

## REINSTATED ATTORNEYS

### MARK F. BRINTON

Bar No. 007674; File Nos. 02-1473, 03-0042, 03-0440

By Supreme Court judgment and order dated May 10, 2004, Mark F. Brinton, 1745 S. Alma School Road, Suite H-100, Mesa, AZ 85210, was reinstated pursuant to Rule 64(c), ARIZ.R.S.Ct. Mr. Brinton served a 30-day suspension beginning April 1, 2004.

### OSMOND A. BURTON, JR.

Bar No. 001162; File No. 03-6003

By Supreme Court judgment and order dated April 20, 2004, Osmond A. Burton, Jr., P.O. Box 30548, Tucson, AZ 85751, was reinstated pursuant to Rule 65 and was placed on probation for two years. Mr. Burton had been suspended for one year, effective May 24, 1998. He applied for reinstatement on May 23, 2003.

### ROBERT C. FORQUER

Bar No. 000589; File No. 99-2173

By Supreme Court judgment and order dated April 19, 2004, Robert C. Forquer, 714 N. Third Street, Suite 4, Phoenix, AZ 85004, was reinstated pursuant to Rule 64(c)(2) after completing his four-month suspension ordered on Oct. 29, 2003.

### PATRICK J. GEARE

Bar No. 015748; File Nos. 00-1635, 00-2128, 00-2212, 00-2286, 00-2491, 01-1001

By Supreme Court judgment and order dated May 7, 2004, Patrick J. Geare, 1721 W. Cochran St., Tucson, AZ 85746, was reinstated pursuant to Rule 64(c), ARIZ.R.S.Ct., after completing his 90-day suspension as ordered by the court on Dec. 5, 2003.

### WENDY B. MORGAN

Bar No. 015503; File No. 03-6002

By Supreme Court Judgment and Order dated April 20, 2004, Wendy B. Morgan, whose last known address of record is 120 N. San Francisco St., Flagstaff, AZ, was reinstated pursuant to Rule 65. Ms. Morgan was placed on two years of probation, to be jointly monitored with the State Bar of California, including participation in the Member Assistance Program and the Law Office Management Assistance Program.

## SANCTIONED ATTORNEYS

### DENNIS P. BAYLESS

Bar No. 012052; File No. 02-2156

By Supreme Court judgment and order dated May 3, 2004, Dennis F. Bayless, 820 Cove Parkway, Suite 102, Cottonwood, AZ 86326, was censured by consent. Mr. Bayless was placed on one year of probation, which included submitting a written payment plan to the State Bar for restitution to a client. Mr. Bayless must pay the State Bar's costs and expenses of \$754.30, with interest.

Mr. Bayless was suspended effective June 1, 2002, for 30 days in State Bar File No. 02-0038, and he was reinstated on Aug. 5, 2002. From at least July 19, 2002, until Aug. 5, 2002, Mr. Bayless practiced law in violation of the Supreme Court's judgment and order. Mr. Bayless had a civil subpoena issued, filed a notice of filing hearing exhibits, filed a joint pretrial statement, appeared with his client at an arraignment and filed a notice of appearance. Mr. Bayless violated ER 5.5 and Rules 31(a)(3), 63(c) and 71(c), ARIZ.R.S.CT.

Two aggravating factors were found: prior disciplinary offenses and substantial experience in the practice of law. Two mitigating factors were found: absence of a dishonest or selfish motive and full and free disclosure.

### G. DAVID DeLOZIER

Bar No. 005237; File No. 01-2071

By Supreme Court judgment and order dated Mar. 25, 2004, G. David DeLozier, 4016 E. Forest Pleasant, Cave Creek, AZ 85331, was censured by consent. Mr. DeLozier was placed on one year's probation, including consulting with the State Bar's staff examiner regarding his trust

account. Mr. DeLozier must pay the State Bar's costs and expenses of \$780.20, together with interest at the legal rate.

The State Bar received two overdraft notices from Mr. DeLozier's bank. A review of Mr. DeLozier's trust account revealed that Mr. DeLozier had earned the clients' funds that were in his trust account, but he never transferred those funds to his operating account. Instead, he treated the funds as fully earned and used them for other purposes. Because of this practice, Respondent's records show positive trust balances for some clients who really did not have a positive balance. Mr. DeLozier failed to safeguard client funds, and he commingled his personal funds with client funds. Mr. DeLozier also failed to conduct monthly reconciliations of his trust account; made non-client-related transactions from his trust account; failed to maintain complete trust account records for a period of five years; failed to confirm that funds were on deposit in the trust account for clients prior to drawing offsetting disbursements; and failed to disburse from the trust account with pre-numbered checks. No clients were harmed by Respondent's conduct. Mr. DeLozier violated ER 1.15, Rule 42, ARIZ.R.S.CT., and Rules 43 and 44, ARIZ.R.S.CT.

Two aggravating factors were found: prior disciplinary offenses and substantial experience in the practice of law. Three mitigating factors were found: absence of dishonest or selfish motive; full and free disclosure to a disciplinary board or cooperative attitude towards the proceedings; and interim rehabilitation.

### DAVID J. ESTES

Bar No. 006857; File Nos. 02-2251 and 02-2359

By Supreme Court judgment and order

dated Mar. 30, 2004, David J. Estes, 7373 N. Scottsdale Road, Suite E-200, Scottsdale, AZ 85253, was censured. Mr. Estes must pay the State Bar's costs and expenses of \$2,148.50, together with interest at the legal rate.

In the handling of a probate of an estate, Mr. Estes failed to keep his client, the personal representative of the estate, informed about the status of the probate matter; charged an unreasonable fee; failed to deliver client documents to the client; failed to act with reasonable diligence and promptness in representing the personal representative in a fee dispute with the primary beneficiary over the personal representative's fees; failed to expedite the fee dispute litigation; made a false statement of material fact in connection with a disciplinary matter; failed to respond to the State Bar in its investigation of the matter; and engaged in conduct prejudicial to the administration of justice.

Three aggravating factors were found: pattern of misconduct, bad faith obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the disciplinary agency and substantial experience in the practice of law. Six mitigating factors were found: absence of prior discipline, absence of dishonest or selfish motive, timely good faith effort to make restitution or to rectify the consequences of misconduct, full and free disclosure to a disciplinary board or cooperative attitude towards the proceedings (after the matter was in formal proceedings), character or reputation and remorse.

Mr. Estes violated ERs 1.3, 1.4, 1.5, 1.15, 3.2, 8.1(a) and 8.4(d), Rule 42, ARIZ.R.S.CT., and Rule 51(h) and (i) (now Rule 53(f) and (d), respectively), ARIZ.R.S.CT.

### LESLIE HATFIELD

Bar No. 012177; File Nos. 01-0328, 01-2297, 02-0212, 02-0957 and 02-1026

By Supreme Court judgment and order dated Mar. 18, 2004, Leslie Hatfield, 411 N. Central Ave., Suite 900, Phoenix, AZ 85004, was suspended for 30 days by consent. Upon reinstatement, Ms. Hatfield will be placed on two years' probation, including participation in the Member Assistance Program and Law Office Member Assistance Program. Ms. Hatfield must pay the State Bar's costs and expenses of \$840.30, together with interest at the legal rate.

Ms. Hatfield's misconduct consisted of failing to adequately communicate with her clients, failing to diligently represent her clients' interests, engaging in conduct prejudicial to the administration of justice and failing to cooperate with the State Bar in its

## ETHICS OPINIONS

### Opinion 04-03

(March 2004)

An attorney cannot, without the consent of his former client, ethically disburse to himself funds from a former client's share of funds in the attorney's possession, where the former client owes the attorney unpaid fees, but the funds in the attorney's possession are unrelated to the representation of the former client. If the attorney is unable to locate the former client to obtain her consent, the attorney should commence an interpleader action.

#### Need an Opinion?

Check out the State Bar Web site at [www.myazbar.org/EthicsOpinions/](http://www.myazbar.org/EthicsOpinions/) for a listing of the ethics opinions issued between 1985 and 2004. If you are an Arizona attorney and have an ethics question, call (602) 340-7285.

investigation of these matters.

Four aggravating factors were found: prior discipline, pattern of misconduct, bad faith obstruction of the disciplinary process by failing to cooperate in the State Bar's investigation of the matter and substantial experience in the practice of law. Five mitigating factors were found: absence of a dishonest or selfish motive, personal or emotional problems, character or reputation, mental disability or impairment and remorse.

Ms. Hatfield violated ERs 1.3, 1.4, 8.1(b) and 8.4(d), Rule 42, ARIZ.R.S.C.T., and Rule 51(h) and (i), ARIZ.R.S.C.T.

### **MICHAEL E. ISLER**

Bar No. 020847; File No. 03-0272

By Supreme Court judgment and order dated May 6, 2004, Michael E. Isler, 2700 N. Central Ave., Suite 1130, Phoenix, AZ 85004, was censured. Mr. Isler was also placed on probation for two years to include his participation in the State Bar's Member Assistance Program and Ethics Enhancement Program.

During his employment as a deputy county attorney with the Gila County Attorney's Office, Mr. Isler made repeated and elaborate misrepresentations regarding his family situation to obtain accommodations to his work schedule. Mr. Isler's dishonest conduct continued for about seven months. Mr. Isler initially responded to the State Bar regarding the charges against him, but later failed to participate in proceedings.

Mr. Isler's misconduct included dishonesty, fraud, deceit or misrepresentation and a failure to cooperate with and respond promptly to requests for information from the State Bar.

Four aggravating factors were found: dishonest or selfish motive, pattern of misconduct, bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders of the disciplinary agency, and refusal to acknowledge wrongful nature of conduct. Two mitigating factors were found: absence of a prior disciplinary record and inexperience in the practice of law.

Mr. Isler violated ERs 8.4(c) (Rule 42, ARIZ.R.S.C.T.) and Rule 53(d) and (f), ARIZ.R.S.C.T.

### **JON R. POZGAY**

Bar No. 003680; File Nos. 02-0143 and 02-2209

By Supreme Court judgment and order dated Mar. 18, 2004, Jon R. Pozgay, 4811 E. Marston Drive, Paradise Valley, AZ 85253, was disbarred. Mr. Pozgay was ordered to pay restitution totaling \$25,610 to two clients. Mr. Pozgay must pay the State Bar's

costs and expenses of \$4,328.85, together with interest at the legal rate.

Mr. Pozgay converted client funds in two separate matters; engaged in conduct involving dishonesty and deceit on multiple occasions; knowingly disobeyed an obligation to maintain client funds in trust based on an order of a court; failed to properly safeguard client funds; commingled his personal funds and client funds by depositing advanced costs into his operating account; failed to promptly deliver funds to another party when so directed by his client to do so; failed to deliver property belonging to his client; failed to promptly and completely record transactions into his client ledger; failed to maintain proper internal controls within his office to properly safeguard funds on deposit in his trust account; failed to maintain complete trust account records for a period of five years; failed to disburse from his trust account with only pre-numbered checks; failed to conduct a monthly reconciliation of his trust account; failed to exercise due professional care in the maintenance of his client trust account; and failed to cooperate with the State Bar's investigation of the charges.

Seven aggravating factors were found: dishonest or selfish motive, pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary process by failing to cooperate in the State Bar's investigation of the matter, refusal to acknowledge the wrongful nature of his conduct, substantial experience in the practice of law and indifference to making restitution. No mitigating factors were found.

Mr. Pozgay violated ERs 1.4, 1.15(a) and (b), 3.4(c), 8.1(b) and 8.4(c), Rule 42, ARIZ.R.S.CT., and Rules 43, 44 and 51(h) and (i), ARIZ.R.S.CT.

**CHRISTOPHER G. B. SHANK**

Bar No. 015293; File No. 99-1946

By Supreme Court amended judgment and order dated Mar. 22, 2004, Christopher G. B. Shank, 420 W. Roosevelt, 2nd Floor, Phoenix, AZ 85003, was disbarred retroactive to Aug. 14, 2000. Mr. Shank must pay the State Bar's costs and expenses of \$4,019.87, together with interest at the legal rate.

Mr. Shank pled guilty on June 2, 1999, to two felonies involving minors. In addition, Mr. Shank, at the time, was working as a Deputy Maricopa County Attorney assigned to the juvenile division and recognized the name of a juvenile on his calendar as being one of his recent sex partners. Mr. Shank then lied to his superiors about why he could not appear for that juvenile's court appearance.

Six aggravating factors were found: dis-

**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.

honest or selfish motive, pattern of misconduct, multiple offenses, refusal to acknowledge the wrongful nature of the conduct, vulnerability of the victims and illegal conduct. Two mitigating factors were found: no prior disciplinary record and imposition of other penalties or sanctions.

Mr. Shank violated ERs 4.1 and 8.4(a) and (b), Rule 42, ARIZ.R.S.CT.

**RONALD W. STEADMAN**

Bar No. 011987; File Nos. 02-0939 and 02-1437

By Supreme Court judgment and order dated Mar. 18, 2004, Ronald W. Steadman, 409 E. Guadalupe, Gilbert, AZ 85234, was suspended for one year by consent. Upon reinstatement, Mr. Steadman will be placed on one year's probation. Mr. Steadman must pay the State Bar's costs and expenses of \$1,072.88, together with interest at the legal rate.

Mr. Steadman's misconduct consisted of misappropriating funds; failing to safeguard client funds; failing to keep client funds separate from his personal funds; making a false statement of material fact or law to a client; engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; engaging in conduct prejudicial to the administration of justice; failing to diligently represent his client; failing to adequately communicate with his client; and attempting to settle a claim with a client without first advising in writing that the client should seek independent advice.

Three aggravating factors were found: dishonest or selfish motive, multiple offenses and substantial experience in the practice of law. Four mitigating factors were found: absence of prior disciplinary history, cooperative attitude toward proceedings, character or reputation and remorse.

Mr. Steadman violated ERs 1.2, 1.3, 1.4, 1.8(h), 1.15, 4.1(a) and 8.4(c) and (d), Rule 42, ARIZ.R.S.CT., and Rules 43(a) and (d) (Guidelines 1(a) and (c)) and 44(a) and (b), ARIZ.R.S.CT.

**L. MARK STEINBERG**

No Bar No. (not licensed in Arizona); File No. 01-1843

By Supreme Court judgment and order dated May 6, 2004, L. Mark Steinberg, 1711 Escada, San Antonio, TX 78258, was censured. Mr. Steinberg also was ordered to pay \$6,000 restitution to a client. Mr. Steinberg is not licensed to practice in Arizona, but is subject to the Arizona Supreme Court's disciplinary jurisdiction pursuant to Rule 46(b), ARIZ.R.S.CT. The

Disciplinary Commission determined that disbarment would have been the appropriate sanction if Mr. Steinberg had been a member of the State Bar.

Mr. Steinberg met with a prospective client in Arizona for an initial consultation and executed a fee agreement to represent her in a divorce, a Chapter 7 bankruptcy and criminal matters. The client paid Mr. Steinberg a total of \$6,000. Thereafter, when the client found out that Mr. Steinberg is not licensed to practice law in Arizona, she retained a new attorney. Mr. Steinberg was uncooperative in providing the client's new attorney with her file and refused to refund any money.

Mr. Steinberg's misconduct included the unauthorized practice of law, as well as engaging in conduct that was prejudicial to the administration of justice and involved dishonesty, fraud, deceit or misrepresentation.

Four aggravating factors were found: dishonest or selfish motive, pattern of misconduct, refusal to acknowledge wrongful nature of conduct and indifference to making restitution. No mitigating factors were found.

Mr. Steinberg violated ERs 5.5(a), 8.4(c) and (d), Rule 42, ARIZ.R.S.CT.

**GEORGE VICE III**

Bar No. 011753; File No. 00-0170

By Supreme Court judgment and order dated April 25, 2004, George Vice III, 3915 E. Camelback, #219, Phoenix, AZ 85018, was suspended for one year retroactive to Mar. 28, 2002. Upon reinstatement, Mr. Vice, who is still on suspension, will be required to show compliance with all terms and conditions of his Member Assistance Program (MAP) contract. Mr. Vice must pay the State Bar's costs and expenses of \$637.75, together with interest at the legal rate.

Mr. Vice entered into a MAP Memorandum of Understanding (MOU) pursuant to Supreme Court's order. Mr. Vice failed to comply with the terms, claiming that he was misled about the costs, which he alleges were prohibitive. The State Bar attempted to resolve this problem, but Mr. Vice claimed a breach of contract. Mr. Vice sought no remedy other than declaring the breach. Mr. Vice did not comply with the terms of the MOU and therefore did not comply with the terms of his probation.

Mr. Vice violated Rule 51(f) and (j), ARIZ.R.S.CT.