

## SANCTIONED ATTORNEYS

### LEE P. BLAKE

Bar No. 016377; File Nos. 01-1624 and 01-2198

By Supreme Court Judgment and Order dated Mar. 7, 2003, Lee P. Blake, 8222 South 40th Street, Suite 230, Phoenix, AZ 85044, was censured by consent. Mr. Blake was placed on two years' probation, including participation in the Member Assistance Program and participation in the fee arbitration program. Mr. Lopez must pay the State Bar's costs and expenses of \$691.50, with interest.

Mr. Blake was summarily suspended for nonpayment of dues from April 28 to May 11, 2000, and was also summarily suspended for noncompliance with Mandatory Continuing Legal Education from June 14, 2000, until Jan. 19, 2001. During the periods when he was summarily suspended, Mr. Blake engaged in the unauthorized practice of law by continuing to practice while suspended, appearing at a number of hearings and representing approximately 20 clients.

No aggravating factors were found. Eight mitigating factors were found: absence of prior disciplinary record, absence of selfish or dishonest motive, personal or emotional problems, timely good faith effort to make restitution or to rectify the consequences of his misconduct, full and free disclosure to a disciplinary board and cooperative attitude toward the proceedings, reputation, physical or mental disability or impairment and remorse.

Mr. Blake violated ERs 3.4(c), 5.5 8.4(c) and Rules 31(a)(3) and 51(f), ARIZ.R.S.C.T.

### MAXIMILIANO S. GARCIA

Bar No. 014435; File Nos. 99-0906, 99-1826, 99-2115, 02-0400, 02-0547, 02-0555, 02-0593 and 02-0722

By Supreme Court Judgment and Order dated Mar. 28, 2003, Maximiliano S. Garcia, 4410 West Union Hills, 7-216, Glendale, AZ 85308, was disbarred. Mr. Garcia must pay restitution to seven clients totaling \$49,500 and must pay the State Bar's costs and expenses of \$2,457.10, with interest.

Mr. Garcia failed to competently or diligently represent his clients. Mr. Garcia failed to adequately communicate with his clients; failed to return unearned retainers, even after being ordered to do so by courts; was not candid to the courts or clients when he stated he would return the unused portions of retainers; failed to expedite litigation; and engaged in conduct prejudicial to the administration of justice. Mr. Garcia advised a

client erroneously, which led to his client's deportation, resulting in great harm to the client. Mr. Garcia failed to represent a client or inform opposing counsel of being retained to represent that client. Mr. Garcia failed to return funds or property in his possession when representation ended; abandoned clients and their files and failed to cooperate with the State Bar's investigation of these matters.

Ten aggravating factors were found: dishonest or selfish motive, pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules and orders of the disciplinary agency, submission of false evidence and false statements or other deceptive practices during the disciplinary process, refusal to acknowledge the nature of his conduct, vulnerability of victims, substantial experience in the practice of law, indifference to making restitution and illegal conduct. One mitigating factor was found: absence of prior disciplinary record.

Mr. Garcia violated ERs 1.1, 1.2, 1.3, 1.4, 1.5, 1.15, 1.16, 3.2, 3.3, 4.1, 8.1(b), 8.4 and Rule 51(e), (h), (i) and (k), ARIZ.R.S.C.T.

### CHARLES ST. GEORGE KIRKLAND

Bar No. 018821; File Nos. 00-1039, 00-1343, 00-1634, 00-1653, 00-2088, 00-2089, 00-2132, 01-0545, 01-1827, 02-0232 and 02-1278

By Supreme Court Judgment and Order dated Mar. 20, 2003, Charles St. George Kirkland, 7540 North 19th Ave., Suite 101, Phoenix, AZ 85021, was suspended for four years by consent. Mr. Kirkland must pay restitution to a client totaling \$545 and must pay the State Bar's costs and expenses of \$2,452.41, with interest.

Mr. Kirkland's most serious misconduct involved lack of candor in his dealings with the courts, opposing counsel and parties in his efforts to obtain excess proceeds from foreclosure sales; submitting false pleadings in order to obtain those proceeds and failing to take remedial action after it became known to him that the pleadings filed were false. In addition, Mr. Kirkland failed to act with reasonable diligence and promptness in representing clients, engaged in conduct that was prejudicial to the administration of justice, and failed to properly supervise nonlawyers.

Four aggravating factors were found: prior disciplinary offenses, dishonest or selfish motive, pattern of misconduct and multiple offenses. Two mitigating factors were found: personal or emotional problems and full and free disclosure and cooperative attitude.

Mr. Kirkland violated ERs 1.1, 1.3, 3.1, 3.3(a)(1), 3.4(c), 4.4, 5.3 and 8.4(d).

### JASON D. LAMM

Bar No. 018454; File No. 01-1570

By Supreme Court Judgment and Order dated Mar. 26, 2003, Jason D. Lamm, 5050 N. 8th Place, Suite 12, Phoenix, AZ 85014, was censured by consent. Mr. Lamm was placed on one year's probation, including participation in the Member Assistance Program and attendance at the Ethics Enhancement Program. Mr. Lamm must pay the State Bar's costs and expenses of \$728.40, with interest.

Mr. Lamm was a deputy Maricopa County Attorney. Prior to leaving the County Attorney's Office, he was told of the investigation and subsequent arrest of Terry Alexander. While Mr. Alexander was in custody at the Madison Street Jail, Mr. Lamm misled a detention officer in order to talk to Mr. Alexander while he was in custody. Mr. Lamm was going to be leaving the County Attorney's Office to go into criminal defense work and spoke with Mr. Alexander thinking he could solicit future referrals. Mr. Lamm's statements to Mr. Alexander caused Mr. Alexander to misunderstand Mr. Lamm's role and Mr. Lamm did nothing to correct this misunderstanding. In aggravation, Mr. Lamm had a dishonest or selfish motive. In mitigation, Mr. Lamm did not have a prior disciplinary record, he provided full and free disclosure and cooperated with the State Bar, and he was remorseful.

Mr. Lamm violated ERs 4.3, 7.3 and 8.4(c).

### JAMIE McALISTER

Bar No. 014544; File Nos. 00-1720 and 01-0464

By Supreme Court Judgment and Order dated Oct. 31, 2002, Jamie McAlister, 4142 N. 16th Drive, Phoenix, AZ 85015, was suspended for six months and one day by consent for violation of her duties and obligations as a lawyer, effective 30 days from the date of the Judgment and Order. Ms. McAlister was ordered to participate in the MAP program for two years and, upon reinstatement, will be placed on two years' probation and ordered to, if she returns to private practice, have a practice monitor and agree to periodic and random audits of her trust account. Ms. McAlister was also ordered to pay costs and expenses incurred by the State Bar in the amount of \$963.24, together with interest at the legal rate.

In the first matter, Ms. McAlister represented a client in a criminal matter. The fee agreement was for a flat fee of \$1,000 plus costs should the matter result in a plea agreement and \$5,000 plus costs if the matter went to trial. Ms. McAlister received approximately \$4,400 in fees. During the representation, Ms. McAlister had retained the services of an

investigator to contact and interview witnesses. The client retained new counsel and the new counsel requested the name of the investigator from Ms. McAlister. Ms. McAlister would not give the name so new counsel filed a motion to compel and the names of the investigators was eventually turned over to new counsel. In the second matter, from December 1999 through December 2000, Ms. McAlister converted approximately \$28,000 from her trust account for her personal use.

There were three aggravating factors found pursuant to the ABA *Standards for Imposing Lawyer Sanctions*, Section 9.22: (b) selfish or dishonest motive, (h) vulnerability of victim and (i) substantial experience in the practice of law. There were six mitigating factors pursuant to Section 9.32 of the ABA *Standards*: (a) absence of prior disciplinary record, (c) personal or emotional problems, (d) timely good faith effort to rectify the consequences of her misconduct, (e) full and free disclosure to the disciplinary board, (h) physical or mental disability or impairment and (l) remorse.

Ms. McAlister's conduct violated Rule 42, ARIZ.R.S.C.T., particularly ERs 1.15, 1.16(d) and 8.4 and Rules 43 and 44, ARIZ.R.S.C.T.

#### PHILIP A. SEFLOW

Bar No. 004859; File Nos. 98-0438, 98-0780, 98-2527, 99-0506, 99-0657, 99-0841, 99-0953, 99-1090, 99-1180, 99-1754, 99-1827 and 99-2176

By Supreme Court Judgment and Order dated Oct. 8, 2002, Philip A. Seplow, 45 W. Jefferson, Suite 503, Phoenix, AZ 85003, was censured for, among other things, failure to provide competent representation; act diligently; adequately communicate with clients; properly supervise a non-lawyer assistant and aiding in the unauthorized practice of law. The Court also ordered Mr. Seplow to serve a two-year term of probation, including participation in the Law Office Member Assistance Program and completion of the Ethics Enhancement Program. Mr. Seplow must pay the State Bar's costs and expenses of \$5,629.74, with interest.

In or about 1994 or 1995, Mr. Seplow hired Robert Draughon as a legal assistant in his office, knowing that Mr. Draughon had served time as a convicted felon. Mr. Draughon was permitted to meet and accept clients, and accept retainers and filing fees. Mr. Seplow failed to adequately supervise Mr. Draughon and thereby failed in his duties owed to his clients.

Six aggravating factors were found: prior disciplinary record, pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding by failing to comply

#### Opinion No. 03-02 (April 2003)

A lawyer serving as trustee in bankruptcy may directly contact parties in bankruptcy cases who are represented by counsel. The lawyer acting as both the trustee and attorney for the trustee may not have *ex parte* contact, unless authorized by law to do so. [ERs 4.2,4.3]

#### Opinion No. 03-03 (April 2003)

Where an Arizona lawyer is asked to assist a nonlawyer in collecting a fee for services that the lawyer believes constitutes the unauthorized practice of law ("UPL"), the lawyer may not assist the nonlawyer in drafting or seeking to enforce a contingent fee agreement for services rendered. Nor may a lawyer honor a claim asserted against the lawyer's client for a contingent interest in litigation as compensation for services that constitute UPL. [ERs 1.16, 5.5(b), 8.4]

#### Opinion No. 03-04 (May 2003)

If the applicable statute of limitations has run, identifying a client as a non-party at fault in another client's litigation does not necessarily establish a conflict of interest under ER 1.7. However, if the statute of limitations has not run, naming a client as a non-party at fault does create a conflict under ER 1.7, because it identifies the client as a potential defendant to other parties, who may then amend the complaint to add the client as a party. Whether the conflict is waivable under ER 1.7(b) will depend on certain facts. [ER 1.7]

#### Need an Opinion?

Check out the State Bar Web site at [www.azbar.org/EthicsOpinions/](http://www.azbar.org/EthicsOpinions/) for ethics opinions issued between 1985 and 2003. If you are an Arizona attorney and have an ethics question, call (602) 340-7285.

with rules or orders of the disciplinary agency, vulnerability of the victims and substantial experience in the practice of law. Six mitigating factors were also found: absence of a selfish or dishonest motive, personal or emotional problems, timely good faith effort to make restitution or to rectify the consequences of misconduct, full and free disclosure to the disciplinary board or cooperative attitude toward proceedings, character or reputation and remorse.

Mr. Seplow violated ERs 1.1, 1.2, 1.3, 1.4, 1.15, 3.2, 3.3, 3.4(c), 5.3, 5.5 and 8.4(a), (d) & (e) and Rule 51(h), ARIZ.R.S.C.T.

#### STEVE T. SKIVINGTON

Bar No. 006639; File Nos. 97-2401, 97-2514 and 98-1071

By Supreme Court Judgment and Order dated Feb. 24, 2003, Steve T. Skivington, 6078 Plumas Street, Reno, NV 89509, agreed to discipline by consent, suspending him for four years, retroactive to Dec. 17, 1997, to be followed by one year's probation. The terms of probation include Mr.

Skivington's participation in the Member Assistance Program and, if he resumes practice in Arizona, participation in the Law Office Member Assistance Program. Mr. Skivington must pay the State Bar's costs and expenses of \$744.80, with interest. Mr. Skivington does not need to apply for reinstatement as he proved his rehabilitation in connection with File No. SB-03-0002-R and was reinstated on Feb. 24, 2003.

Mr. Skivington did not pay medical providers in a timely manner, failed to communicate with a client in a timely manner, converted a client's settlement money to his own use and did not perform services for which he was paid.

Three aggravating factors were found: prior disciplinary record, multiple offenses and substantial experience in the practice of law. Five mitigating factors were found: personal or emotional problems, good faith effort to make restitution, cooperative attitude toward the proceedings, character or reputation and mental disability.

Mr. Skivington violated ERs 1.4, 1.15,

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

and 8.4(c) and Rules 43, 44 and 51(e) and (k), ARIZ.R.S.CT.

**TRACY D. STIGLER**

Bar No. 017508; File Nos. 01-2000, 01-2040, 01-2342, 01-2343, 02-0219 and 02-1305

By Supreme Court Judgment and Order dated Feb. 20, 2003, Tracy D. Stigler, P.O. Box 5447, Sacramento, CA 95817, was censured by consent. Mr. Stigler was placed on one year's probation to include the Ethics Enhancement Program class. Mr. Stigler must pay restitution to two clients totaling \$2,045 and must pay the State Bar's costs and expenses of \$671, with interest.

Mr. Stigler moved to California and failed to inform his clients of the move. Mr. Stigler failed to maintain adequate communications with his clients, failed to act with reasonable diligence and promptness in representing his clients, failed to abide by the clients' directions concerning the representation and failed to cooperate with the State Bar's investigation.

Two aggravating factors were found: pattern of misconduct and multiple offenses. Three mitigating factors were found: absence of prior disciplinary record, cooperative attitude toward the proceedings and remorse.

Mr. Stigler violated ERs 1.2, 1.3, 1.4, 8.1(b) and Rule 51(h) and (i), ARIZ.R.S.CT.

**ALAN H. SUSMAN**

Bar No. 003292; File No. 01-1455

By Supreme Court Judgment and Order dated Jan. 23, 2003, Alan H. Susman, 4250 N. Drinkwater Blvd., 4th Floor, Scottsdale, AZ 85251, was censured by consent. Mr. Susman must pay restitution to a client in the amount of \$121,793.83 at a rate of no less than \$500 per month. Mr. Susman must pay the State Bar's costs and expenses of \$706.48, together with interest at the legal rate.

Mr. Susman represented a client from early 1996. In September 1996, Mr. Susman contacted the client and obtained two loans totaling \$60,000, executing two unsecured promissory notes. Mr. Susman failed to advise the client in writing to seek the advice of outside counsel prior to executing the notes. Mr. Susman defaulted on the notes in 1997. In March 1997, Mr. Susman borrowed an additional \$10,000 from the client, failing to reduce the terms and conditions of the transaction to writing, and again failed to advise the client to seek independent outside advice about the transaction. Mr. Susman defaulted on the third loan. The client sued Mr. Susman and a stipulated judgment for \$121,793.83 was entered in May 2001. In June 2001, Mr. Susman filed for bankruptcy, and the judgment was discharged. However, in spite of the

discharge, and in consideration of this agreement, Mr. Susman agreed to make full restitution to the client.

Two aggravating factors were found: dishonest or selfish motive and substantial experience in the practice of law. Five mitigating factors were found: absence of prior disciplinary record, personal or emotional problems, full and free disclosure to the disciplinary agencies and a cooperative attitude towards the proceedings, good character and remorse.

Mr. Susman violated ERs 8.1(a) and 8.4(a).

### **MARK E. TURLEY**

Bar No. 005044; File No. 00-0608

By Supreme Court Judgment and Order dated Mar. 21, 2003, Mark E. Turley, 5320 W. Cochise Dr., Glendale, AZ 85302, the Court amended its May 13, 2002, Judgment and Order *nunc pro tunc* to increase the suspension to a one-year suspension effective from June 12, 2002.

### **DEANN WILLIS**

Bar No. 009892; File Nos. 00-2027 and 00-2533

By Supreme Court Judgment and Order dated Sept. 27, 2002, DeAnn Willis, 7315 N. 16th Street, Suite 202, Phoenix, AZ 85020, was suspended for one year for, among other things, lack of diligence, inadequate communication with clients and failure to cooperate with the State Bar's investigation. Ms. Willis must pay the State bar's costs and expenses of \$1,515.64, together with interest.

Ms. Willis failed to abide by a client's decisions concerning the objectives of the representation, failed to consult with a client about the means by which the objectives were to be pursued, failed to act with reasonable diligence and promptness, failed to keep clients informed about the status of their matters, failed to appear for a Superior Court hearing, failed to protect a client's interests and provide her with sufficient time to find new counsel, and failed to respond to the State Bar's inquiries during its investigation. Ms. Willis defaulted by failing to answer the State Bar's formal complaint. Ms. Willis did participate in the aggravation and mitigation hearing.

Three aggravating factors were found: multiple offenses, vulnerability of the victim and substantial experience in the practice of law. Four mitigating factors were found: absence of prior disciplinary record, absence of a dishonest or selfish motive, personal or emotional problems and remorse.

Ms. Willis violated ERs 1.2, 1.3, 1.4, 1.15(b), 1.16(b) & (d), 3.2, 3.4(c), 8.1(b), 8.4(d) and Rules 43(d) (Trust Account Guideline 2.a.), 44(b) and 51(e), (h) & (i), ARIZ.R.S.C.T. ▀