

**REINSTATED ATTORNEYS**

**EDWARD AMACK**

Bar No. 016112; File No. 07-1337

Supreme Court No. SB-09-0027-D

By Arizona Supreme Court amended order dated April 1, 2010, Edward A. Amack, 705 N. Jefferson St., Red Cloud, NE, was reinstated as a member of the State Bar, effective Mar. 31, 2010.

**COLLEEN L. KINERK**

Bar No. 015136; File No. 09-6005

Supreme Court No. SB-10-0034-R

By Arizona Supreme Court order dated April 7, 2010, Colleen L. Kinerk, 5255 E. Williams Circle #6000-W, Tucson, AZ, was reinstated as a member of the State Bar effective the date of the order.

**SANCTIONED ATTORNEYS**

**PATRICK C. COPPEN**

Bar No. 014576; File No. 08-0020

Supreme Court No. SB-10-0028-D

By Arizona Supreme Court judgment and order dated April 2, 2010, Patrick C. Coppen, 63 E. Pennington, Suite 112, Tucson, AZ was censured. He also was placed on probation for one year and assessed the costs and expenses of the disciplinary proceedings.

Mr. Coppen engaged in a concurrent conflict of interest on two separate occasions. He was representing a client in matters involving a State Bar disciplinary investigation and later represented the client's wife, who was a long-time family friend, in a proceeding for dissolution of marriage from the client. He withdrew from the representation when the client filed a motion to disqualify him from representing the wife. He later assisted the wife in her *pro se* petition for dissolution of marriage while he was still representing the client in additional State Bar disciplinary matters. Mr. Coppen also appeared for the wife in a domestic violence criminal charge in which his client was the alleged victim.

Mr. Coppen later had *ex parte* communications with the justice court that issued orders of protection involving the client and his wife.

Three aggravating factors were found: a pattern of misconduct, multiple offenses and substantial experience in the practice of law.

Five mitigating factors were found: absence of a prior disciplinary record, absence of a dishonest or selfish motive, personal or emotional

problems, timely good-faith effort to rectify the consequences of misconduct, and full and free disclosure to disciplinary board or cooperative attitude toward proceedings.

Mr. Coppen violated Rule 42, ARIZ.R.S.C.T., ERs 1.7(a)(1) and 3.5(b).

**WENDY K. LANCASTER**

Bar No. 015152; File No. 08-1483

Supreme Court No. SB-10-0043-D

By judgment and order dated April 19, 2010, the Arizona Supreme Court accepted the consent to disbarment of Wendy K. Lancaster, 9949 W. Bell Rd., Suite 201, Sun City, AZ, and ordered her disbarred effective June 1, 2010.

**JACK J. RAPPEPORT**

Bar No. 002256; File No. 09-5001

By order of the Disciplinary Commission of the Supreme Court of Arizona, issued on Mar. 22, 2010, Jack J. Rappeport, 4994 E. Asa Carr Way, Tucson, AZ, was transferred to disability inactive status for an indefinite period and until further order.

**BAR COUNSEL INSIDER**

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



**Handling Fee Disputes**

Although not required to do so, many lawyers are providing for binding fee arbitration in their fee agreements. This is generally viewed as an informal, efficient alternative to the extremes of client frustration, on the one hand, and time-consuming litigation between lawyer and client, on the other.

Occasionally, a client will try a third alternative, complaining to the State Bar that the lawyer charged an unreasonably high fee. A typical scenario is one in which the parties have agreed to a "non-refundable flat fee" (Rule 42, ARIZ.R.S.C.T., ER 1.5, Comment 7), whereby the attorney agrees to render a specified legal service for a sum fixed at the start of the representation. This reflects a negotiated element of risk sharing: The lawyer takes the risk that there will be more work than anticipated, and the client obtains the certainty of a pre-set fee, even if it exceeds the lawyer's usual hourly rate. Under these circumstances, it is unlikely that the client receives any documentation of the time expended by the lawyer as the representation proceeds, increasing the suspicion that the fee is unreasonably high.

*In re Connelly*, 55 P.3d 756 (Ariz. 2002), involved a flat fee. Under the terms of their fee agreement, Mr. Connelly's client agreed to pay him a \$50,000 non-refundable flat fee to defend a criminal case. In addition, the parties agreed to resolve any fee dispute through binding arbitration. After the trial court dismissed the charges, the client complained to the State Bar that Connelly had charged an unreasonable fee. Following an investigation, the State Bar filed a formal complaint against Mr. Connelly solely for violating ER 1.5. The Disciplinary Commission found that the fee was excessive and unreasonable when viewed at the conclusion of the representation, and affirmed the hearing officer's recommendation of a censure, but increased the restitution from \$11,985 to \$25,000. The Supreme Court granted review, vacated the Commission's decision and remanded the matter for arbitration, holding: "The State Bar should not allow lawyers and clients who have contractually agreed to submit fee disputes to arbitration to avoid that agreement." 55 P.3d at 763.

The Court went on to say that like other fee arrangements, non-refundable flat fees are subject to retrospective analysis to determine if they are reasonable, affirming the holding in *In re Swartz*, 686 P. 2d 1236 (Ariz. 1984).

*For more information about the State Bar's fee arbitration program and sample fee agreements, go to [www.myazbar.org](http://www.myazbar.org) and click on Lawyer Regulation - Lawyer fees information.*

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

**STEPHEN J. RENARD**

Bar No. 021991; File No. 08-0822

Supreme Court No. SB-09-0120-D

By Arizona Supreme Court judgment and order dated Feb. 4, 2010, Stephen J. Renard, P.O. Box 423, Cottonwood, AZ, was suspended for six months, effective 30 days from the date of the order. He also was placed on probation for a period of two years upon reinstatement, required to participate in the State Bar's Law Office Management Assistance Program, attend the Ethics Enhancement Program and submit to a Member Assistance Program assessment. He also was assessed the costs and expenses of the disciplinary proceedings.

After being censured and placed on probation, Respondent knowingly failed to obey an Arizona Supreme Court order to comply with his probation provisions. He failed to contact the LOMAP program coordinator or the EEP coordinator within the times prescribed by the terms of his probation, even after being reminded to do so.

Three aggravating factors were found: prior disciplinary offenses, a pattern of misconduct and multiple offenses.

There were no mitigating factors.

Mr. Renard violated Rule 53(c), ARIZ.R.S.Ct.

**BRUCE E. ROSENBERG**

Bar No. 014022; File No. 09-1643

Supreme Court No. SB-10-0023-D

By Arizona Supreme Court judgment and order dated Mar. 24, 2010, Bruce E. Rosenberg, 320 E. Virginia, Suite 100, Phoenix, AZ, was censured. He was placed on probation for two years and required to complete the State Bar's Law Office Management Assistance Program and Member Assistant Program. Mr. Rosenberg also was ordered to resolve his client's Medicare lien within 90 days or tender to his client a designated amount for her to resolve the lien. He also was assessed the costs and expenses of the disciplinary proceedings.

In File No. 07-1763, Mr. Rosenberg received an informal reprimand and was placed on probation for failing to resolve his client's Medicare lien and a doctor's lien expeditiously. Mr. Rosenberg failed to comply with the terms of his probation, including failing to resolve the lien issues; failing to report the progress made to the State Bar, and failing to furnish copies of his trust account on a monthly basis to the State Bar.

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

Five mitigating factors were found: absence of a prior disciplinary record other than the underlying probation violation, absence of a selfish or dishonest motive, personal or emotional problems, full and free disclosure to a disciplinary board or cooperative attitude toward

proceedings, and remorse.

Mr. Rosenberg violated Rule 53(c), ARIZ.R.S.Ct.

**RICHARD A. STEINER**

Bar No. 001913; File No. 07-1813

Supreme Court No. SB-10-0031-D

By Arizona Supreme Court judgment and order dated April 7, 2010, Richard A. Steiner, 2375 E. Camelback Rd., Phoenix, AZ, was suspended for 60 days effective 30 days from the date of the judgment and order. Upon reinstatement, Mr. Steiner will resign from the State Bar. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Steiner was a partner with his wife in the law firm of Steiner & Steiner, P.C., and divided his time between Arizona and Colorado. Mr. Steiner was solely in charge of all matters related to the firm's trust account. Respondent put Lisa Nicholson, a paralegal with the firm who had no bookkeeping or accounting experience, in charge of the firm's trust account records. Mr. Steiner failed to make reasonable efforts to assure that Steiner & Steiner, P.C., had in effect measures giving reasonable assurance that all lawyers in the firm conformed to the Rules of Professional Conduct with respect to the firm's trust account management; failed to make reasonable efforts to maintain internal policies and procedures designed to provide reasonable assurance that the firm conformed to the rules pertaining to trust account management, specifically those rules that protect and account for client funds; and failed to make reasonable efforts to ensure that the firm had in effect measures giving reasonable assurance that a non-lawyer assistant's conduct was compatible with professional obligations. In addition, Mr. Steiner failed to maintain the firm's client trust account in accordance with the Trust Account Rules and Guidelines.

Three aggravating factors were found: prior disciplinary offenses involving his firm's trust account wherein Respondent previously participated in the State Bar's LOMAP program, pattern of misconduct, 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 to a disciplinary board or cooperative attitude toward proceedings.

Mr. Steiner violated Rule 42, ARIZ.R.S.Ct., ERs 1.15, 5.1 and 5.3, and Rules 43 and 44, ARIZ.R.S.Ct.

**MICHAEL T. TELEP, JR.**

Bar No. 011995; File No. 08-2230

Supreme Court No. SB-10-0022-D

By Arizona Supreme Court judgment and order dated April 7, 2010 Michael T. Telep, Jr., 7784 E. Olive Ann Lane, Yuma, AZ, was suspended for 60 days, effective 30 days from the date of the judgment and order. Upon reinstatement, he

**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.

will be placed on probation for one year and required to attend a CLE relating to victims' rights. His probation will conclude upon proof of compliance with the CLE requirement. He also was assessed the costs and expenses of the disciplinary proceedings.

Mr. Telep represented a client charged with several counts of indecent conduct with a minor. Mr. Telep violated victims' rights laws and related criminal rules of procedure when he subpoenaed the minor's school records without notice to the minor victim or state and without first filing a motion for court authority to do so. Mr. Telep also subpoenaed the minor's medical records and directed the doctor to deliver the records to the judge or in the alternative to deliver the records to his office before the hearing date. The judge determined that the subpoena was misleading because it appeared as though the court was requesting the medical records when in fact it was Mr. Telep. At a November hearing, the judge instructed Mr. Telep that if he received the medical records, they should be delivered to the court to be placed under seal pending another hearing regarding their disclosure. At that hearing, when asked about the location of the medical records, Mr. Telep stated that he had no knowledge of their location. Mr. Telep delivered the records to the court two days later in a sealed envelope. An inquiry by the court revealed that the medical records had been delivered to Mr. Telep 20 days before the November hearing. An order to show cause hearing was held and Mr. Telep was disqualified from the case.

Three aggravating factors were found: multiple offenses, vulnerability of victim and substantial experience in the practice of law.

Six mitigating factors were found: absence of a prior disciplinary record, absence of a dishonest or selfish motive, timely good-faith effort to make restitution or to rectify consequences of misconduct, full and free disclosure to a disciplinary board or cooperative attitude toward proceedings, and imposition of other penalties or sanctions and remorse.

Mr. Telep violated Rule 42, ARIZ.R.S.Ct., ERs 1.3, 3.1, 3.2, 3.3, 3.4(c), 4.1, 4.4(a) and 8.4(c) and (d).

**INGRID-JOY WARRICK**

Bar No. 019624; File Nos. 06-0943, 07-0703, 07-1545, 07-1837

Supreme Court No. SB-10-0027-D

By Supreme Court judgment and order dated April 6, 2010, Ingrid-Joy Warrick, 4130 E. Van Buren Rd., Ste 140, Phoenix, AZ, was suspended for 90 days, as of the date of the judgment and order. She also was assessed the costs and expenses of the disciplinary proceedings.

Ms. Warrick was associated with an advance funding business, the Alliant Group (“Alliant”) and its owners. Alliant provided advance funding to individuals involved in claiming excess proceeds resulting from the foreclosure sale of their homes. Ms. Warrick had a personal, social and/or business relationship with Alliant owner Rick Rickert and a personal, romantic relationship with Alliant owner Dennis Reardon. Mr. Reardon gifted and loaned Ms. Warrick up to/or more than \$200,000 for her personal and professional use.

Ms. Warrick failed to meet personally with clients, who were assigned to excess proceeds cases by non-lawyers in her office and employees of the Alliant Group. Her fee agreements that termed her fees as “earned upon receipt” did not comply with the ethical rule that requires language advising that if the clients terminated her services they may be entitled to a refund of the unearned portion of the fee. Her clients, many of whom were referred to Alliant by her employees and many of whom were receiving funds from Alliant, were not told of Ms. Warrick’s relationship with Alliant or its principals.

Ms. Warrick failed to keep client funds safe and committed numerous trust account violations, including conversion of client funds, failure to record all transactions promptly and completely, failure to maintain funds to pay bank charges, failure to maintain adequate internal controls, and failure to conduct monthly three-way reconciliations of trust account records as required.

Ms. Warrick further failed to supervise non-lawyer assistants in her employ and allowed them to engage in the unauthorized practice of law. She also allowed Alliant representatives to solicit clients for her.

Three aggravating factors were found: dishonest or selfish conduct, pattern of misconduct and multiple offenses.

Four mitigating factors were found: personal or emotional problems, timely good faith effort to rectify the consequences of misconduct, full and free disclosure to disciplinary board or cooperative attitude toward proceedings and remorse.

Ms. Warrick violated Rule 42, ARIZ.R.S.C.T., ERs 1.2, 1.4, 1.5, 1.7, 1.8, 1.15, 1.16, 4.2, 5.3, 5.5, 5.7, 7.3, 8.4(a) and 8.4(d), and Rules 43 and 44, ARIZ.R.S.C.T.