

REINSTATEMENTS

CHERYL C. CAYCE

Bar No. 012447; File No. 04-2103

Supreme Court No. SB-06-0177-D/R

By Supreme Court order dated June 29, 2007, Cheryl C. Cayce, 2730 E. Broadway, Suite 250, Tucson, AZ 85716, was reinstated as a member of the State Bar of Arizona.

TERRANCE R. HARRIS

Bar No. 013860; File No. 07-6001

Supreme Court No. SB-07-0147-R

By Supreme Court order dated Sept. 25, 2007, Terrance R. Harris, 618 N. Fourth St., Coeur d'Alene, ID 83814, was reinstated as an active member of the State Bar of Arizona.

Mr. Harris was summarily suspended from the practice of law on April 25, 2003, for nonpayment of membership dues and failure to file a certificate of compliance. Pursuant to Rule 64(f), ARIZ.R.S.Ct., if an application for reinstatement is not filed within two years from the effective date of suspension, the reinstatement pro-

cedure set forth in Rule 65, ARIZ.R.S.Ct., applies. Mr. Harris met all such requirements for reinstatement.

THOMAS C. MCDANIEL III

Bar No. 016986; File No. 06-6001

Supreme Court No. SB-07-0077-R

By Supreme Court order dated July 18, 2007, Thomas C. McDaniel III, 5561 E. First St., 177 N. Church Ave., Suite 200, Tucson, AZ 85701, was reinstated as an active member of the State Bar of Arizona.

MARY VALENTINE SCHAFFER

Bar No. 017474; File No. 04-1881

Supreme Court No. SB-06-0158-D/R

By Supreme Court order dated July 3, 2007, Mary Valentine Schaffer, P.O. Box 30335, Tucson, AZ 85751-0335, was reinstated as a member of the State Bar of Arizona.

COLE DEAN SORENSON

Bar No. 013097; File No. 07-6001

Supreme Court No. SB-07-0148-R

By Supreme Court order dated

Sept. 25, 2007, Cole D. Sorenson, 3827 E. Solano Dr., Paradise Valley, AZ 85253, was reinstated as a member of the State Bar of Arizona and placed on probation for two years. The terms of the probation include participation in the State Bar's Member Assistance Program and Law Office Management Assistance Program.

MICHAEL T. STUBBEN

Bar No. 020298; File No. 06-6005

Supreme Court No. SB-07-0083-R

By Supreme Court order dated June 28, 2007, Michael T. Stubben, 2959 S. Sailors Way, Gilbert, AZ 85296, was reinstated as an active member of the State Bar of Arizona.

Mr. Stubben was summarily suspended from the practice of law on May 14, 2004, for nonpayment of membership dues and failure to file a certificate of compliance. Pursuant to Rule 64(f), ARIZ.R.S.Ct., if an application for reinstatement is not filed within two years from the effective date of suspension, the reinstatement pro-

cedure set forth in Rule 65, ARIZ.R.S.Ct., applies. Mr. Stubben met all such requirements for reinstatement.

SANCTIONED ATTORNEYS

JASON C. BESKIND

Bar No. 017131; File Nos. 05-1566, 06-

0431, 06-0836, 06-0934, 07-0664

Supreme Court No. SB-07-0078-D

By Supreme Court order dated July 18, 2007, Jason C. Beskind, 6991 E. Camelback Rd., Suite B-295, Scottsdale, AZ 85251-1958, a member of the State Bar, was placed on interim suspension pursuant to Rule 61(c), ARIZ.R.S.Ct.

LAWRENCE M. BIERMAN

Bar No. 005225; File No. 06-0086

Supreme Court No. SB-07-0107-D

By Arizona Supreme Court judgment and order dated June 29, 2007, Lawrence M. Bierman, 560 W. Brown Rd., P.O. Box 15070, Mesa, AZ 85211-3070, a member of the State Bar, was suspended for 90 days and placed on probation for two years. The terms of the probation include participating in the

State Bar's Law Office Management Assistance Program and Member Assistance Program. Mr. Bierman was assessed the costs and expenses of the disciplinary proceedings in the amount of \$711.23, together with interest at the legal rate.

In a personal-injury matter, Mr. Bierman failed to file a motion to set and certificate of readiness or seek a continuance of the case on the inactive calendar, resulting in the case being dismissed and the claim being barred by the statute of limitations. He failed to inform the client that her case had been dismissed for four months.

Mr. Bierman was suspended for two months in 2005 for failing to comply with MCLE requirements during which time he was counsel for the personal-injury client and counsel of record in at least three other cases pending in Superior Court. He appeared in court at a pretrial conference in one of the pending cases while summarily suspended. Mr. Bierman's mental state was found to be knowing.

Four aggravating factors were found: multiple offenses, bad-faith obstruction of the disciplinary proceeding, substantial experience in the practice of law and dishonest or selfish motive regarding his practice of law while summarily suspended.

Four mitigating factors were found: absence of a prior disciplinary record, physical disability, remoteness of prior offense and absence of a dishonest or selfish motive regarding his conduct in the personal-injury matter.

Mr. Bierman violated Rule 42, ARIZ.R.S.C.T., ERs 1.1, 1.2, 1.3, 1.4, 3.2, 5.5 and 8.4(d).

DAVID L. BJORGAARD

Bar No. 012637; File Nos. 05-0735, 06-0368, 06-0498, 06-0564, 06-0783, 06-0831, 06-0967

Supreme Court No. SB-07-0081-D

By Supreme Court judgment and order dated June 29, 2007, David L. Bjorgaard, 288 N. Church Ave., Tucson, AZ 85701, a suspended member of the State Bar, was suspended for two years and will be placed on probation for two years upon reinstatement. The terms of his probation include participating in the State Bar's Law Office Management Assistance Program and Member Assistance Program. He was ordered to pay \$1,200 resti-

tution in count four and participate in fee arbitration in counts two, five and six. He also was assessed the costs and expenses of the disciplinary proceedings in the amount of \$1,495 together with interest at the legal rate.

Counts one, two and three involve four separate civil actions in which Mr. Bjorgaard failed to file a notice of claim prior to filing the complaint, failed to submit a disclosure statement, failed to conduct discovery or respond to discovery requests and failed to communicate with opposing counsel. He failed to timely appear for hearings or file court-ordered responses, which resulted in the cases being dismissed. Mr. Bjorgaard failed to communicate with his clients or timely return the clients' files. In count three he was sanctioned \$24,366.50, which he paid only after failing to appear for a debtor's exam and a show-cause hearing and a warrant for his arrest was issued.

In count four, a criminal matter, Mr. Bjorgaard failed to timely file the client's proof of completion resulting in an arrest warrant being issued. In count five, a criminal appeal, he failed to file a reply brief or a request for oral argument, failed to communicate with the client and timely provide new counsel with a copy of the client's file.

In count six, a juvenile matter, Mr. Bjorgaard failed to file a motion to have the conviction reduced to a class six and have the client's civil rights restored. He failed to appear for a hearing resulting in the court removing him from the case and appointing a public defender. In count seven, a civil matter, Mr. Bjorgaard failed to conduct discovery, meet discovery deadlines or conduct witness depositions. He failed to timely respond to two motions for summary judgments and file a motion to withdraw or produce a contract for his work despite numerous requests from the client.

In all counts, Mr. Bjorgaard failed to respond or cooperate with the State Bar's investigation.

Three aggravating factors were found: pattern of misconduct, multiple offenses and bad-faith obstruction of the disciplinary process.

Three mitigating factors were found: absence of prior disciplinary record, personal or emotional problems and imposition of other

penalties of sanctions.

Mr. Bjorgaard violated Rule 42, ARIZ.R.S.C.T., ERs 1.2, 1.3, 1.4, 3.2, 3.4, 1.16(d), 8.1(b) and 8.4(c) and (d) and Rule 53(c) and (f).

ROBERT W. DUNAWAY

Bar No. 016908; File No. 06-0935

Supreme Court No. SB-07-0142-D

By Supreme Court judgment and order dated Aug. 23, 2007, Robert W. Dunaway, 4350 E. Camelback Rd., Suite B-200, Phoenix, AZ 85018, a suspended member of the State Bar, was suspended for six months and one day, retroactive to Oct. 5, 2006. He also was assessed the costs and expenses of the disciplinary proceedings in the amount of \$659.44, together with interest at the legal rate.

Mr. Dunaway represented 34 clients with various legal matters while summarily suspended from the practice of law for failure to comply with mandatory continuing legal education requirements. He was previously summarily suspended for MCLE non-compliance on two other occasions. He also used the trade name "Technology Law Center, L.L.C." as his firm's name.

Two aggravating factors were found: multiple offenses and substantial experience in the practice of law.

Three mitigating factors were found: absence of prior disciplinary record, absence of a dishonest or selfish motive and remorse.

Mr. Dunaway violated Rule 31(c), ARIZ.R.S.C.T., and Rule 42, ARIZ.R.S.C.T., ERs 5.5 and 7.5.

THOMAS D. GRABINSKI

Bar No. 009465; File No. 06-1730

Supreme Court No. SB-07-0151-RD

By Supreme Court order dated Sept. 7, 2007, Thomas D. Grabinski, Arizona State Prison Complex, #210173, P.O. Box 2799, Globe, AZ 85502, a suspended member of the State Bar of Arizona, was disbarred by consent from the practice of law retroactive to Nov. 28, 2006.

MICHAEL R. KARBER

Bar No. 016230; File No. 06-4002

Supreme Court No. SB-07-0033-RD

By Arizona Supreme Court judgment and order dated May 22, 2007, Michael R. Karber, 321 E. McKinley St., Tempe, AZ 85281, a member of the State Bar of Arizona and admitted to practice law in the

State of Washington, was censured and placed on probation for two years with participation in the State Bar's Member Assistance Program. Mr. Karber also was assessed the costs and expenses of the disciplinary proceeding. This reciprocal discipline was imposed based on a July 28, 2006, Disciplinary Board of the Washington State Bar Association order in File No. 05#00100, imposing two formal reprimands and three years of probation on Mr. Karber in Washington.

In the Washington matter Mr. Karber was found to have failed to enter into a written agreement for his contingency fee, disbursed funds to himself from the client's settlement funds in his trust account before he was entitled to do so and failed to maintain adequate check register and clients ledgers from which the balance of the client's funds could be determined at any give point in time.

One aggravating factor was found: multiple offenses. Five mitigating factors were found: absence of prior disciplinary record, personal and emotional problems, timely good-faith effort to rectify the consequences of misconduct, mental disability and chemical dependency, and remorse.

Mr. Karber violated 1.5(c)(1) and 1.14(a) and (b)(3), WASH.R.P.C.

JAMES L. LEATHER

Bar No. 005002; File Nos. 05-0819, 05-1048, 05-1112, 05-1188, 05-1421, 06-0378, 06-1915

Supreme Court No. SB-07-0126-D

By Supreme Court judgment and order dated July 17, 2007, James L. Leather, 706 E. Bell Rd., Suite 111, Phoenix, AZ 85022, a member of the State Bar, was censured and placed on probation for two years. The terms of his probation include participation in the State Bar's Law Office Management Assistance Program and retention of a law office management coach and monitor. He also will remove any liens held by himself or Burton & Leather in File No. 06-1915 and offer fee arbitration to the client. Mr. Leather was ordered to pay restitution totaling \$8,184.82 to the clients in counts two, four, five and six and was assessed the costs and expenses of the disciplinary proceedings in the amount of

\$1,032.05, together with interest at the legal rate.

In count one, a divorce matter, Mr. Leather collected an unreasonable fee, charged and unreasonable amount for expenses and failed to obtain the client's consent for the transfer of her file to an associate of the firm. He failed to withdraw from the representation when discharged and failed to timely refund unearned fees to the client.

In count two, a bankruptcy matter, Mr. Leather failed to attempt a renegotiation of the client's vehicle loan resulting in the surrender of the vehicle. He failed to abide by the decisions of the clients, inform the clients of the status of their case, promptly comply with reasonable requests for information or explain the representation to the extent reasonable to permit the clients to make informed decisions. Upon termination, Mr. Leather failed to surrender documents or refund unearned fees.

In counts three and four, two separate family law matters, Mr. Leather failed to request spousal maintenance in count three and file a petition to terminate child support obligation in count four. He failed to diligently and competently represent the clients in the proceedings and to reasonably communicate or keep the clients informed about the status of their matters.

In count five, a criminal and a domestic relations matters, Mr. Leather failed to enter into a written fee agreement with the clients setting forth the scope of the representation and the rate/basis of the fee and expenses. He failed to correctly inform the client of a plea offer and failed to appear at a hearing to contest an order of protection. Mr. Leather failed to inform the client of continuances in hearing and trial dates or promptly comply with requests for information.

In count six, a bankruptcy matter, Mr. Leather failed to ensure that certain debts were reaffirmed despite requests from the client. He also failed to keep the client reasonably informed about the status of the reaffirmation agreements.

Four aggravating factors were found: prior disciplinary offenses, pattern of misconduct, multiple offenses and substantial experience in the practice of law.

Two mitigating factors were found: absence of a selfish or dishonest motive and full and free disclosure to the State Bar. Significantly, the Supreme Court Disciplinary Commission concluded that a more severe sanction was not needed to protect the public under the unique circumstances of this case, in light of Mr. Leather's withdrawal from his previous law firm and the extensive conditions of probation.

Mr. Leather violated Rule 42, ARIZ.R.S.C.T., ERs 1.1, 1.2, 1.3, 1.4, 1.5 and 1.16.

JAMES F. MILLER

Bar No. 017381; File Nos. 04-0681, 04-2059, 05-0142, 05-0209, 05-0389, 05-0475, 05-0806, 05-0980

Supreme Court No. SB-06-0156-D

By Arizona Supreme Court judgment and order dated Jan. 9, 2007, James F. Miller, 4314 E. Allison Rd., Tucson, AZ 85712, a suspended

member of the State Bar, was suspended for three years. Prior to the application for reinstatement he shall provide evidence of successful treatment of any psychiatric disorders and successful rehabilitation from abuse of controlled substances. Upon reinstatement Mr. Miller will be placed on probation for two years with terms and conditions to be determined. He shall pay restitution totaling \$7,237.85, and the costs and expenses assessed in the disciplinary proceedings.

The State Bar received four insufficient funds notices on Mr. Miller's client trust account. Upon investigation it was found that he commingled his personal funds with client funds, took cash advances on his credit card from the trust account and failed to maintain client ledgers or perform three-way reconciliations. Mr. Miller received an order of diversion, which he failed to complete.

In addition, Mr. Miller was convicted of possession of a deadly weapon during the commission of a felony drug offense and DUI. After conviction he violated his probation and a bench warrant was issued. After arrest, he was placed on intensive probation for four years that included serving three months in a residential rehabilitation center, completing 1,000 hours of community service, and paying \$15,000 in fines. After his arrest, Mr. Miller voluntarily stopped practicing law and consented to a conservatorship of his law practice.

Mr. Miller also accepted advance fees and then failed to perform work for the clients. The State Bar, the conservator of Mr. Miller's law practice, found that the trust account did not contain sufficient funds to refund unearned fees to certain clients.

Mr. Miller's mental state was intentional regarding his criminal conduct and negligent regarding failing to safeguard client property.

Four aggravating factors were found: dishonest or selfish motive, pattern of misconduct, multiple offenses and illegal use of controlled substances.

Seven mitigating factors were found: absence of a prior disciplinary record, personal and emotional problems, timely good-faith effort to make restitution or to rectify consequences of misconduct, full and free disclosure to disciplinary board or cooperative attitude toward proceedings, character or reputation, mental disability or chemical dependency including alcoholism or drug abuse, and other penalties and sanctions.

Mr. Miller violated Rule 42, ARIZ.R.S.C.T., ERs 1.3, 1.4, 1.15(a), 1.16(b) and 8.4(b), and Rules 43(a) and (d), and 44(a) and (b), ARIZ.R.S.C.T.

KURT ALEXANDER MULLER

Bar No. 011727; File No. 06-4003

Supreme Court No. SB-07-0104-RD

By Arizona Supreme Court judgment and order dated May 22, 2007, Kurt Alexander Miller, 110 W. Grand Ave., Chicago, IL 60610-4269, an inactive member of the State Bar of Arizona and admitted to practice law in Illinois, was censured

CAUTION! Nearly 16,000 attorneys are eligible to practice law in Arizona. Many attorneys share the same names. All discipline reports should be read carefully for names, addresses and Bar numbers.

and ordered to complete the Professionalism Seminar of the Professional Responsibility Institute pursuant to an order of the Illinois Supreme Court in File No. M.R.-21027. Mr. Muller also was assessed the costs and expenses of the disciplinary proceeding. This reciprocal discipline was imposed based on a Sept. 21, 2006, Illinois Supreme Court order censuring Mr. Muller and requiring him to complete the Disciplinary Commission's Professionalism Seminar within six months of the court's order.

In the Illinois matter Mr. Muller was found to have filed a *lis pendens* notice when the case law did not support the filing, left offensive and threatening telephone messages for another attorney and asked a deponent whether she engaged in prostitution and other sexual activities.

Mr. Muller violated Rule 1.2(f)(1), 3.1, 4.4 and 8.4(a)(5), ILL.R.P.C., and Rule 770, ILL.R.S.Ct.

JACK J. RAPPEPORT

Bar No. 002256; File No. 07-0709

Supreme Court No. SB-07-0106-D

By Supreme Court order dated July 23, 2007, Jack J. Rappeport, 4994 E. Asa Carr Way, Tucson, AZ 85712-6621, a member of the State Bar, was placed on interim suspension pursuant to Rule 61(c), ARIZ.R.S.Ct.

SCOTT E. RICHARDSON

Bar No. 009277; File Nos. 03-1954, 04-0137, 04-0634, 04-0679, 05-0053, 05-1962, 06-0584, 06-0992, 06-1350, 06-1838, 06-1939

Supreme Court No. SB-07-0073-D

By Arizona Supreme Court order dated April 26, 2007, Scott E. Richardson, 3203 E. Baseline Rd., Suite 113, Gilbert, AZ 85234, a suspended member of the State Bar, was disbarred by consent from the practice of law for failure to properly operate and maintain his trust accounts and for his failure to pay funds belonging to clients and third parties. Mr. Richardson was assessed the costs and expenses of the disciplinary proceedings in the amount of \$11,703.27 together with interest at the legal rate.

DAVID D. RODGERS

Bar No. 014623; File Nos. 05-1357, 06-0326, 06-0434

Supreme Court No. SB-07-0128-D

By Supreme Court judgment and order dated Aug. 23, 2007, David D. Rodgers, 3303 E. Baseline Rd., Suite 109, Gilbert, AZ 85234 a suspended member of the State Bar, was disbarred. He will be placed on probation for two years upon reinstatement under terms and conditions to be determined at the time of reinstatement. Mr. Rodgers was ordered to pay

Bar Counsel Insider provides practical and important information to State Bar members about ethics and the disciplinary process.

BAR COUNSEL INSIDER

Credit Card Safeguards



We live in a world where people finance their daily lives with plastic money. So it's likely many of you probably have been tempted by the ease with which one can pay your fee with a credit card. But before you decide to start taking credit card payments, there are a few things you should consider.

We recommend that you limit acceptance of payments to either earned fees only or advanced fees only. If you take only earned fees, then your terminal should be linked to your business account. If you decide to take credit card payments for advanced fees, only your credit card terminal should be linked to your trust account. This initial decision will significantly reduce the potential for errors in your trust account.

Credit card payments for unearned fees pose a variety of ethical risks and practical complications for lawyers that payments for earned fees do not. The simple solution is to limit credit card payments to earned fees. A client who wishes to use a credit card for an advanced fee can do so by obtaining a cash advance that is deposited into the lawyer's trust account. This method is more costly to the client because cash advances typically carry a higher interest rate than do other charges. However, it avoids for lawyers the problems of covering the service charge from the lawyer's own funds and the risks associated with *chargebacks*.

Credit card issuers generally allow the customer to dispute a credit card payment for some period of time (typically 90 days) after it appears on the billing statement. On being notified of the dispute, the credit card company "charges back" the payment against the account to which it was originally credited. This practice can put the funds of other clients at risk if the lawyer already has earned and withdrawn the funds before the lawyer learns of the chargeback.

One solution is to have the bank deduct all chargebacks from the your business account. If the bank is unwilling or unable to debit a separate account, you could try to arrange to have any funds from your business account transferred immediately to cover any chargeback to the trust account. This is not overdraft protection, which is strictly prohibited on a lawyer's trust account. However it is ultimately handled, the lawyer is ethically bound to ensure that any chargebacks that jeopardize other client funds in trust are promptly covered with the lawyer's own funds.

If you do not want to limit yourself to taking only earned fees or advanced fees and you are determined to take both, the best practice is to have separate merchant accounts for credit card advanced fee payments and earned fees. However, your bank may insist on a single merchant account. In that case, it should be a trust account. Credit card payments representing earned fees are funds belonging "presently or potentially" to the lawyer. It is not a violation of ER 1.15(a) to deposit all credit card transactions into a trust account, if the portion representing earned fees is promptly transferred to the lawyer's business account. In contrast, depositing unearned client funds into the lawyer's business account is absolutely prohibited. Funds not yet earned are, by definition, client funds.

You also must talk to your merchants and your bank about the relevant fees or service charges associated with credit card transactions so you can determine the amount of administrative funds to be maintained in the trust account. Some banks will make an automatic transfer of sufficient funds from the lawyer's business account. If that is not possible, the lawyer must ensure that sufficient funds are prospectively deposited in a timely manner. (Again, this is not overdraft protection.) Otherwise, there is a risk that other client funds on deposit in the trust account will be depleted to cover the service charge. ER 1.15(b) allows for the deposit into trust of funds to pay bank service charges. Once you have determined an appropriate amount for administrative fees, you should maintain that amount in your trust account. Also, you must maintain an administrative funds ledger to track those amounts in your trust account. Failure to maintain administrative funds in the trust account has been the largest source of overdrafts related to credit card transactions.

Paying for professional services with credit cards is a convenience for clients who may not have sufficient cash available. It also enables lawyers to be paid immediately and avoid the risk of slow payment or nonpayment. Nevertheless, lawyers must be careful to structure credit card payment arrangements to ensure compliance with their ethical obligation to safeguard and segregate client funds. This obligation includes understanding the terms of the merchant agreement as it relates to the ethical rules regarding trust accounts.

If you have any questions about getting set up for credit card payments or other trust account related issues, you should call the State Bar of Arizona Trust Account Hotline at (602) 340-7305.

Contact the State Bar's Ethics Hotline at (602) 340-7284.

restitution totaling \$18,409.03 to the client in count two and was assessed the costs and expenses of the disciplinary proceedings.

In count one, a civil litigation matter, Mr. Rodgers failed to timely obtain an expert witness, keep the client informed about the status of the case, file requested motions or provide outstanding discovery. He failed to timely inform the client of a settlement offer which she learned of after it expired. Mr. Rodgers refused to communicate with the client for periods of time throughout the representation and the week before the trial. He also refused to perform any post-trial work for the client after the client disputed his motion to withdraw.

In count two, a civil litigation matter, Mr. Rodgers failed to timely serve disclosure or timely prosecute the matter resulting in the case being dismissed and judgment for attorneys fees and court costs entered against the client. He failed to keep the client informed about the status of the case or to inform him that the case had been dismissed. The client subsequently sued Mr. Rodgers and obtained a default judgment against him.

In count three, Mr. Rodgers practiced law while summarily suspended for failure to comply with mandatory continuing legal education requirements.

In counts two and three Mr. Rodgers failed to respond or cooperate with the State Bar's investigation. In all counts, he failed to maintain a current mailing address on file with the State Bar. Mr. Rodgers also failed to participate or otherwise defend in the formal proceedings. His conduct was deemed admitted by default.

Six aggravating factors were found: prior disciplinary offenses, pattern of misconduct, multiple offenses, dishonest or selfish motive, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency and substantial experience in the practice of law. No mitigating factors were found.

Mr. Rodgers violated Rule 42, ARIZ.R.S.Ct., ERs 1.3, 1.4, 1.5, 3.2, 5.5 and 8.4(d) and Rules 31(b), 32(c)(3), and 53(d) and (f), ARIZ.R.S.Ct.

MICHAEL C. SHAW

Bar No. 014044; File Nos. 04-2135, 05-1221

Supreme Court No. SB-07-0129-D

By Supreme Court judgment and order dated July 25, 2007, Michael C. Shaw, 401 W. Baseline Rd., Suite 210, Tempe, AZ 85252-5350, a member of the State Bar, was censured and placed on probation for one year. The terms of his probation include participating in the State Bar's Law Office Management Assistance Program, Trust Account Ethics Enhancement Program, Trust Account Program and Member Assistance Program. He was assessed the costs and expenses of the disciplinary proceedings in the amount of \$1,395.19, together with interest at the legal rate.

In count one, the State Bar received an insufficient funds notice on Mr. Shaw's client trust account resulting in an investigation by the State Bar's staff examiner. The investigation disclosed that Mr. Shaw had failed to maintain proper internal office controls to adequately safeguard client funds, record all transactions to the account promptly and completely, retain a duplicate deposit slip or the equivalent for each deposit, maintain client ledgers and a checkbook register, deposit funds to pay service or other charges imposed by the bank and conduct monthly three-way reconciliations.

In count two, a contract fraud matter, Mr. Shaw failed to respond to the client's telephone calls and

written inquiries, and failed to meet multiple litigation deadlines resulting in the case being dismissed twice. In both counts of this matter Mr. Shaw failed to fully cooperate with the State Bar's investigation.

Three aggravating factors were found: multiple offenses, substantial experience in the practice of law and bad-faith obstruction of the disciplinary process by intentional failure to cooperate.

Three mitigating factors were found: absence of a dishonest or selfish motive, timely good-faith effort to make restitution or to rectify consequences of misconduct and remorse.

Mr. Shaw violated Rule 42, ARIZ.R.S.Ct., ERs 1.2, 1.3, 3.2 and 1.15(a), and Rule 53(f).

GEORGE VICE III

Bar No. 011753; File No. 05-1690

Supreme Court No. SB-07-0145-D

By Supreme Court judgment and order dated Aug. 23, 2007, George Vice III, 3915 E. Camelback Rd., #219, Phoenix, AZ 85018, a suspended member of the State Bar, was suspended for three months. The three-month suspension is an extension to the six-months-and-one-day suspension Mr. Vice received in File No. 00-0170. He will be placed on probation for one year upon reinstatement. The terms of the probation include participation in the State Bar's Member Assistance Program. Mr. Vice also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Vice sent multiple harassing e-mails to the probable cause panelist in File No. 04-1194 and disrupted the proceedings in that file. He also protracted the proceedings of the instant matter. His conduct was found to be knowing.

Three aggravating factors were found: prior disciplinary offenses, refusal to acknowledge wrongful nature of conduct and substantial experience in the practice of law.

One mitigating factor was found: absence of a dishonest or selfish motive and remorse.

Mr. Vice violated Rule 42, ARIZ.R.S.Ct., ERs 3.5 and 8.4(d).

SUSAN G. WINTERMUTE

Bar No. 004632; File No. 06-4001

Supreme Court No. SB-07-0141-RD

By Supreme Court order dated Aug. 23, 2007, Susan G. Wintermute, 14 Evening Song, Irvine, CA 92603, a suspended member of the State Bar of Arizona, was disbarred and assessed the costs and expenses of the disciplinary proceeding. This reciprocal discipline was imposed based on a June 30, 2006, Missouri Supreme Court order disbaring Ms. Wintermute in Missouri. Ms. Wintermute was found guilty of the felony of conspiracy to make a false statement in violation of 18 U.S.C. § 1001, the felony of false statement in violation of 18 U.S.C. § 1001, and 2 in the case of *United States v. Wintermute*, case number 03-03125-02-CR-S-SOW, the U.S. District Court for the Western District of Missouri.

IOLTA TRUST ACCOUNT ANSWERS AVAILABLE

The answers to the Who, What, When, Where and Why questions concerning your Interest on Lawyers Trust Account (IOLTA) are just a phone call away.

- ▶ **When can I disburse right away on a deposit? My client really needs his money.**
- ▶ **Where does this check go? Into my trust account or my operating account?**
- ▶ **Why can't I get cash back from a deposit to the trust account?**
- ▶ **What is a monthly "three-way" reconciliation?**
- ▶ **Why can't I have overdraft protection on my trust account?**
- ▶ **I just opened my trust account. Why can't I use the starter checks I have?**
- ▶ **Who can be a signer on my trust account?**
- ▶ **What records do I really need to keep for my trust account?**
- ▶ **What amount of personal funds can I keep in the trust account?**
- ▶ **What ways can I disburse from my trust account?**
- ▶ **When can I stop keeping my trust account records?**

If you call the Trust Account Hotline at **(602) 340-7305**, Monday through Friday, 8:00 a.m. to 4:30 p.m., a State Bar of Arizona Trust Account Examiner will provide you with this information at no cost.

The Examiner will not give legal advice but will answer your questions so that you are in compliance with Rule 42, ER 1.15(a), Rule 43, and Rule 44 ARIZ.R.S.Ct.