

**REINSTATED ATTORNEYS**

**CARMEN A. CHENAL**

Bar No. 009428; File No. 10-6006

Supreme Court No. SB-11-0034-R

By Arizona Supreme Court order dated April 19, 2011, Carmen A. Chenal, Phoenix, was reinstated effective the date of the order. In addition, Ms. Chenal will be placed on two years of probation.

**TIM D. COKER**

Bar No. 007022; File No. 10-6004

Supreme Court No. SB-11-0017-R

By Arizona Supreme Court order dated Mar. 15, 2011, Tim D. Coker, 9405 S. Avienda del Yaqui, Guadalupe, was reinstated as a member of the State Bar effective the date of the order. Mr. Coker was also placed on probation for two years.

**MARSHALL FEALK**

Bar No. 003332; File No. 09-0841

By the presiding disciplinary judge's order filed Mar. 10, 2011, Marshall Fealk, Tucson, was reinstated as a member of the State Bar effective the date of the order.

**HECTOR MONTOYA**

Bar No. 015499

PDJ-2011-9012

By the presiding disciplinary judge's order dated April 11, 2011, Hector A. Montoya,

Tucson, was reinstated effective the date of the order.

**CRAIG S. WALKON**

Bar No. 012926; File Nos. 10-6007

By Supreme Court order dated Mar. 15, 2011, Craig S. Walkon, 34700 Pacific Coast Hwy., Ste. 300, Capistrano Beach, Calif., was reinstated as a member of the State Bar of Arizona. Mr. Walkon had been administratively suspended in 1995 for nonpayment of bar dues.

**SANCTIONED ATTORNEYS**

**STEVEN W. ALLEN**

Bar No. 003371; Nos. 09-0997 and 09-1876

By judgment and order dated Mar. 11, 2011, the presiding disciplinary judge accepted the consent to disbarment of Steven W. Allen, 2036 N. Gilbert Road, #2-620, Mesa, and ordered him disbarred effective Mar. 11, 2011. Mr. Allen was ordered to pay the State Bar's costs and expenses in the amount of \$1,218. Mr. Allen had been placed on interim suspension after being found guilty of conspiracy to defraud the United States and violating Title 18, U.S.C. § 371.

**STEVEN J. A. AUGUST**

Bar No. 015612; File Nos. 10-0610, 10-0883, 10-1196, 10-1740

By judgment and order dated Mar. 16, 2011, the presiding disciplinary judge accepted and approved an agreement for discipline by consent by which Steven J. A. August, P.O. Box 1207, Flagstaff, was suspended for six months and one day effective April 15, 2011. In addition, Mr. August was ordered to pay restitution totaling \$1,500, participate in fee arbitration, disclose his professional liability insurance information to a client, and pay costs of \$1,215.84. Furthermore, during his suspension, he must enroll in the State Bar's Law Office Management Assistance Program and Member Assistance Program within 30 days following the effective date of his suspension and undergo assessments by and participate with LOMAP and MAP during his suspension. Following reinstatement, he will be on probation for one year.

In count one, in connection with a client's petition for *habeas corpus*, Mr. August lacked the legal knowledge, skill, thoroughness and preparation reasonably necessary for representation; failed to abide by his client's objectives of representation; failed to act with reasonable diligence in representing a client; failed to promptly comply with reasonable requests for information and failed to keep his client reasonably informed about the status of the matter; collected an unreasonable fee; collected a fee denominated earned upon receipt and failed to simultaneously advise his client in writing that she may discharge him at any time and in that event may be entitled to a refund of all or part of the fee based on the value of the representation; failed to

**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.

refund any of the earned upon receipt fee; did not promptly deliver funds that his client was entitled to receive; did not take the steps necessary to protect his client's interests upon the termination of representation; brought a proceeding or asserted an issue therein that was frivolous and without a good faith basis in law for doing so; failed to make reasonable efforts to expedite litigation; knowingly made a false statement of fact to a tribunal; failed to respond to a lawful demand for information from a disciplinary authority; engaged in conduct that is prejudicial to the administration of justice; and failed to keep his membership records updated.

In count two, in connection with the presentation of a government tort claim, Mr. August committed many of the same violations as he committed in connection with count one. In addition, he failed to reasonably consult with the client about the means by which the client's objectives were to be accomplished; failed to define the scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible in writing; and failed to deliver to the client property that the client was entitled to receive.

In count three, while representing the subject of a criminal investigation, Mr. August committed many of the same violations as he committed in connection with the other two counts. In addition, he made misleading statements about his legal services.

In count four, in representing a couple with regard to their bankruptcy petition, Mr. August committed many of the same violations as he committed in connection with the other three counts. In addition, he engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

Aggravating factors: a pattern of misconduct; multiple offenses; vulnerability of victims; and substantial experience in the practice of law. Mitigating factors: absence of a prior disciplinary record; absence of a dishonest or selfish motive; and personal or emotional problems.

Mr. August violated ARIZ.R.S.C.T., Rule 42, ERs 1.1, 1.2, 1.3, 1.4, 1.5, 1.15(d), 1.16(d), 3.1, 3.2, 3.3, 7.1, 8.1(b), 8.4(c), and 8.4(d); Rule 32(c)(3); Rule 53(d); and Rule 53(f).

**MARK K. BRIGGS**

Bar No. 015645; File Nos. 08-1199, 10-1711

By judgment and order dated Mar. 17, 2011, the presiding disciplinary judge accepted and approved the parties' agreement for discipline by consent by which Mark K. Briggs, 343 W. Roosevelt St., Phoenix, was suspended for six months and one day effective April 18, 2011, and assessed costs of \$2,708.71.

In count one, Mr. Briggs failed to act with reasonable diligence and promptness in properly

and timely documenting loans between and among various limited liability companies in which he had an interest or which he managed or represented; entered into business transactions with a client on terms not fair or reasonable to the client and not fully disclosed and transmitted in writing in a manner that could be reasonably understood by the client; entered into business transactions with a client without advising the client in writing of the desirability of seeking and giving the client a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and entered into business transactions with a client without obtaining from the client informed consent in a writing signed by the client, to the essential terms of the transaction and his role in the transaction, including whether he was representing the client in the transaction. He also failed to act with the care required of a professional fiduciary by making an imprudent decision to cause loans to be made between and among businesses in which he had financial interests; not obtaining the informed written consent of a member and manager of one of the businesses before the loans were made; failing to make appropriate and timely disclosures regarding those loans to the members of one of the businesses; and failing to timely prepare and transmit documentation of the loans.

In count two, Mr. Briggs intended but failed to insert language in a representation agreement excluding from that representation matters relating to the client's investment in a business; failed to obtain a client's written informed consent to the essential terms of the client's investment in a business and Mr. Briggs' role in that business, including whether Mr. Briggs was representing the client in connection with that investment; failed to obtain the client's written informed consent to the essential terms of the client's loan to a business and Mr. Briggs' role in that business, including whether Mr. Briggs was representing the client in connection with that loan, in a manner that could be reasonably understood by the client; and failed to advise the client in writing of the desirability of seeking the advice of independent legal counsel on the transaction.

Aggravating factors: selfish motive; a pattern of misconduct; multiple offenses; and substantial experience in the practice of law. Mitigating factors: absence of a prior disciplinary record; full and free disclosure to disciplinary board or cooperative attitude toward proceedings; character or reputation; delay in disciplinary proceedings; and remorse.

Mr. Briggs violated ARIZ.R.S.CT., Rule 42, ERs 1.2(c), 1.3, 1.4(a), 1.8(a) and 1.15(a).

#### ANDREA LYNN CARLSON

Bar No. 025124; File Nos. 10-0585, 10-0692

By judgment and order dated Mar. 16, 2011, the presiding disciplinary judge accepted and

approved an agreement for discipline by consent by which Andrea Lynn Carlson, P.O. Box 14411, Tucson, was suspended for one year effective April 15, 2011. In addition, Ms. Carlson was ordered to pay restitution totaling \$3,530, participate in fee arbitration and abide by the award, and pay costs of \$1,396.25.

In count one, following a successful hearing in a family court case, Ms. Carlson became incriminated in her client's presence, went to the opposing party's place of business to taunt him, and hit his employee in the face. Ms. Carlson engaged in unprofessional conduct by becoming intoxicated in the presence of her client; disclosed, in the presence of non-parties, details of the divorce case that were unfavorable to the opposing party; advanced a fact prejudicial to the honor or reputation of a party; revealed information relating to the representation of her client without her client's informed consent; used means that had no substantial purpose other than to embarrass another person; committed a criminal act that reflected adversely on her honesty, trustworthiness and fitness as a lawyer; and engaged in conduct that was prejudicial to the administration of justice.

In count two, Ms. Carlson disobeyed a court order regarding preservation of funds in her trust account, failed properly to account for trust account funds, billed her client incorrectly and converted trust account funds to her own use.

Aggravating factors: dishonest or selfish motive; a pattern of misconduct; multiple offenses; vulnerability of victims; and illegal conduct. Mitigating factors: personal or emotional problems; full and free disclosure to disciplinary board or cooperative attitude toward proceedings; inexperience in the practice of law; mental disability or chemical dependency including alcoholism or drug abuse; imposition of other penalties or sanctions; and remorse.

Ms. Carlson violated ARIZ.R.S.CT., Rule 42, ERs 1.2, 1.4, 1.5(d)(3), 1.6(a), 1.15(a), (c) and (d), 1.16(d), 3.4(c), 4.4(a), and 8.4(b), (c) and (d); and Rules 41(g), 43(a), (b), (d) and (f), and 53(c).

#### JOSEPH W. CHARLES

Bar No. 003038; File No. 09-2452

By a Mar. 2, 2011, order of the presiding disciplinary judge, Joseph W. Charles, P.O. Box 1737, Glendale, was suspended for six months and one day. If reinstated, Mr. Charles will be placed on probation for two years. He was also assessed the costs and expenses of the disciplinary proceeding involving file no. 09-2452.

Parents hired Mr. Charles to represent their son in a criminal matter. Mr. Charles failed to conduct a retrospective analysis of the reasonableness of his "earned upon receipt" fee when his services were terminated and very limited value was derived from the legal services he actually provided. Mr. Charles charged an

"earned upon receipt" fee without simultaneously advising the parents that they could nevertheless discharge him at any time and in that event might be entitled to a refund of all or part of the fee. Mr. Charles filed a frivolous civil lawsuit without a good-faith basis against them for fees he claimed to be owed. Mr. Charles engaged in conduct involving misrepresentations by making a number of misleading statements to them and in the attachments to the civil complaint. His conduct also was prejudicial to the administration of justice. Mr. Charles perpetuated his misleading statements to the parents in correspondence to the State Bar.

Aggravating factors: prior disciplinary offenses, pattern of misconduct, and substantial experience in the practice of law. No mitigating were found.

Mr. Charles violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.5(a) and (d)(3), 3.1, 8.1(a), 8.4(c), and (d).

#### DAVID P. DE COSTA

Bar No. 020139; File No. 09-1658

By the presiding disciplinary judge's Mar. 14, 2011, report and order, David P. De Costa, P.O. Box 27717, Tempe, was suspended for one year. A two-year period of probation will follow the suspension. Mr. De Costa was also ordered to participate in fee arbitration if requested by the client and to pay the costs and expenses of the disciplinary matter.

While representing a client in a DUI matter, Mr. De Costa developed a trial strategy whereby he would argue that his client was not the person arrested. This strategy included performing the trial *in absentia*, so Mr. De Costa agreed with his client that the client would not appear for trial. When the client failed to appear, Mr. De Costa, the prosecutor and the judge discussed the matter on the record. During that conversation, Mr. De Costa misled the court by withholding information about why his client had failed to appear, feigning ignorance as to why the client had failed to appear, and making misstatements about how Mr. De Costa was supposed to give the client a ride to court. The client was convicted *in absentia*, but the conviction was later overturned when Mr. De Costa's misconduct was discovered.

Mr. De Costa's conduct violated Rule 41(e), ARIZ.R.S.CT., as well as Rule 42, ARIZ.R.S.CT., specifically ERs 3.3(a)(1), 8.4(c) and 8.4(d).

#### ANDREW D. DIODATI

Bar No. 014394; File Nos. 09-1923, 10-0526

By the presiding disciplinary judge's order dated April 11, 2011, Andrew D. Diodati, 123 S. Stone Ave., Suite 6, Tucson, was suspended for two years, retroactive to Aug. 20, 2010, and placed on probation for up to two years to be served during the period of suspension. If Mr. Diodati willfully, knowingly or intentionally violates the terms of probation, Mr. Diodati's

suspension will convert to a three-year suspension dating from April 11, 2011. Mr. Diodati was also assessed the costs and expenses of the disciplinary proceeding.

In one matter, Mr. Diodati was appointed to represent a criminal defendant in a post-conviction-relief proceeding. Mr. Diodati failed to respond to all of the client's attempted communications, failed to return to the client the transcript the client had given to Mr. Diodati, failed to provide the client with the client file he maintained on the client's behalf, engaged in conduct prejudicial to the administration of justice, and knowingly violated a Pinal County Superior Court order directing him to give the client a copy of the file he maintained on the client's behalf.

In another matter, Mr. Diodati represented himself in a divorce proceeding. Mr. Diodati failed to comply with various court orders, including those directing him to pay child support and/or spousal maintenance through the Child Support Clearinghouse/Support Payment Clearinghouse.

During the State Bar's investigation into the matters set forth above, Mr. Diodati knowingly failed to respond to the State Bar's requests for information.

Aggravating factors: prior disciplinary offenses, a pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency, vulnerability of the victim, and substantial experience in the practice of law.

Mitigating factors: absence of a selfish motive, personal or emotional problems, cooperative attitude toward the disciplinary proceeding (beginning with the settlement conference), and financial difficulties that led to his non-payment of child support.

Mr. Diodati violated Rule 42, ARIZ.R.S.CT., specifically ERs 1.4, 1.15(d), 1.16(d), 3.4(c), 8.1(b), and 8.4(d), and Rules 53(c), (d) and (f), ARIZ.R.S.CT.

#### **PATRICK G. DRURY**

File Nos. 10-0698, 10-1949

By the presiding disciplinary judge's April 29, 2011, order, Patrick G. Drury, 800 E. Roosevelt Road, Suite B-420, Glen Ellyn, Ill., a non-Arizona lawyer, was reprimanded (a sanction known before 2011 as censure), for his misconduct and ordered to pay \$1,500 in restitution to his client.

In file no. 10-0698, Mr. Drury owned and operated a home-loan-modification company, The Mortgage Modification Law Group, located in Maricopa, Ariz. Mr. Drury advertised his home-loan-modification company on the same website as his Illinois-based law practice, The Patrick Drury Law Group. Mr. Drury failed to post on his website that he was licensed to practice only in Illinois. Mr. Drury sent unsolicited

mailings for The Mortgage Modification Law Group without distinguishing his law practice from his ancillary business. Mr. Drury also failed to adequately supervise his non-lawyer assistant who worked at The Mortgage Modification Law Group and engaged in the unauthorized practice of law by sending a letter on a client's behalf under Mr. Drury's signature without Mr. Drury's authorization. Mr. Drury also failed to cooperate with the State Bar's investigation into his conduct.

Mr. Drury was found to have violated Rule 31, ARIZ.R.S.CT.; Rule 42, ARIZ.R.S.CT., specifically ERs 5.3, 5.5, 7.1, 7.5, 8.1(b), and 8.4(c); and Rule 53(d) and (f), ARIZ.R.S.CT.

In file no. 10-1949, Mr. Drury agreed to perform a home-loan modification through The Mortgage Modification Law Group for \$3,000 for a client. Mr. Drury's fee agreement denoted the fees as earned on receipt but lacked appropriate refund language. Mr. Drury later refunded the client \$1,500, and agreed to complete the home-loan modification for the client for the remaining \$1,500, but failed to do any subsequent work for the client. Mr. Drury subsequently failed to discuss the status of the home-loan modification with his client, who later discovered that Mr. Drury's home-loan modification company had stopped doing business. Mr. Drury also failed to cooperate with the State Bar's investigation into his conduct.

Mr. Drury was found to have violated Rule 31, ARIZ.R.S.CT.; Rule 42, ARIZ.R.S.CT., specifically ERs 1.3, 1.4, 1.5, 1.16, 5.5, 7.1, 7.5, 8.1(b), 8.4(c), and 8.4(d); and Rule 53(d) and (f), ARIZ.R.S.CT.. He also was ordered to pay \$1,500 in restitution to his client.

Mr. Drury did not participate in formal proceedings. The hearing panel noted that had Mr. Drury been a member of the State Bar, a suspension of more than six months would have been warranted based on his conduct.

#### **JOHN FIORAMONTI**

Bar No. 004696; File Nos. 10-0856, 10-857, 10-858

By judgment and order dated April 11, 2011, the presiding disciplinary judge accepted and approved an agreement for discipline by consent under which John Fioramonti, 4980 W. Thurber Road, Tucson, was reprimanded (a sanction known before 2011 as censure). Mr. Fioramonti also consented to cease and desist the unauthorized practice of law pursuant to Rule 78(c)(1), ARIZ.R.S.CT., which will be filed in separate action. Mr. Fioramonti was also assessed the costs and expense of the disciplinary proceeding.

In one matter, Mr. Fioramonti, a suspended lawyer, placed advertisements under the category of legal services on Craigslist. Mr. Fioramonti stated that he was a "retired attorney" with more than 30 years experience, and would prepare business and real estate documents for paralegal prices. The advertisements did not

mention that he had been suspended since 1993, had only practiced as an attorney for 17 years, never sought reinstatement, and could not "retire" from the State Bar until or unless he had been reinstated. As a result of the Craigslist advertisement, Mr. Fioramonti met with person for whom he offered to prepare Chapter 7 bankruptcy schedules for \$50 per hour. Mr. Fioramonti then referred that person to a bankruptcy lawyer.

In second matter, Mr. Fioramonti met with another person who also saw the Craigslist advertisement. Mr. Fioramonti agreed to review that person's Illinois estate plan and prepare a new estate plan for \$50 per hour. Mr. Fioramonti never completed the estate plan and refunded the \$400 he had been paid.

In third matter, Mr. Fioramonti formed a company with a third man to buy and sell sewer connection fee credits. Mr. Fioramonti and that man also discussed purchasing apartments. After these discussions, Mr. Fioramonti prepared a draft private placement memorandum to seek investors. Later, Mr. Fioramonti and his business partner entered into a transaction involving sewer-connection-fee credits. Mr. Fioramonti negotiated the sale and prepared all of the documents associated with the sale. Mr. Fioramonti engaged the services of an Arizona attorney to assist him in holding and distributing the funds for the sewer-credits-connection fee transaction. Thereafter, Mr. Fioramonti entered into a commission agreement with his business partner to sell those same sewer-connection-fee credits. Mr. Fioramonti sold some of the credits to a homebuilder. Mr. Fioramonti then decided to do business directly with the seller of the sewer-connection-fee credits. Mr. Fioramonti negotiated both the buying and selling of the credits and prepared the sales agreements, making a substantial commission as a result.

Aggravating factors: prior discipline, multiple offenses, and substantial experience in the practice of law.

Mitigating factors: full and free disclosure and remoteness of prior offenses.

Mr. Fioramonti was found to have violated Rules 31(b) and (c), ARIZ.R.S.CT., and Rule 42, ARIZ.R.S.CT., specifically ERs 5.5(a) and 8.4(d).

#### **W. CLIFFORD GIRARD, JR.**

Bar No. 002358; File No. 10-0671

By final judgment and order of the presiding disciplinary judge dated Mar. 23, 2011, W. Clifford Girard, Jr., 335 E. Palm Lane, Phoenix, was reprimanded (a sanction known before 2011 as censure). In addition, he was ordered to pay restitution to one individual and was assessed the costs and expenses of the disciplinary proceeding.

Mr. Girard was hired to represent a defendant in three separate criminal cases. Mr. Girard

failed to promptly provide an accounting when requested by his client's mother, who had paid him to represent her son. Although the client's mother directed Mr. Girard to discontinue billing against the funds she had paid, he nevertheless continued to do so. In addition, Mr. Girard misled his client's mother by indicating that a refund of unearned funds would be forthcoming.

Aggravating factor: substantial experience in the practice of law.

Mitigating factors: Absence of a disciplinary record, absence of a dishonest or selfish motive, full and free disclosure to bar counsel, cooperative attitude toward the disciplinary proceedings, and character or reputation.

Mr. Girard violated Rule 42, ARIZ.R.S.Ct., specifically ER 1.15(d) and ER 4.1.

#### **ALAN E. GOODING**

Bar No. 023060; State Bar File Nos. 10-0421, 10-1585, 10-1900, 10-1954

PDJ Number: PDJ-2011-9001

By presiding disciplinary judge judgment and order dated April 22, 2011, Alan E. Gooding, 3573 E. Sunrise Drive, Suite 133, Tucson, was suspended for six months and one day effective 30 days from the date of the order. If reinstated, Mr. Gooding will be placed on two years of probation, the terms of which will be decided at the time of his reinstatement. Mr. Gooding was also ordered to pay the costs and expenses of the disciplinary proceeding.

In count 1, Mr. Gooding was retained to represent multiple defendants in a civil litigation matter. The clients requested Mr. Gooding to file a motion seeking to remove a plaintiff based on perceived standing issues. Mr. Gooding promised to file such a motion, but never did. Also during the representation, Mr. Gooding did not timely respond to the clients' requests for information. The clients terminated the representation and learned, after the motion deadline had passed, that Mr. Gooding had not filed their requested motion.

In count 2, Mr. Gooding failed to comply with the terms of his previously ordered diversion.

In count 3, Mr. Gooding was retained to represent two limited-liability companies. Mr. Gooding filed suit on behalf of the companies, but only served one of the multiple named defendants. As a result, the court dismissed the matter pertaining to the unserved defendants without prejudice. Mr. Gooding did not inform his client about the court's action and also did not timely respond to the client's emails and phone calls.

In Count 4, Mr. Gooding was retained for a guardian and conservatorship matter regarding the client's mother. Mr. Gooding filed the appropriate petition and the court appointed his client as the temporary guardian and conservator. His client expressed a wish to be appointed

the permanent guardian and conservator. Mr. Gooding, however, failed to diligently request a final hearing, a necessary step for the court to issue an order appointing a permanent guardian and conservator. Mr. Gooding also did not always return his client's phone calls and provide her with status updates. In all counts, Mr. Gooding knowingly failed to respond to the State Bar's investigatory letters.

Aggravating factors: pattern of misconduct, multiple offenses, and bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency.

Mitigating factors: absence of a prior disciplinary record, absence of a dishonest or selfish motive, and personal or emotional problems.

Mr. Gooding violated Rule 42, ARIZ.R.S.Ct., specifically ERs 1.2(a), 1.3, 1.4(a)(3), 1.4(a)(4), 3.2, 8.1(b), and 8.4(d), and Rules 53(d), 53(e), and 53(f), ARIZ.R.S.Ct.

#### **DAN R. GUKEISEN**

Bar No. 021109; File Nos. 08-2159, 08-2176, 09-0820, 09-0821, 09-0822, 09-0823, 09-0824, 09-0368, 09-1068, 09-1344, 09-1362, 09-1713, 10-0303

By order of the presiding disciplinary judge filed Mar. 11, 2011, Dan R. Gukeisen, 202 E. Third St., Plankinton, S.D., formerly of the Gukeisen Law Group, Tempe, was reprimanded (a sanction known before 2011 as censure) pursuant to an agreement for discipline by consent. Mr. Gukeisen was placed on probation for six months under specific terms and conditions. Terms of probation are restitution to several former clients, completion of continuing legal education and participation in the State Bar's Law Office Management Assistance Program if he returns to law practice. Mr. Gukeisen will also pay the costs and expenses of the disciplinary proceedings. Mr. Gukeisen was also ordered to comply with the stipulation entered in United States Bankruptcy Court between Mr. Gukeisen, the bankruptcy trustee, Kimberly Richter and Bankruptcy Helpers, Inc. in No. 0:09-bk-14500-RJH.

The agreement for discipline by consent encompassed 11 matters in which Mr. Gukeisen undertook to represent clients in Bankruptcy Court through Gukeisen Law Group, referred through Bankruptcy Helpers, Inc., a law-related business owned by Mr. Gukeisen and Kimberly Richter. Mr. Gukeisen failed to appropriately differentiate between his law practice and Bankruptcy Helpers and use a business model in which the two entities worked together rather than distinctly from each other.

Mr. Gukeisen's violations of the ethical rules dealing with diligence, communication and fees resulted from the manner in which Mr. Gukeisen ran his law practice. Because of the manner in which the entities operated, including using a call center and lawyers employed as

independent contractors, Mr. Gukeisen was unable to adequately supervise legal and non-lawyer staff and was unable to ensure adequate and appropriate communication with clients. Mr. Gukeisen was not diligent in ensuring that attorneys assigned to individual client matters were sufficiently familiar with the individual matters and that non-lawyer staff provided accurate information to clients.

Finally, Mr. Gukeisen accepted "retainers" or deposits from clients that were used to expand his support staff and physical facilities but did not decline other work or reserve time for clients paying this fee. Upon termination of his representation by several clients, Mr. Gukeisen, sometimes through staff members, informed his former clients that he was entitled to keep these "retainers" although no substantive work had been performed on the client's matters. For these reasons the "retainers" were unreasonable fees.

Aggravating factors: pattern of misconduct, multiple offenses, and substantial experience in the practice of law.

Mitigating factors: absence of a prior disciplinary record, full and free disclosure to disciplinary board or cooperative attitude toward proceedings and imposition of other penalties or sanctions.

Mr. Gukeisen violated Rule 42, ARIZ.R.S.Ct., specifically ERs 1.3, 1.4 and 1.5.

#### **WILLIAM M. LABUDA, JR.**

Bar No. 022216; State Bar File Nos. 09-1328 and 09-2453

Supreme Court No. SB-11-0025-D

By Arizona Supreme Court judgment and order dated April 20, 2011, William M. Labuda, Jr., P.O. Box 8714, Gaithersburg, Md, was suspended for 21 months, retroactive to Jan. 6, 2011. Mr. Labuda was ordered to return his client's property and pay the costs of the disciplinary proceeding. If reinstated, Mr. Labuda will be placed on probation for two years. Count 1 stemmed from Mr. Labuda's criminal conviction. He pled guilty to possession of drug paraphernalia, a class 1 misdemeanor.

In Count 2, Mr. Labuda represented a client in a divorce matter. The court ordered Mr. Labuda to lodge a decree, but he failed to do so. He also did not respond to the client's requests for information nor return the client's documents upon her request. Mr. Labuda also did not respond to the State Bar's investigatory letters regarding this matter.

Aggravating factors: prior disciplinary offense, pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency, and illegal conduct.

Mitigating factors: absence of a dishonest or selfish motive, personal or emotional problems, delay in disciplinary proceedings, imposition of

other penalties or sanctions, and remorse.

Mr. Labuda violated Rule 41(b), ARIZ.R.S.Ct.; Rule 42, ARIZ.R.S.Ct., specifically ERs 1.2, 1.3, 1.4, 1.15, 3.2, 3.4(c), 8.1(b), 8.4(b), and 8.4(d); and Rules 53(c), (d), and (f), ARIZ.R.S.Ct. (2009).

#### **CHARLES ANTHONY SHAW**

Bar No. 003624; File No. 10-0602

By report and order dated Feb. 28, 2011, the presiding disciplinary judge and panel ordered that Charles Anthony Shaw, 140 N. Granite St., Prescott, Ariz., be reprimanded (a sanction known before 2011 as censure) and pay the costs and expenses of the disciplinary proceeding.

Mr. Shaw represented the plaintiff in an employment-discrimination case. Mr. Shaw's fee agreement and accounting to his client reflected an hourly rate of \$250 for legal services. The parties settled the case. As part of the settlement, the opposing party agreed to pay attorneys' fees thus accrued, not to exceed \$5,000. Mr. Shaw knowingly submitted a false fee affidavit to opposing counsel misrepresenting the actual fees accrued and his hourly rate. Mr. Shaw avowed in his fee affidavit that his hourly rate in the case was \$350 rather than \$250.

Aggravating factors: dishonest or self motive, refusal to acknowledge wrongful nature of misconduct, and substantial experience in the practice of law.

Mitigating factors: absence of prior discipline, cooperative attitude toward disciplinary proceedings, character and reputation.

Mr. Shaw was found to have violated Rule 42, ARIZ.R.S.Ct., specifically ERs 4.1, 8.4(c) and 8.4(d).

#### **PETER STROJNIK**

Bar No. 006464; File No. 09-0314 and 09-1451

By order of the acting presiding disciplinary judge dated May 2, 2011, Peter Strojnik, 2401 E. Camelback Road, Ste 700, Phoenix, was reprimanded (a sanction known before 2011 as censure). Mr. Strojnik will be placed on probation for two years and was also assessed the costs and expenses of the disciplinary proceeding.

Mr. Strojnik represented a party against a former client without the former client's appropriate consent. He also arranged the merger of his corporation with his client's company, which is a business transaction. He failed to appropriately advise the client to seek the advice of independent counsel and failed to get informed consent for the representation. He also engaged in conduct prejudicial to the administration of justice by filing a pleading and then negotiating with counsel for the withdrawal of that pleading based on the payment of his disputed fees.

In a second matter, Mr. Strojnik created conflicts of interest by filing suit against persons whom he otherwise represented by being gen-

eral counsel for a joint venture, and by filing suit on a matter directly arising from an amended joint venture that he prepared. He amended the joint venture, in part, in order to waive claims other joint venture members may have had against him and his wife. His status as lawyer for the joint venture allowed him to obtain confidential information about joint venture members. He then used this information to their disadvantage by filing a lawsuit against them.

Aggravating factors: substantial experience in the practice of law, multiple offenses, pattern of misconduct, and prior disciplinary offenses.

Mitigating factors: absence of a dishonest or selfish motive, personal or emotional problems, full and free disclosure to disciplinary board or cooperative attitude toward proceedings, and remoteness of prior offenses.

Mr. Strojnik violated Rule 42, ARIZ.R.S.Ct., specifically ERs 1.7(a), 1.8(a) and (h)(1), 1.9(a) and (c)(1), and 8.4(d).

#### **LAUREN E. VANPELT**

Bar No. 020048; File No. 11-0806

By order dated April 11, 2011, the presiding disciplinary judge granted the State Bar's motion for interim suspension of Lauren E. Vanpelt. Pursuant to Rule 61, ARIZ.R.S.Ct., the State Bar moved for Ms. Vanpelt's interim suspension for an indeterminate period of time not to exceed five years. She did not resist the motion. Ms. Vanpelt admitted that she is and has been misappropriating client funds and is engaging in conduct which has resulted, and the continuation of which will result, in substantial harm, loss or damage to the public, the legal profession or the administration of justice.