18 November 2015

Mr. Hunter F. Perlmeter
Staff Bar Counsel
4201 N. 24th Street
Phoenix, AZ 85016

RE: File No.: 15-2075
Charles Rodrick, Complainant
Daniel R. Warner, Respondent

Mr. Hunter F. Perlmeter:

I am in receipt of your letter dated November 06, 2015, the response of Daniel R. Warner (hereafter, "Warner") in regard to the complaint filed by Charles Rodrick (hereafter, "Rodrick"), File No.: 15-2075. Although you stated that no further written reply is needed, when reviewing the State Bar of Arizona (hereafter, "SBA") website and The Discipline Process page, it states: "If, after investigation, the State Bar determines that there is enough information to believe that the lawyer violated the ethics rules and there is clear and convincing evidence to show the violation, formal disciplinary charges may be filed against the lawyer." After reading Warner's response dated November 03, 20156, it is apparent additional "**clear and convincing evidence"** is required to identify the many flagrant false contentions presented in the response that clearly are meant to deceive and hinder the SBA investigation. Providing a detailed iteration of the circumstances and factual events that constitute the many violations of the Arizona Duties and Obligations as defined within Rule 41(g), Ariz. R. Sup. Ct. (hereafter, "Duties") and the Arizona Rules of Professional Conduct contained within Rule 42, Ariz. R. Sup. Ct. (hereafter, "Rules") so as to assist in determining the integrity in regards to the allegations detailed in the complaint of Warner's previous and continued misconduct.

REPLY FACTUAL BACKGROUND

Reply - A Pattern of Conduct by Complainant

A great deal of effort is exerted throughout the Warner's response claiming he is being persecuted by Rodrick which is only a means to divert the appropriate attention to the facts and circumstances of the complaint. There is absolutely no veracity to the claim "his goal is now to ruin Mr. Warner's professional reputation through the dissemination of lies." In fact, such an allegation could not be further from the truth. Providing supported accuracy is precisely what Rodrick has repeatedly abided by when informing the general public and the SBA to the misconduct perpetrated by Warner. It is exactly why Rodrick has adhered to providing nothing but factual and indisputable evidence in any written or published information in regards to his dealings with Warner – unlike the reprehensible falsehoods published by Warner on the Kelly/Warner Law blog about Rodrick. After all, Warner is an attorney with seven (7) years experience, Rodrick has no interest in subjecting himself to a defamation claim. Through all of

Warner's unfounded claims of persecution, the facts are irrefutable and **NOT** subject to a defamation claim because in Arizona the first element of such an allegation is a "false statement". *Morris v. Warner,* 160 Ariz. 55, 62 (Ariz. Ct. App. 1988). It is the truthfulness of Rodrick's complaints that has caused any self-perception by Warner that he may "look "guilty" in the eyes of the public" as it exposes with credibility the unethical, unprofessional and overall incompetent attorney that Warner has proven himself to be in his law practice.

Reply to Charge's Specific Factual Allegations

Publication of Blog Post

Due to the discovery of new evidence and obtaining further details it has become appropriate to address the central topic of the complaint in a separate reply. The significance of all matters associated with the abhorrent publication of defamatory comments and disclosure of privileged information of a previous client, attacks against Rodrick, admittedly published on the Kelly/Warner Law website requires a detailed analysis to properly address this most sacred of legal principles, the foundation for professional legal representation of a client – that being the coveted principles of the attorney/client privilege.

The Client Files

The dictates of ER 1.16(d) are very clear, "the lawyer shall provide the client with **all** of the client's documents, and **all** documents reflecting work performed for the client." There can be no dispute Warner was very aware of the requirement to provide **ALL** documents to Rodrick and Traci Heisig (hereafter, "Heisig") immediately upon his withdrawal. In the response to the SBA complaint Warner claims "he provided complainant with a **complete** copy of his file during the course of representation, and then provided a **complete** second copy – at his firm's cost – after withdrawing from the representation." This assertion is categorically false – and Warner is well aware of his chicanery and he has now involved the SBA in this fallacy. Warner has chosen to ignore the edict of ER 1.16(d) for two (2) years and did so to intentional and maliciously sabotage Rodrick in litigating his cases in order to maximize the damages realized by Rodrick.

The facts are presented very precisely with documented evidence so as to eliminate any possible alternative conclusion when reviewing the verity surrounding Warner's pernicious refusal to release **ALL** of the files associated with the Rodrick cases as required and falsely claimed in the response provided to the SBA. It is worthy of noting that Warner's response can spend pages detailing completely irrelevant distraction content about jewelry purchases but can only muster one single sentence addressing his violation of ER 1.16(d) – see page 13 "The Client File." He also can provide only one exhibit, which is a short note on the firm's letterhead that is nothing more than a self-serving fabrication of the facts claiming to have provided the "file" and a completely disingenuous offer stating: "If you have any questions or concerns, please email our office." (*see*, Exhibit A). The offer was disingenuous as Warner was contacted with "questions or concerns" on several occasions – five (5) times by Rodrick to be exact (*see*, Exhibit B), plus an additional letter from attorney Eric Mark representing Heisig after the Warner withdrawal. All of which went completely ignored by Warner as evidenced by his

providing absolutely **NOTHING** as a response to the appropriate requests that have been provided for SBA review.

What is important to establish is the degree of malfeasance being perpetrated by Warner in regard to this subject. In Warner's response he claims to have provided "him [Rodrick] with a copy of his **ENTIRE** file" – see page 13 – "The Client File." However, Warner knowingly withheld hundreds if not thousands of the documents in the "file" from Rodrick and he has now lied to the SBA. Warner has operated under the presumption that he can repeatedly deny and lie his way through this predicament, but when challenged with the **FACTS** that are irrefutable his charade is easily exposed. The legitimacy of this assertion is validated by simply committing to a thorough review of the documented facts and indisputable evidence.

The Kelly/Warner law firm uses the online application Basecamp to accumulate documentation via uploading in order to store, share, and retrieve all the documentation associated with a client's case remotely and separately by any of the authorized participants. It also is used to discuss the case matters utilizing an internal email system. This type of system allows for an efficient replacement of the "old school" requirement of storing hard copies of a client's documentation in a "file", but rather creates the digital record that can be accessed by all authorized parties to review any and all the associated matters involving the case and to do so at anytime from anywhere with online access (*see*, Exhibit C). The staff of Kelly/Warner Law required Rodrick to use the Basecamp system as it was the procedure to be used by all their clients (*see,* Exhibit D). What the SBA should understand is the importance of this content that was inputted into the Basecamp system is what legally constitutes the "**ENTIRE"** and/or **"COMPLETE"** file for the cases. It is true Warner sent a DVD after his withdrawal from the Rodrick cases, but he was well aware that the content provided represented only a partial inclusion of the "file" in its entirety associated with the cases. Specifically the content found on the DVD was limited to the materials that could be pulled off the "local" computer(s) found at the Kelly/Warner Law office – and that would only represent documentation such as the filings submitted to the courts or documents received by the firm from the opposition. What was **NOT** included in the DVD were hundreds, and more accurately thousands, of additional documents such as evidence collected in the investigation of the various legal issues and all the material being found online and elsewhere concerning the cases. This would include but is not limited to online screen shots, court documents from other cases, articles, pictures, external email exchanges, internal email exchanges using the Basecamp system between Rodrick and the Kelly/Warner staff, discovery documents – and much more. For the SBA review is a small sample of the documentation found in the Rodrick "**ENTIRE FILE**" that was **NOT** included in the DVD provided and the continued refusal by Warner to release as required per the Rules and he has falsely claimed to have done so:

- The Basecamp application includes an internal email system which documents all communications in a manner that creates a record of discussions that are stored and retrievable by all authorized parties associated with or working on the case (*see*, Exhibits E & O). If Rodrick asked a question concerning the case or legal matters it would be retained in this "file" – which Warner has denied Rodrick access to retrieve.

- Files documented as being pertinent to the case would be uploaded to the Basecamp application by the Kelly/Warner Law staff to serve as the official storage system. These files were not part of the actual filings with the courts and as such were **NOT** included in the DVD provided by Warner. An example is provided wherein Maria Rapp of the Kelly/Warner Law staff uploaded **501** pdf files in this **ONE** incident – content **NOT** made available to Rodrick (*see*, Exhibit F) after the withdrawal. There were hundreds of this type of uploads over the months during Warner's legal representation and would have totaled thousands of pages of documents associated with the cases that have been denied access to recover by Rodrick.

- Rodrick at the direction of the Kelly/Warner Law firm uploaded all documentation as he obtained it into the Basecamp application. These documents included but were not limited to hundreds of pages of screenshots documenting the continued practice of defamation being posted online by the opposition associated with the cases (*see*, Exhibit G). The Basecamp uploads were the single source of retrieving this documentation and Warner's defiant refusal to properly release this material is in violation of ER 1.16(d) and contradicts the claim that the **"COMPLETE"** and/or **"ENTIRE"** files were provided to Rodrick.

Another example of material **NOT** included in the DVD that Warner claimed consisted of the **"ENTIRE FILE"** are three (3) depositions conducted by Warner on behalf of Rodrick and Heisig. The three (3) depositions that Rodrick paid thousands of dollars to Warner to conduct and also have properly prepared and delivered by the Court Reporter as Official Certified Transcripts so that they could be used in court filings and utilized at trial have been maliciously withheld by Warner as a means to sabotage the litigations. These documents were repeatedly requested by both Rodrick and Heisig to be delivered by Warner after his withdrawal – which he summarily ignored all requests (*see*, Exhibit B). These invaluable pieces of evidence were **NOT** provided by Warner for Rodrick to have available at trial in 2014 in the Arizona Superior Court case and to submit to the U.S. District Court of Arizona case that continues to be litigated. This intentional misconduct has prejudiced Rodrick and Heisig in their ability to litigate their cases to their repeated extreme detriment. Proving Warner's culpability and insistence to lie that such material was provided to Rodrick is the **September 2014** request from the Arizona Supreme Court hearing involving Heisig and her Court Reporter license in which Warner provides one of these documents – the **SEALED** and Certified Official transcript for the Arizona Supreme Court's review (*see*, Exhibit H). Again, this disclosure and providing the documentation occurred in September 2014, almost a year after Warner's withdrawal. It is indisputable that Warner had the deposition documents and he did **NOT** provide them to Rodrick as falsely claimed in his response again proving his propensity to **LIE** to the SBA. That Rodrick paid thousands of dollars for this material and Warner has refused to return what is clearly Rodrick's property, beside the Rule violations it could arguably be claimed Warner has also committed grand theft.

What is surprising is that Warner made the decision to eliminate Rodrick's access to the Basecamp application to begin with. This matter did not need to be an issue requiring the

involvement of the SBA if Warner simply honored his duty. Allowing access to the files stored in Basecamp did not present any required management, time commitment or cost to Warner or his firm. His eradicating access only served as a vindictive manifestation to obstruct Rodrick in moving forward in litigating his cases. At a minimum the least Warner could have offered was a practical solution by notifying Rodrick he had 30 – 60 days to pull out the desired documentation from the Basecamp application (again, in today's digital world the Basecamp application contained the "complete" and "entire" file for the cases) before the access would be restricted. There was no work required to be performed by the Kelly/Warner Law staff – none. However, Warner was not interested in conducting himself ethically or professionally as detailed in the complaint - not to mention taking into account the $75,000 paid in real dollars by Rodrick to Kelly/Warner Law in accumulating the materials that were stored in the Basecamp "**ENTIRE FILE**". It is irrefutable that Warner did **NOT** provide Rodrick with "**ALL**" the files associated with his cases and the claim submitted to the SBA responding to the complaint that the **"COMPLETE"** file was "provided" is intentional disinformation as proved with the indisputable evidence presented for this review.

Improper Withdrawal

The fundamental basis for Warner's justification to improperly withdraw legal representation of Rodrick, and in the manner he did so was his claim that there were "past-due bills and sudden, unfounded complaints about the billing."(*see*, Response Page 9: Allegedly Improper Withdrawal). An accusation that Warner has made over and over against Rodrick, making such a claim to opposition parties, courts, judges, and now the SBA. The problem with this thesis is **ALL** the documented **FACTS** completely discredit this attempt of deception and only further substantiates the degree of ethics violations and **LIES** perpetrated by Warner. The **FACTS** confirm Warner fabricated a "past-due payments" and an "extortion" charade to hide the true basis for his withdrawal – fraudulent billing practices and incompetent legal representation being exposed by Rodrick.

The best way to address Warner's assertions is first to review the fee agreements with Rodrick that were prepared by Kelly/Warner Law – it is their own contract. Agreements were signed on January 16, 2013 for the Arizona case and April 23, 2013 for the Federal case (see, Exhibit I). The main points of interest in regards to the SBA investigation are the following:

- **3. Rights and Obligations of Parties**. **A. Attorneys**. Circumstances which would cause Attorneys to withdraw include a failure to pay attorneys' fee **in a timely manner**…."
- **6. Payment.** Attorneys may terminate services and withdraw, subject to Attorneys' professional obligations, from this representation if Attorneys' invoices are not paid **in a timely manner**, which Attorneys considers to be **within thirty (30) days of the billing date**.
- **6. Payment.** A finance charge will be assessed against balances remaining due remaining due beyond 30 days.

There is not any ambiguity in the terms of the fee agreements, contracts written and presented by the Kelly/Warner Law firm to Rodrick to sign. Their fee agreements clearly define the payment "in a timely manner" as being "within 30 days of the billing date" and sets a finance charge in the event that payment was "past-due."

The important point for the SBA investigation is to focus on the **FACTS**, not to be swayed by the ruse repeatedly put forth by Warner with his asinine rhetoric of absurdity that is easily exposed for the sham it is. A simple review of the documentation is all that is required to get to the bottom line, and this is easily achieved by reviewing the overview of the billing history between Rodrick and Kelly/Warner Law and determining whether the payments received met the terms of the fee agreements (*see*, Exhibit J). The billing and payment history is pretty straight forward and is clearly chronicled from the inception of the legal representation of Rodrick in January of 2013 until Warner's withdrawal in October 2013. The firm would issue their invoice the first of the month and Rodrick would pay the invoice on or around the 22nd of the month, well within the perimeters of the terms of the fee agreements and does **NOT** establish a single "past-due" situation or history. When taking into account the terms as dictated by the fee agreements, the payments for the invoices were **NOT** late based on the **AFTER** 30 day's designation. The payment history, which was prepared by Kelly/Warner Law, is undeniable evidence that Rodrick was **NOT** "delinquent" or "payments were past-due" as repeatedly falsely claimed by Warner. If Warner wanted to have the invoices delivered on a due immediately upon receipt basis than he needed to disclose such a policy in the initial consultation and it would have been a required disclosure in the fee agreement. If such a requirement had been discussed and included as a term for the legal representation in dealing with the Kelly/Warner Law firm, Rodrick would have taken his business elsewhere as such a policy would be completely unreasonable and not a standard practice in the legal profession. Warner seems to be completely devoid of the basic understanding of contract law and how this would apply to his own contract / fee agreement. Or as it is Rodrick's contention, Warner is very aware of the terms of the fee agreements and of course understands them thoroughly but has been used as a ruse to distract attention away from his obvious violations of the Rules and his incompetent legal representation. That the fee agreements were prepared by the Kelly/Warner Law, there is no excuse for the repeated distortion in the misrepresentation of these terms before the courts, judges and SBA by Warner other than for odious intent.

The objective of such incongruity between the terms of the fee agreements and what Warner repeatedly and falsely claimed they were is/was nothing more than a diversionary tactic to draw attention away from Rodrick's discovery of fraudulent billing practices of the firm and the incompetent legal representation being provided by Warner. This required the need for Warner's elaborate subterfuge charade based on an illogical irrepressible campaign to discredit Rodrick with repeated assertions of "past due payments" and an "extortion" claim due to a factual letter written by Rodrick detailing Warner's misconduct. Warner's repeated proclivity to claim receiving payment on the 22nd of the month was somehow "past-due" is ridiculous to any reasonably minded person with even a basic understanding of a contracts payment terms. It becomes clear Warner has intentionally engaged in a nefarious crusade to disparage Rodrick as an artifice to divert attention from his obvious and devious violations of the Rules. The **FACTS**

speak for themselves and expose Warner's **LIES** to the Arizona courts, judges and now the SBA. Ironically it was Warner who was in violation of **HIS** own fee agreements with the withdrawal of legal representation of Rodrick in the manner in which he did so. It was the **LIES** of Warner to the courts that were the foundation for his filing and being granted his improper withdrawal.

Fraudulent Billing

It is not surprising to find Warner's response to the complaint both evasive and a misrepresentation of the documented facts in regard to the fraudulent billing practices of Kelly/Warner Law. It was the flagrant false billing that first alerted Rodrick to the true agenda and misconduct of Warner's legal representation. The fact that once Rodrick became aware of the continued discrepancies being submitted in the monthly invoices he expressed his concerns to which Warner eventually felt the need to orchestrate an exit strategy with no regard to the required Rules. Of course, Warner presents these occurrences of a client having the audacity to request answers from his paid representative for very legitimate concerns of questionable billing as some kind of affront to be dealt with by unprofessional disdain and ridicule designed to bully the client from such inquiries. This pompous attitude is witnessed with a review of the email exchanges which also clearly document Warner's refusal to have a face-to-face meeting to discuss the issues despite the repeated requests for **WEEKS** from the **CLIENT** Rodrick.

As is Warner's practice, he takes liberties with the truth when presenting quotes out of context to falsely present his argument. Based on the email of July 8, 2013 (*see*, Exhibit K), Warner claims Rodrick statement that he had "never had a billing issue" is somehow an acknowledgment that he did not have a problem with the billing he was receiving. This could not be further from the truth and Warner is well aware of this fact. If one is to simply review the email in its proper context it is easy to ascertain the real meaning of the quote, which is that it is an answer addressing Warner's ridiculous claim that the Rodrick was delinquent and/or late in making his proper payment. As was the practice of Warner, he used this ruse to divert attention away from answering legitimate questions being brought forward by his client Rodrick concerning his cases, changing the subject by falsely claiming there was a payment issue requiring attention (as detailed thoroughly previously in this Reply). The quotes correct meaning was to state that making his scheduled payment the 22nd of the month "never had a billing issue" prior or had constituted a "billing issue." Rodrick at the time naively did not realize Warner was merely engaged in a diversion tactic to obscure the fact that he was engaged in a variety of vicious misconduct in regard to the legal representation of the cases.

The response is completely inadequate in addressing the fraudulent billing practices of Warner in regard to "7.0 hours of work" preparing a "draft". On October 2, 2013 an email exchange occurs with Rodrick inquiring about the "draft" and receives an unsatisfactory response. This was met with completely evasive and non-responsive replies from Warner including the usual practice of diversion attempting to make the subject focused on a nonexistent billing issue and also included a classic shaming tactic of deflecting attention from the subject at hand with Warner claiming he was "disappointed in the lack of trust" (*see*, Exhibit L). The exchange continues with Warner's next response attempting again to avert Rodrick's

attention with vague and unresponsive claims of "research and analyzing the law" followed with the usual main stay diversion tactic of claiming invoice payment issues that were nonexistent. Most important is the fact that after repeated email exchanges discussing the "draft" Warner could **NOT** produce **ONE** page. Warner also claims he offered to provide the "voluminous" information and Rodrick "declined", which is an intentional misrepresentation of the actual response. This is a complete distortion of the email exchange as the sentence in its entirety clearly establishes the proper context: "I do not need voluminous research material just what has been written thus far and an outline of how the voluminous research affected my bill" (*see*, Exhibit L). This is not Rodrick declining further information concerning the matter as falsely portrayed by Warner; in fact, it is the polar opposite as he is requesting a breakdown and explanation. Which of course, the clear and pointed response requiring an appropriate explanation went completely ignored by Warner as evidenced with the closure of the email exchange as was indicative of Warner's no responsiveness to the client's inquiries. This was not an unreasonable request from a client who had paid $75,000.00 and wished to understand what was being worked on and the cost associated with that work. Taken in the context of Warner's refusal to have regular meetings to keep Rodrick informed of what the legal strategies and status were for his cases, it was only prudent to attempt to keep himself abreast of the status by asking such question. Warner's rude and evasive demeanor is just not acceptable conduct for an attorney/client relationship. Once again, Warner references an email exchange that intentionally takes the stated so called proof completely out of context to improperly sway the SBA investigation with another misrepresentation. Warner further attempts to justify the evasive responses by claiming there were "complex issues" which is completely erroneous as the case involved common internet defamation issues and the Kelly/Warner Law advertises as being specialist in internet issues. Unless it is now an acknowledgement by Warner that he actually does **NOT** possess even the most basic knowledge and/or understanding of internet issues as Rodrick was to learn during his legal representation and evidenced apparently by the need for "voluminous research" and "legal analysis" – charging the client for his learning curve. This would have been a helpful disclosure to Rodrick prior to hiring what he had been led to believe were internet legal specialists as claimed and advertised by Kelly/Warner Law.

In addressing the fraudulent billing of 8.0 hours of work preparing for a deposition occurring on September 27, 2013, Warner does **NOT** provide a credible explanation that is acceptable to a reasonably minded person. What Warner does **NOT** disclose in his response to the SBA is that the vast majority of the preparation for the deposition had been done by Rodrick and uploaded to a Basecamp application – provable with access to Basecamp and perhaps one of many reasons for Warner's repeated refusal to allow the required access to Rodrick's "files." A word document had been prepared listing approximately 250 questions along with the corresponding organization, identification, and numbering all potential exhibits which were made available for Warner's use – as he had requested on September 23, 2013 in an email requesting "Please confirm that you are preparing all exhibits and questions for Adam's deposition, and that I will have copies of everything no later than Sunday night" (*see*, Exhibit M). Warner worked off this prepared word document and exhibits to literally cut and paste the questions down to approximately 150 questions into his own word document that he then used for the deposition on September 27, 2013 (*see*, Exhibit N). The point is the 8.0 hours

of billing on the day of the deposition for a 4 hour deposition with a few hours of prep work before taking place is generally not in question. However, the 8.0 hours billed September 26, 2013, the day prior to doing a copy and paste job of word docs on September 27, 2017 is complete fiction and constitutes intentional fraudulent billing. What effectively occurred is Rodrick did all the heavy legwork as requested by Warner in the preparation of the required questions and accompanying documentation only to have Warner bill as though he had put in the hours of work performed himself. Just one example of many that with the Warner law practice he doesn't actually prepare and do the legal work himself – but will bill the client as though he had.

It is interesting that Warner's response proves Rodrick's allegation that the billing hours for work supposedly done by an associate represents the fraudulent billing practices of the Kelly/Warner Law firm. Warner acknowledges that 4.6 hours of time at a cost of $1150.00 to Rodrick was invoiced. However, what did not occur was any contact **EVER** made by the "associate" with Rodrick in any form or time. Warner cannot produce one piece of evidence of anything that the "associate" ever worked on, discussed, emailed, called or collaborated with Rodrick at anytime – as it **NEVER** occurred. The main point for the SBA investigation is such fraudulent billing practices were clearly an ongoing practice for the firm and a complete audit of the books should be completed as it is likely such subterfuge was **NOT** exclusive to the Rodrick legal representation.

Warner's response completely ignores the point associated with the fraudulent billing practices in regard to work supposedly performed for preparing **BOTH** separate lawsuits and a joint lawsuit. The point is he worked on and billed for the separate lawsuit only to **DOUBLE UP** on the billing for the same work to change to a legally ill advised switch to a joint lawsuit that would clearly prejudice both Rodrick and Heisig in their litigation. The point is Warner knew the joint lawsuit was clearly **NOT** in the best interest of the clients, yet he admittedly and falsely claimed that they needed to go the joint lawsuit option as otherwise they would face legal liabilities for having chosen to proceed separately (*see*, Exhibit O) – a complete fabrication of the legal principles involved. The reality is there was no such liability, validating that Warner's injudicious advise was motivated solely on his concern he might lose the additional billing hours if Heisig sought different legal representation – **AND** Warner inappropriately pushed through this misguided legal advice in order to **DOUBLED UP** on the billing hours for the same work.

Finally, Rodrick will concede there is a degree of speculation in his complaint in regard to the impropriety of Warner's required payment of $12,000.00 in **"cash."** However, this is **NOT** far-fetched speculation. Breaking down the excuse for the **"cash"** payment was based on Warner offering a discount to the excessive June 2013 Invoice, however, this does **NOT** explain the requirement that the payment be in **"cash."** The discount could just as easily been based on an immediate time period being met to insure payment such as a five (5) day pay versus waiting for the usual 22nd of the month pay cycle Rodrick followed as previously discussed. Or, the payment could have been taken care of via a cashier check or even an immediate bank transfer directly to the Kelly/Warner Law account as this is a pretty standard and efficient manner to handle such transactions. However, Warner's required terms were for a **"cash"** payment only

delivered to him personally, the only logical explanation being an attempt to keep the payment "off the books." In the response Warner asserts the arrangement "was an attempt to resolve Complainant's delinquent payment" and "would prompt past-due payments." As previously discussed in detail, there was not a "delinquent payment" or any "past-due payments." This continued assertion is nothing but the fabrication of Warner to create a justification for the numerous endeavors of repeated misconduct. He further claims the **"cash"** was "properly documented all cash payments received", yet provides absolutely none of the easily obtainable supporting documentation that the firm's Bank makes readily available. In fact, for **"cash"** deposits of, or exceeding, $10,000.00 there would have been the extra IRS required Bank documentation completed at the time of such a **"cash"** deposit. Also, with an appropriate audit conducted by the SBA of the Kelly/Warner Law accounting books it will be easy to corroborate this **"cash"** deposit being made within a reasonable five (5) business day time period from receipt. Such an audit could also cross reference billing hours submitted by Warner for all legal work on specific dates of interest – September 26, 2013 when 8.0 hours was billed for nonexistent work preparing for a deposition and also September 13, 2013 when 7.0 hours was spent on a fathom "draft." That would certainly dispel any "speculation" to Rodrick's complaint.

Sanctions for Untimely Cancellation of Deposition

The excuse provided by Warner for **HIS** defying the Court's Order requiring at least 24 hour notice in cancelling a scheduled deposition is ludicrous. Claiming he was supposedly working on "a 22-page letter", first of all is a blatant lie, and second is no defense to ignore a Court's Order that is clear and simple to abide by. There is no acceptable excuse, although this does not deter Warner from claiming it was somehow his clients fault. That he was "approximately 41 minutes shy of providing 24 hours' notice of cancellation" is completely irrelevant – **HE** defied the Court's Order. Whether 41 minutes or 41 days is no different when an attorney chooses to ignore and spurn the clear perimeters set by the Court. It is **NOT** like compliance imposed some high degree of difficulty for Warner to meet, and thus the Judge responded to such overt defiance accordingly, to Rodrick's costly detriment. That Warner would attempt to somehow justify **HIS** incompetence and obvious indifference by blaming his client because **HE** did not pick up the telephone and/or **HE** did not drop a quick email is beyond preposterous. It certainly amounts to the proverbial adding insult over injury. An injury in the form of a sanction ordered against Rodrick costing him over a $1,000.00 for Warner's ineptness at performing **HIS** profession duties. Such a delusional brazen excuse only solidifies to any reasonable person the complete lack of character and personal accountability demonstrated repeatedly by Warner.

This is not the end to this sordid tale being told by Warner. Rodrick was perplexed trying to recall an instance when Warner had ever written a "22 page letter" concerning anything – at anytime - let alone at the insistence of Rodrick involving this deposition. The reason for the quandary is such a thing **NEVER** occurred. Once again, Warner is caught **lying directly to the SBA** in his never ending propensity to violate the Rules (specifically Rule 42 – ER 8.4(c)). First, there was never a "22 page letter"; there was **one page** of correspondence written by Warner with the inclusion of twenty-one (21) pages of a detailed listing of a fourteen (14) point breakdown of a deposition with the corresponding transcript pages (*see*, Exhibit P). The

inclusion of this content would only require a ten (10) second copy and paste job by Warner or a member of his staff. Second, the twenty-one (21) page deposition breakdown was **NOT** prepared by Warner at all; it was Rodrick who provided the document that had been requested **BY** Warner, which was emailed to him on September 22, 2013 (*see*, Exhibit Q). He did **NOT** write a "22 page letter", nor was he "working" on it to somehow preclude him from abiding by the Court's Order. Furthermore, the email of September, 22 2013, four (4) days before the deadline set by the Court's Order has Rodrick specifically alerting Warner that "Of course this will have an impact on being able to depose susan as scheduled and possibly a motion to compel…" (*see*, Exhibit R). Warner's incompetence is further exacerbated and demonstrated by the email sent by Rodrick three (3) days later at 8:11AM (which was still before the Court's Order deadline) after **NOT** receiving a response to the previous email from Warner (as usual) in which he states: "just making sure you got the email I sent with the missing discovery list and the transcript quotes. Did you send them an email? I think Susans depo was scheduled in the next day or so which now because they have withheld key evidence will need to be canceled" (*see*, Exhibit S). Rodrick was doing everything possible to work with Warner in an attempt to overcome Warner's ineptitude. However, Warner actually has the audacity to depict these events to the SBA that the fault for not abiding by the Court's Order was Rodrick's – which is preposterous – when it clearly was Warner gross negligence in performing his legal representation duties. Warner's claims as portrayed to the SBA are nothing other than a fabrication of events amounting to an insulting bold face **LIE** to falsely sway the SBA investigation with a premeditated deployment of chicanery.

The Sanctions Motions

In addressing the issues brought forward in the complaint involving Warner's filing a Response in the Federal lawsuit case after submitting his Withdrawal, he endeavors to whitewash the significance of his misconduct. As he tells his tale, it is interesting that Warner could find time to confer with his "ethics counsel" but could not make an effort to discuss the case and/or specifically the Response needing to be prepared with his **client** – Rodrick. That factual sentence is certainly telling of the Warner law practice.

Warner's response to the complaint attempts to justify his misconduct in the submission of a very prejudicial article that was very pernicious to his client Rodrick. There is never a justification to intentionally sabotage your own client by adding information into the court record that would create a negative bias, especially when there was no valid and discernible reason the information was a necessary inclusion. What Warner withheld in his response is there was alternative evidence readily available that not only proved the same points, but would do so with better clarity and **NOT** with a negative bias toward his client Rodrick. The identity of the John Doe and Jane Doe had been compromised by their own website Offendexortion.com which clearly made a point to overtly disclose their involvement in the federal case. The inclusion of the Arizona Republic article by Warner was a knowingly malicious attack upon Rodrick to sabotage his ability to litigate the case. Warner strongly advised Rodrick **NOT** to discuss the legal case with the writer in preparation of the article, and as such it was not surprising the article was published as a one-sided defamatory assassination of character

against him. Yet Warner entered into the court record this same article he had advised to avoid any involvement and did so to the intentional and malicious prejudice to Rodrick's case.

What is important to the SBA review of the complaint and Warner's response is the manner in which he misrepresents the facts that have been provided. Warner claims "as indicated by the emails, Complainant would not cooperate unless Mr. Warner drafted the response **EXACTLY** like he wanted." Either Warner is illiterate or he believes the SBA will not review the email exchanges provided as they do **NOT** indicate any such thing. Rodrick does **NOT** demand the response to be "exactly like he wanted" at anytime, he wanted it to address the issues appropriately and he wished to discuss the matter with a meeting or phone call with his counsel. It is true he did **NOT** want it to include an exhibit of the article that was a defamatory one-sided assault upon his character. He did **NOT** want it to include a declaration that was **NOT** factual. In the email the **EXACT** words written were: "I will not allow you to file any **FALSE STATEMENTS** to the court." What the emails do indicate is Warner's refused to meet and/or discuss the response with his client – about the **CLIENT'S** case. Again, Warner's brazen misconduct is best highlighted by his own words from his email of October 28, 2013 when he asserted "I do not need your input on the response to the motion" (*see*, Exhibit T) even if that meant ignoring his client's demand that Warner not go forward in making "false statements to the court." It is also important to remember this was written **AFTER** Warner had filed his Withdrawal in the U.S. Federal District Court of Arizona so as he could depart from the case with the infliction of the most damage possible upon his previous client and prejudicing the case against Rodrick to utmost degree in the most malicious and vindictive manner possible.

Warner continues the fallacy in his response by claiming he "was **forced** to file a very short response that was supported by a **declaration**…." (*see*, Warner Response Page 10 – The Sanction Motion). There is no explanation what is meant by claiming he was **"forced"** or by whom. Warner certainly cannot be referring to Rodrick as the emails that have been provided clearly indicate he was adamant in not wanting the Motion as prepared by Warner to be filed in the U.S. Federal District Court of Arizona. This **"forced"** reference must be an intended explanation for filing a Response in the U.S. Federal District Court of Arizona that included support by a **"declaration"** that Warner was well aware was **NOT** factually correct. The emails indisputably establish that Warner was aware the declaration could not be submitted with the Response and he knowingly ignored this fact and included it anyway (*see*, Exhibit U). There is no justification for an attorney to defy the clear instruction being made by their client, and certainly **NOT** when this defiance involves knowingly filing false documentation in Federal Court in the name of the client. Beside the clear violations of several Rules as detailed in the complaint, Warner's misconduct is also subject to serious and numerous **Rule 11 violations** that would justify his expulsion from practicing in the U.S. Federal District Court of Arizona – immediately. Perhaps the "forced" reference was provided from his "ethics counsel" whom Warner must keep very busy.

Conflicts of Interest

Contrary to Warner's insistence that none of Rodrick's various allegations relating to conflicts of interest were true, an elementary breakdown of events unquestionably proves the opposite.

Warner did not consult Rodrick and Heisig of potential conflicts of interest before undertaking the joint representation or anytime during the representation, including after the original defendants filed counter-claims. This egregious oversight of required professional due diligence is exposed with the simple review of the separate fee agreements which were required to address this specific issue per ER 1.8 (*see*, Exhibit I). Also, Warner cannot produce one document or any email exchanges **EVER** broaching the subject. There is no evidence because it **NEVER** occurred; Warner did not consult Rodrick as required by the Rules which may have influenced the course of how he and Heisig may have chosen to litigate their cases.

In responding to the issue of providing a copy of the official transcript of a litigant to an opposition counsel, Warner completely omits the consequences realized by Rodrick by this action and/or that he did **NOT** consult his client before or even after he had done so. Rodrick had to learn of the situation when a different attorney for a different litigant used the provided transcript that Rodrick had paid the thousands of dollars in creating, which none of the opposition had done so, as an exhibit in a Response by the opposition against Rodrick. The one opposition attorney just gave the Rodrick owned transcript to another opposition attorney (at no cost to the opposition) to be used against Rodrick. To which Rodrick would then have to pay Warner to Reply to this Response utilizing his document. Rodrick lost his Motion solely because of the transcript being utilized in the Response. Yes, Rodrick believes this clearly demonstrates a conflict of interest and also represents another incidence of Warner not being concerned with the best interest of his client, only the best way to maximize the billing hour opportunities which Rodrick was certainly billed excessively to deal with this occurrence.

In addressing one of the conflict of interest issues Warner believes the adjustment of one word somehow alters the underlying point that is self evident and detailed in the complaint. However, this one word change does not represent a significant alteration to the fundamental premise presented by Rodrick. Warner claims in his email that when he states: "I've been **weary** of you since day one and certainly would not do anything to put myself in jeopardy for someone like you"; now claiming he meant to write "leery" instead of "weary." Warner's contention this would somehow change the context of the message is absurd. The point is the same, such sentiments "since day one" prove Warner harbored a personal animus toward Rodrick and this manifested itself in the manner in which he performed the legal representation of Rodrick which was wholly inadequate (to put it politely). Such a conflict of interest is the source to all the many examples that Warner defied the Rules in representing "someone like" Rodrick – whatever that is supposed to mean, but it certainly is not respectful. It is ironic that Warner must rely on a paid for advocate to correct his semantics. The **ONLY** example to professional acclaim Warner has relied on are his test scores from a decade ago passing the bar exam, he certainly cannot site any meaningful legal case work, yet today apparently he cannot even get his wordsmith efforts done correctly without paying for the assistance of a competent professional attorney.

In a response littered with absurdity, Warner reaches a new level with a depiction of circumstances involving finally scheduling a meeting with Rodrick for October 24, 2013. After months without any meeting and **WEEKS** of Rodrick repeatedly requesting a meeting – via emails, voicemails and phone calls – he finally received a call from Warner's partner Aaron Kelly to discuss the situation occurring in regard to Warner's misconduct. Of course, Warner was too unprofessional and cowardly to simply make the call to **HIS** client himself. A short and cordial conversation ensued with Mr. Kelly, it was agreed to arrange a meeting convenient for all to attend. What occurred was Rodrick would receive an email scheduling the much requested "meeting" that evening at 5:30PM (*see*, Exhibit V). Providing a ridiculous notice of **JUST FOUR (4) HOURS** that also required traveling at rush hour to the Kelly/Warner Law offices. Rodrick could not make changes to existing commitments but was very reasonable in making himself available **ANYTIME** the **NEXT DAY** or the one after that at the Kelly/Warner Law discretion. Depicting Rodrick's response as he had "declined" to meet is ludicrous. The email exchanges clearly document the **FACTUAL** basis to the events as portrayed by Rodrick and establishes another **LIE** submitted as a response to the SBA by Warner (*see*, Exhibit X). This **LIE** is submitted in the complaint's response as yet another attempt to divert the attention of the SBA away from the **FACT** that it was Warner trying to extort Rodrick with a demand that he had to pay the falsely claimed "past-due bill" in order to be granted the repeatedly requested meeting with his supposed legal representative. The arrogance of presenting such fallacy to the SBA in depicting the events associated with just being graced with a meeting with ones attorney who had been paid $75,000.00 and adding the additional condition that after months of refusing to meet, for a meeting to occur it required paying thousands of dollars toward a bill that was **NOT** "past-due" is criminal and grounds for immediate disbarment in and of itself.

Warner also submits their exhibit 38, a contrived letter written on October 24, 2013 as a ruse to "cover his tracks" (*see*, Exhibit Y). Upon close examination it is obvious to determine the masking strategy being employed by Warner. The letter claims Rodrick is "trying to delay", which is a ridiculous assertion as he had been seeking the meeting for **WEEKS.** Depicting the response that Rodrick was not available with **ONLY** four (4) hours notice, but is available anytime over the next two (2) days as "trying to delay" is utterly moronic and an insult to anyone's intelligence. There is no mention of the **4 HOUR NOTICE** or that Rodrick was available anytime the next two days in the contrived letter. With this unmentioned information the letter goes on to set a payment deadline for an invoice that was **NOT** "past-due" for 10AM the next morning. Warner was doing everything possible **NOT** to have the requested meeting while deceptively creating a false paper trail that Rodrick was "not available" and "trying to delay" as a device to cover his own nefarious tracks. Ironically Warner could muster up a two page letter of fiction in 30 minutes, but could not produce a single page for the "draft" after 7.0 hours of supposed work which was to be the center piece of the discussion in the meeting. Warner knew **HIS** violations of the Rules were of a such a serious nature that not only were there SBA issues, there were potential criminal fraudulent billing issues at stake and he was not going to have a face-to-face meeting with Rodrick for risk of having the veracity of this issue exposed further.

Meeting with Third Party

Warner claims he advised against a meeting that included a third party to discuss the then recently filed Federal case in March of 2013. Beside the fact that this is just another of Warner's fabrication of events as no such advice or words of caution were given to Rodrick or Heisig as evidenced by no email exchange to either discussing the matter (**NONE)**, it also does not address the **FACT** that **ANY** knowledgeable attorney would **NEVER** allow such a meeting with a third party present when discussing the legal strategies of a new case. Again, when it suits his agenda Warner is **NOT** the responsible attorney who is to suppose be the experienced professional in such matters. At the time, Rodrick was completely unaware of any potential possibility of nullifying the attorney client privilege if a third party was present and Warner did not depart one word of advice on the matter. Since Warner's withdrawal Rodrick has had the opportunity to discuss such a scenario with experienced and professional attorneys who have informed him that such a meeting would **NEVER** be allowed to occur if being represented by a competent attorney. It would be such an egregious deviation of standard protocol that if such an occurrence was demanded by the client (which Rodrick did not) any savvy attorney would have required a signed waiver before proceeding with such an ill advised occurrence. Apparently this is fundamental knowledge among attorneys, again demonstrating Warner's lack of the rudimentary experience and/or knowledge of the legal profession and that he had not provided legal representation that was in the best interest of his client Rodrick. It repeatedly comes back to a question in these incidences with Warner of incompetence and/or perhaps just professional ignorance. Either way it was certainly a disservice with significant adverse consequences to Rodrick in his cases.

Failure to Respond Appropriately to "Murder Threats"

It was Warner's obligation to report the "threats" received at his office to the proper law enforcement authorities as it was his office that was contacted. The recordings of the disturbing calls were in the possession of his firm and the staff member taking the calls was the only direct witness. Rodrick did not have the recordings (and they were **NOT** provided in the DVD), nor did he witness the incident first hand. Anything Rodrick would report to law enforcement would have been hearsay – as an attorney surely Warner would be familiar with this legal premise. It is reprehensible that Warner chose to do **NOTHING** and his smug and dismissive response to the SBA inquiry exacerbates such a cavalier disposition. His inaction defines his underlying animosity he held against Rodrick as anyone in a similar circumstance would have explored the appropriate course of action with law enforcement authorities. Even if this situation is merely a reflection of Warner's lack of ethical and moral character, he should have at least been motivated to adhere to the professional and individual responsibilities as prescribed by the SBA. He displays no apprehension of the first of the core values of the SBA: "**Integrity:** This value represents our commitment to truth in **all** of its forms and in **all** of our actions. It is adherence to the spirit as well as to the letter of the law. It is consistency, transparency, and accountability for what we say and what we do, **as individuals**, as professionals, and as an organization." It has been a pattern of behavior for Warner to refuse to accept any personal responsibility for his abhorrent misconduct.

On the legal representation aspect of the "murder threat" incident, Warner demonstrated his incompetence when not following up with opposition attorney Randal Hutson in obtaining a copy of the voicemail he had agreed to provide. Warner was completely derelict in his duties by not securing this evidence which would have been a valuable addition to demonstrate the degree of vitriolic attacks, harassment and overall disposition of the opposition being dealt with by Rodrick. The individual involved, Nick Maietta who is a convicted sex offender with a lifetime requirement to register as a sex offender with the State of California, was the long time system administrator for the website Offendextortion.com that was the main source of dissemination of the defamatory postings concerning Rodrick and Heisig and was a central component of the Arizona Superior Court case. Nick Maietta obviously felt compelled to call Kelly/Warner Law to express his displeasure with Rodrick and was also comfortable in calling the attorney representing the owners of the website he worked for to express his sentiment of "murder". Yet, Warner did **NOT** bother himself with the follow up with Randall Hudson concerning the voicemail "murder threat" that would have been a key piece of evidence at trial. An opportunity lost to secure invaluable evidence due solely to Warner's inability to perform his duty in taking care of the many details as required when handling a client's case – showing absolutely **NO** effort to take care of the business at hand. This is but one of many examples of Warner intentionally not performing his duty of providing effective legal representation, instead he focused on actively sabotaging Rodrick's ability to develop a viable legal strategy to present his case.

It is reprehensible that Warner chose to ignore the seriousness of the threats received at his Law firms offices directed toward his client Rodrick. His pompous and flippant attitude is confirmed with his response to the complaint and validates Rodrick's assertion that Warner is devoid of the necessary ethical and moral compass to be allowed to practice law as a licensed attorney in the State of Arizona.

Rodrick was Prejudiced from the Withdrawal

Taking into account the totality of the Warner misconduct and how each of the many violations of the Rules was perpetrated, it becomes indisputable that this prejudiced Rodrick in effectively litigating his cases. This situation was further exacerbated with Warner fabricating an elaborate scheme to disguise the reality of fraudulent billing practices and incompetent legal representation by falsely claiming "past-due bills" and an absurd "extortion" claim as a justification of the improper withdrawal. With an objective analysis of the **FACTS** supported with irrefutable documentation it becomes obvious the nefarious intent of Warner.

The very examples presented by Warner in his response to the SBA complaint as evidence that the inappropriate withdrawal and the manner he did so did **NOT** prejudice the case actually proves the complete opposite. You have to take the totality of the events to put them in the proper perspective and Warner's irreconcilable *ex parte* communications with the judge of the Arizona Superior Court at the time of his withdrawal would assist in creating a clear bias that would be demonstrated by the Judge through the remainder of the case. Beside the blatantly falsified accusations of "past-due payments" and an "extortion" letter, there was no

justification for Warner to insult his clients before the sitting Judge of the case when stating: "you both live up to your reputations." This excessively disparaging comment would negatively influence anyone's perception of those parties that they did not know personally, for your attorney to say such a thing before the Judge was extremely prejudicial to the case. It wasn't enough for Warner to falsely claim "past-due payment" and a ridiculous "extortion" claim to the Judge to achieve his inappropriate withdrawal; he had to throw in his vitriolic and unjustified character assassinations against both Rodrick and Heisig before the Judge for no discernible justification other than to dispense an agenda of malicious and vindictive intent.

Warner's response in regard to his influence in creating prejudice against Rodrick in the cases is completely erroneous. Rodrick has been clearly and repeatedly prejudiced by Warner's misconduct. It is exactly Warner's improper withdrawal, Sanctions imposed, conflicts of interest, meeting with third party and certainly the refusal to provide the **"ENTIRE"** and **"COMPLETE"** file to the cases in order to properly prepare for the litigation was extremely prejudicial to Rodrick and his ability to litigate his cases. For the SBA review these are a few of the many examples of Warner's misconduct that have directly prejudiced the Rodrick's cases:

- Did not release all the files as required, including the three (3) depositions that were not available for Rodrick to use in the trial.
- Response in Federal Case that included Arizona Republic Article and a declaration that was factually inaccurate. Both were used against Rodrick in a Motion for Summary Judgment.
- *Ex parte* communications with the Judge of Arizona Superior Court case and made very derogatory and completely unjustified comments concerning both Rodrick and Heisig at the time of withdrawal.
- The repeated falsified depiction of circumstances for the request for Withdrawal in both courts – falsely claiming an "ethics" issue and "past-due payments". Used against Rodrick at trial.
- Sanctions imposed upon Rodrick for Warner's misconduct of not abiding by the Court's Order. Used against Rodrick at trial
- Allowed a third party to be present during a meeting at Warner's office that included discussing intricate details of the legal strategies associated with the cases. Information that was used against Rodrick at trial and in the Federal Court.
- Conflicts of Interest in pushing for a joint lawsuit instead of the appropriate separate lawsuits and did so solely to maximize billing instead of proceeding in the best interest of the clients. Completely misdirected the proper handling of the legal issues that would alter all aspects of all litigation matters in both cases.
- Did not provide legal representation based on the best interest of the client – was motivated only by the best interest of Warner's bank account.
- Did not secure the available evidence of the "murder threat".

For Warner to claim his misconduct such as those listed above would not have affected the Rodrick cases require a blatant disregard to the precepts of basic cause and effect principles. The response to Rodrick's complaint and dismissing the detailed circumstances that created an

all pervasive prejudice is disingenuous at best and more correctly an intentional deflection tactic to divert attention from the obvious culpability for Warner's misconduct.

///

Dan Warner the Illusionist – The Response Attempts Diversion Tactics to Diminish the Real Issues

It is quite obvious that Warner's skills of erroneous character assassination far out-weigh his efficacy for practicing law. Rather than address the legitimate legal grievances detailed in the complaint, he chooses to present a delusional mudslinging diatribe of irrelevant distractions. An inordinate amount of Warner's response, more than half of the pages, is spent presenting false assertions, misrepresentation and outright lies that have absolutely **NOTHING** to do with the issues before the SBA. The obvious goal of such a stratagem is to distract the SBA from the fundamental validity of the many violations of the Duties and Rules as detailed in the complaint filed by Rodrick. Although Rodrick would like to ignore the many incidences of Warner's deceptive ploy, that would only serve to allow such fiendish nonsense of diversion being perpetrated by Warner to possibly be perceived as factual. As such, Rodrick will point out the more egregious examples of such absurdity demonstrated in Warner's vitriolic and improper tirades of a personal nature to expose the imposture. A simple review of examples is telling:

- It is very strange that Warner would quote a New York Times article concerning the policies of PayPal. The quoted article is absolutely irrelevant in this proceeding and presents nothing other than unsupported speculation. It is an example of Warner's strategy to create a decoy rather than answer Rodrick's legitimate legal complaints that clearly detail Warner's ethic violations as an attorney. It appears as though Warner prefers obfuscation, perhaps because he was woefully underequipped to handle the internet issues in the legal representation of Rodrick's cases and that he proved to be ineffectual in his experience and knowledge of pertinent legal matters.

- The response stoops to presenting additional quotes from a media posting such as making a point of jewelry purchases by Rodrick when stating "and $13,000 to buy her jewelry." It is baffling why Warner would choose to cite any purchase made by Rodrick. This is totally irrelevant and is just another of the many examples of Warner's attempt to blatantly muddy the waters in this process with rejoinders that serve no meaningful purpose other than an attempted distraction of pertinent issues detailed in the complaint.

- Warner quotes excerpts extracted from emails to him from Rodrick and Heisig. These excerpts were taken out of context. It is a misleading and deceptive practice to only quote one phrase or sentence from an email and not put them in their proper context. These email excerpts in no way illustrate the attorney/client relationship they shared. The only thing proven by such excerpts is that Rodrick and Heisig endeavored to be polite and gracious to Warner. Rodrick and Heisig tried very

diligently to work with Warner even when he was the one who engaged in repeated misconduct.

- It is curious to Rodrick that Warner would claim, "Two of the individuals who were published on the Websites refused to pay the removal fee and became confrontational with Complainant." Warner was made keenly aware that these two individuals were never afforded the opportunity to pay for removal as they did not ever qualify for removal under SOR's policies and dictates. This statement by Warner is another example of his continued ploy to mislead the SBA. It illustrates his lack of professionalism and competence as an attorney. It is yet another excuse by Warner for his ineffectiveness as a lawyer. He knew the facts and did not champion the verity for his own client.

Such an obvious ploy to divert attention away from himself with his stratagem of unwarranted and unprofessional character assassination of Rodrick (a well paying previous client) only demonstrates a desperate attempt to obfuscate the serious job undertaken by a SBA investigation. It is an insult to the intelligence of any person assigned to review the factual basis of the allegations found in the complaint to have to weed through the subterfuge of distraction attempted by Warner in his response. Such misconduct demonstrates disrespect for the SBA complaint process and further strengthens Rodrick's assertion of Warner's lack of any discernible ethical or moral compass in representing himself as an attorney allowed to practice in the State of Arizona.

Conclusion

Rodrick has diligently attempted to provide factual, objective, and credible information to assist in determining that a licensed attorney to practice law in the State of Arizona is in compliance with the dictates and requirements as described by the Rules (within Rule 42) and Duties (within Rule 41(g)). Something that the overwhelming evidence provided proves Warner has been woefully derelict in abiding. The Arizona Supreme Court "has long held the objective of disciplinary proceedings is to protect the public, the profession and the administration of justice and not to punish the offender." *In re 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 similar conduct by other lawyers." *In re Fioramonti*, 176 Ariz. 182, 187, 859 P.2d 1315, 1320 (1993) (citing *In re Rivkind*, 164 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990). It is also a goal of lawyer regulation to protect and instill public confidence in the integrity of individual members of the State Bar. *In re Horowitz*, 180 Ariz. 20, 29, 881 P.2d 352, 361 (1994) (citing *In re Loftus*, 171 Ariz. 672, 675, 832 P.2d 689,692 (1992)).

Thank you in advance for your consideration and anticipated cooperation. Please do not hesitate to contact me if I may be of further assistance.

Respectfully submitted,

_____

Charles Rodrick