lawsuit filed by Mr. Ivchenko was thrown out of court by the judge. He has literally won ZERO cases against us (and as far as we can tell, Mr. Ivchenko has never won a lawsuit against anyone, anywhere, in his life). Despite this, we recently made a settlement offer to Mr. Ivchenko. One of the terms of the settlement included removing the mugshots of ALL of Mr. Ivchenko's clients. He claims to be representing more than 50 different individuals seeking to have their mugshots removed from this site. Even though we believe all of Mr. Ivchenko's suits are groundless, we made a settlement offer to remove his clients' mugshots in order to resolve the litigation.

Unfortunately, one of Mr. Ivchenko's clients rejected this offer. This happened because in addition to removing his mugshot, this person also demanded money from us even though we made it clear that under no circumstances would any money be paid. In other words, one greedy person is blocking your ability to have your mugshot removed.

So what does this all mean? The answer is very simple- if you hired Andrew Ivchenko to help get your mugshot removed from this website, and if you are willing to release your claims if we remove your mugshot without also demanding money, you may now have a significant legal malpractice claim against Mr. Ivchenko.

The rules are very clear- lawyers CANNOT represent multiple clients with conflicting interests. In other words, a lawyer cannot throw one client under the bus in order to help a different client. Based on the information available to us, it appears that this is exactly what Mr. Ivchenko has done- he has chosen to screw over some of his clients in order to get money for one client (or for himself).

We do not want to reward this sort of conduct. So, for that reason we are willing to offer the following deal to anyone who may be a victim of Mr. Ivchenko.

First, we have three questions:

1. Did you hire Andrew Ivchenko to help get your mugshot removed from this website BEFORE October 26, 2021?
2. Do you have a written fee agreement with Mr. Ivchenko?
3. Are you willing to sign a release of claims without payment if we remove your mugshot?

If you answered YES to all three of these questions, here is what we are willing to do. We will agree to IMMEDIATELY remove your mugshot from this website at no cost to you. The only things we need are the following:

- You must send an email to info@bailbondshq.com which include a copy of your written fee agreement with Andrew Ivchenko, and that agreement must be dated BEFORE October 26, 2021. If you hired Mr. Ivchenko after that date, sorry- we can't help you at this time.
- Your email must include a link to each page on our website that you want removed (we will only agree to remove pages that contain YOUR name/mugshot, not anyone else).

- You must sign a release of claims (we will provide this form to you when you contact us)
- You must agree to provide us with copies of any/all emails you have sent to or received from Mr. Ivchenko. We need this for use as evidence against him in other litigation.
- Assuming there is a valid basis for doing so (i.e. you wanted to accept the settlement we previously offered but Mr. Ivchenko failed to let you do so, or he failed to tell you about the settlement offer), then you must agree to file a complaint against Mr. Ivchenko with the State Bar of Arizona (we will provide more information about this when you contact us).

If you agree to these terms, please email us immediately so we can get the process started. Also, please understand we guarantee that any information you provide will be held strictly confidential. We promise not to disclose any information you provide to anyone.

12. Respondent's client posted the message on his websites and emailed Respondent: "I have added this to the front page of both sites. It's also the text on the opt out forms. And it it's [sic] also hyperlinked from the sidebar on every page I own."
13. On October 28, 2021, Mr. Ivchenko contacted Respondent about the message and implied there may be ethical concerns.
14. Respondent shared the message and Mr. Ivchenko's email with other attorneys involved in the litigation. One of these attorneys, Jim Lussier, responded and expressed concerns that it constituted an ethical violation.
15. Respondent emailed his client and asked him to consider taking the message down. The client did so.
16. Respondent's conduct in this matter violated Arizona Supreme Court Rule 42, specifically, ER 4.2, ER 4.4 and ER 8.4(a).

DATED this 2nd day of June, 2022.

STATE BAR OF ARIZONA

/s/Sierra M. Taylor

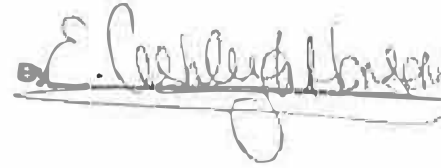
Sierra M. Taylor
Staff Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 2nd day of June, 2022.

by: /s/Melissa Santiago
SMT:ms

Attorney Discipline
Probable Cause Committee
of The Supreme Court of Arizona
FILED

MAY 18 2022



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

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

No. 21-2455

**DAVID S. GINGRAS
Bar No. 021097**

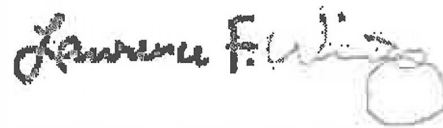
ORDER

Respondent.

On March 11, 2022 the Attorney Discipline Probable Cause Committee issued its order finding probable cause and admonishing Respondent for violating Rule 42, ER 4.2, 4.4, and 8.4(a) with designated terms and assessing costs. Service of that order occurred on March 23, 2022.

The Committee's orders are final unless within 10 days of service of the subject order a Respondent files a written demand for formal proceedings pursuant to Rule 55(c)(4) (A) and (B). Respondent's demand for formal proceedings, filed on April 04, 2022, is timely. Accordingly, the Committee's order of admonition and costs is vacated, and the State Bar is directed to prepare and file a formal complaint.

DATED this 18 day of May, 2022



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

Original filed this 18 day
Of May, 2022 to:

Attorney Discipline Probable Cause Committee
Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007

Copy emailed this 18 day
of May, 2022, to:

David S. Gingras
Gingras Law Office, PLLC
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Respondent

Copy emailed/mailed this 18 day
of May, 2022, to:

Lawyer Regulation Records Manager State Bar
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4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

Compliance Monitor
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, AZ 85016

by:

A handwritten signature in black ink, appearing to read "E. C. [unclear]", written over a horizontal line. The signature is stylized and somewhat cursive.