

REINSTATED ATTORNEYS

HOLLY GIESZL

Bar No. 013845; SBA File No. 10-6001

Supreme Court No. SB-11-0041-R

By Arizona Supreme Court order filed May 25, 2011, Holly R. Gieszl of Phoenix was reinstated to active membership effective the date of the order.

MATTHEW R. LEWIS

Bar No. 017331; File No. 10-6010

Supreme Court No. SB-11-0035-R

By Arizona Supreme Court order dated May 25, 2011, Matthew R. Lewis, Salt Lake City, Utah, was reinstated to active membership in the State Bar of Arizona, effective the date of the order. Although Mr. Lewis had been under an administrative suspension for more than five years, the Supreme Court waived the requirement of Rule 64(c), ARIZ.R.S.Ct., that he re-take and pass the bar examination.

THOMAS K. MCKNIGHT

Bar No. 005665; File No. 10-6005

Supreme Court No. SB SB-11-0033-R

By Arizona Supreme Court order dated May 25, 2011, Thomas K. McKnight, Washington, D.C., was reinstated to active membership in the State Bar effective the date of the order.

BERNARD M. STRASS

Bar No. 013684; File No. 10-6009

Supreme Court No. SB-11-0036-R

By Arizona Supreme Court judgment and order dated May 25, 2011, Bernard M. Strass of Phoenix was reinstated to active membership in the State Bar effective the date of the order. Mr. Strass also was placed on two years of probation.

SANCTIONED ATTORNEYS

DAVID WILLIAM CURTIS, JR.

Bar No. 005407; File No. 10-2377

Supreme Court No. SB-11-0002-D

By judgment and order dated Mar. 11, 2011, the presiding disciplinary judge accepted the consent to disbarment of David William Curtis, Jr., 10042 N. 26th St., Phoenix, and ordered him disbarred effective immediately. Mr. Curtis was convicted of multiple counts of sexual exploitation of a minor and molestation of a child, all felony offenses.

GREGORY L. DROEGER

Bar No. 012117; File No. 10-0173

Supreme Court No. SB-110045-D

By Arizona Supreme Court judgment and order dated May 17, 2011, Gregory L. Droeger of Tucson was reprimanded (formerly known as censure). He also was assessed the costs and expenses of the disciplinary proceeding.

One of Mr. Droeger's assistants eventually began handling one of Mr. Droeger's trust accounts. Over time she took approximately \$42,500 from the trust account without Mr. Droeger's knowledge. Eventually the trust account suffered an overdraft. Mr. Droeger eventually discovered the theft and reported it to the police. Some of the funds taken were earned fees and some were client funds. Mr. Droeger replenished the trust account to cover the stolen client funds. The State Bar's investigation uncovered several ethical violations related to the maintenance of the trust account.

Aggravating factors were prior discipline and substantial experience in the practice of law.

Mitigating factors were absence of dishonest motive, timely good-faith effort to make restitution, and full and free disclosure.

Mr. Droeger violated Rule 42, ARIZ.R.S.Ct., ER 1.15(a) and Rule 43, ARIZ.R.S.Ct.

DANIEL RAY GUKEISEN

Bar No. 021109; File No. 09-0201

By order dated May 23, 2011, the Arizona Supreme Court placed Daniel Ray Gukeisen on interim suspension.

Pursuant to Rule 61(c)(1)(A), ARIZ.R.S.Ct., the State Bar transmitted for filing Maricopa County Superior Court's certified copy of a felony conviction dated April 6, 2011, finding Mr. Gukeisen guilty of manslaughter. Mr. Gukeisen did not file a motion seeking relief from the automatic interim suspension provision of Rule 61(c).

His suspension shall continue in effect until final disposition of all pending proceedings against him unless earlier vacated or modified. Furthermore, Mr. Gukeisen shall not accept for representation any new clients or matters, nor shall he continue to represent any existing client except to request withdrawal from representation as required by Rule 72(a). Finally, Mr. Gukeisen is precluded from distributing funds from any trust account to anyone except with

the written approval of bar counsel or the Supreme Court, and he must comply with all relevant provisions of Rule 72(a).

ALLAN R. HAWKINS

Bar No. 017265; File No. 10-4006

By judgment and order dated Feb. 28, 2011, the presiding disciplinary judge imposed reciprocal discipline on and suspended Allan R. Hawkins, 3370 N. Hayden Road, Suite 123, Scottsdale, for one year effective 30 days from the date of the order and placed him on two years of supervised probation.

In 1997, Mr. Hawkins informed his client, a criminal defendant, that the client was not entitled to a lawyer and that Mr. Hawkins would not represent him even after being appointed as defense counsel by a Texas court. A trial date was set by the Texas court and sent to Mr. Hawkins, who failed to communicate the trial date to his client, causing the client to miss the trial. The Texas Commission for Lawyer Discipline found that Mr. Hawkins violated Texas Rules of Professional Conduct 1.01(b)(1), 1.15(c), and 1.15(d) and placed him on one year of active suspension and three years of probation.

In 2001, North Dakota suspended Mr. Hawkins for one year and placed him on three years of probation based on the 1997 Texas suspension.

Mr. Hawkins did not report either the Texas or North Dakota suspensions to the Arizona Supreme Court as required under Rule 54(b)(1), ARIZ.R.S.CT. Mr. Hawkins was suspended in Arizona pursuant to Rules 54(h) and 57(b), ARIZ.R.S.CT.

BRET H. HUGGINS

Bar No. 007535; File No. 10-0715

Supreme Court No. SB-11-0046-D

By Arizona Supreme Court judgment and order dated May 17, 2011, Bret H. Huggins of Florence was censured by consent and placed on probation for one year. He was also assessed the costs and expenses of the disciplinary proceedings.

Between February 2007 and April 2010, Mr. Huggins engaged in a number of violations based on his insufficient record keeping regarding his client trust account. Specifically, Mr. Huggins failed to safe-keep client property, negligently converted client funds, failed to maintain individual client ledgers, failed to deposit a sufficient amount of his own funds into his client trust account to pay service or other charges or fees imposed by his financial institution related to the operation of his trust account, negligently failed to keep funds belonging in whole or in part to a client in connection with a representation separate and apart from his personal and business accounts, failed to exercise due professional care, failed to maintain adequate internal controls to safeguard

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.

funds held in trust, and failed to make or cause to be made a monthly three-way reconciliation of his trust account records.

Aggravating factors were prior disciplinary offenses and substantial experience in the practice of law.

Mitigating factors were absence of a dishonest or selfish motive, timely good-faith effort to rectify consequences of misconduct, cooperative attitude toward proceedings, remorse, and remoteness of prior disciplinary offenses.

Mr. Huggins violated Rule 42, ER 1.15, ARIZ.R.S.CT. (2010) and Rules 43(a), 43(b)(1)(C), 43(b)(2)(A), 43(b)(2)(B), and 43(b)(2)(C), ARIZ.R.S.CT. (2010).

CHRISTOPHER R. PERRY

Bar No. 009801; File No. 11-0566

By order filed Mar. 11, 2011, the presiding disciplinary judge placed Christopher R. Perry, 3300 N. Central Ave., #2200, Phoenix, on interim suspension, effective Mar. 11, 2011. The suspension shall continue in effect until final disposition of all pending proceedings against Mr. Perry, unless earlier vacated or modified.

NANCY D. PETERSEN

Bar No. 017025; File Nos. 09-1893, 09-2267, 09-2327

By judgment and order dated June 6, 2011, the presiding disciplinary judge accepted and approved the parties' agreement for discipline by consent by which Nancy D. Petersen of Phoenix was suspended for 90 days effective immediately and assessed costs of \$1,605.65.

In count one, Ms. Petersen, in a family law matter, failed to abide by her client's decisions concerning the objectives of representation by failing to file a request to modify, failing to file a stipulation for assignment and use it to effectuate a wage assignment, and failing to follow up with the ex-husband and his employer regarding a stipulation; failed to act with reasonable diligence and promptness in representing her client by failing to take those actions and by waiting from May 2008 to July 1, 2008, to send the client a fee agreement; consistently failed to communicate promptly or reasonably with her client throughout the course of the representation; failed to provide "full representation in the matter," be diligent and responsible in representing her client's interests and respond to her questions and inquiries about her legal matter; failed accurately to communicate to her client in writing the scope of the representation; failed to make reasonable efforts to expedite the litigation of her client's matter consistent with her interests; misrepresented that she filed a request to modify, tried to serve the request to modify on her client's ex-husband three times but that

her service efforts were not successful, filed paperwork and that "the paperwork is with the assigned judge," communicated with a court official who told her to furnish another copy of "the paperwork," and faxed a copy of the stipulation regarding order of assignment to her client's ex-husband's employer; and in all respects engaged in conduct prejudicial to the administration of justice.

In count two, Ms. Petersen, in a family law matter, failed to act with reasonable diligence and promptness in representing her client and failed to make reasonable efforts to expedite litigation consistent with the interests of her client by delaying for eight months filing a QDRO and by failing to determine that she had asked the court for an award of child support for her client; failed to promptly and reasonably consult with her client by failing to timely return her phone calls; and failed to take reasonably practicable steps to protect her client's interests upon termination of representation by failing to reasonably promptly furnish to her client's successor counsel a signed substitution of counsel and her client's file; and in all respects engaged in conduct prejudicial to the administration of justice.

In count three, Ms. Petersen failed to deposit funds belonging to a client or third person into her trust account, failed to retain duplicate deposit slips in connection with the management of her trust account, and misrepresented her compliance with trust account rules on her 2009 State Bar member fees statement.

Aggravating factors were prior disciplinary offenses; a pattern of misconduct; multiple offenses, refusal to acknowledge wrongful nature of conduct; vulnerability of victim; and substantial experience in the practice of law.

Mitigating factors were absence of a dishonest or selfish motive; personal or emotional problems absence of a prior disciplinary record; full and free disclosure to disciplinary board or cooperative attitude toward proceedings; character or reputation; and remorse.

Ms. Petersen violated Rule 42, ARIZ.R.S.CT., ERs 1.2, 1.3, 1.4, 1.5, 1.15(a), 1.16(d), 3.2, 8.4(c) and 8.4(d); and Rules 43(a), 43(b)2.D and 43(c), ARIZ.R.S.CT.

DONNA PLATT

Bar No. 012317; File No. 10-1792

By judgment and order of the presiding disciplinary judge dated Feb. 14, 2011, Donna Platt, 125 East Coronado Road, Phoenix, was disbarred. Ms. Platt also was ordered to pay \$3,952.12 plus interest in restitution to her former client.

In a previous discipline case, Ms. Platt was suspended and ordered to pay restitution to her former client. Ms. Platt failed to comply with that disciplinary order by not paying the full amount of restitution owed, which led to the present disciplinary case. Ms. Platt's conduct

violated ERs 3.4(c) and 8.4(d), Rule 42, ARIZ.R.S.Ct., and Rule 53(c), ARIZ.R.S.Ct.

CARL R. RETTER

Bar No. 010425; File Nos. 10-0684 and 10-0859

By judgment and order dated Feb. 22, 2011, the presiding disciplinary judge accepted and approved an agreement for discipline by consent under which Carl Retter, 4800 N. 68th Street, #171, Scottsdale, was reprimanded and placed on probation for two years. During his probation, Mr. Retter must participate in the Law Office Management Assistance Program; attend the Trust Account Ethics Enhancement Program; refrain from holding money in his trust account for inactive clients or non-clients and refrain from sending any new solicitation letters without first having the solicitation letter reviewed by a private ethics counsel and the State Bar. Mr. Retter also was assessed the costs and expense of the disciplinary proceeding.

In one matter, Mr. Retter sent out a false and misleading advertising letter for mediation services to potential clients. In the advertising letter, Mr. Retter: (1) identified his firm as a mediation firm when he never served as a mediator prior to sending the letter; (2) stated that the firm “retains Maricopa County Bar Association licensed paralegals” when the Maricopa County Bar Association does not license paralegals; and (3) stated that the clients would save money because a paralegal would be doing their work, when in fact an attorney would be doing some or most of their work.

In second matter, Mr. Retter deposited funds into his trust account unrelated to his representation of a client.

Aggravating factors were prior discipline, multiple offense, and substantial experience in the practice of law.

Mitigating factors were absence of dishonest or selfish motive, timely good-faith effort to make restitution, full and free disclosure to the disciplinary board, character and reputation, remorse, and remoteness of prior offense.

Mr. Retter was found to have violated Rule 42, ARIZ.R.S.Ct., ERs 1.15(a), 7.1, and 8.4(c).

MICHAEL T. STOLLER

File No. 08-0816

Supreme Court No. SB-11-0054-D (2011)

By Arizona Supreme Court judgment and order dated June 6, 2011, Michael T. Stoller, who is not a member of the State Bar of Arizona, was censured and ordered to pay costs of the disciplinary proceedings. The sanctions were the result of an agreement for discipline by consent.

Mr. Stoller attempted to open a multistate bankruptcy practice and used a marketing company that, with his approval, advertised a “Fresh Start Program” described as “a government program designed for homeowners ... who may have fallen behind on their mortgages.” In actuality the postcards advertised Mr. Stoller’s law firm, not a government program. Mr. Stoller did not

have in place reasonable measures to ensure adequate supervision as evidenced by multiple bankruptcy petition filings filed under an attorney’s name who was suspended at the time. Mr. Stoller and his firm also did not adequately communicate with his Arizona clients. Many bankruptcy petitions were dismissed without prejudice. Ultimately Mr. Stoller entered into an agreement with the U.S. Bankruptcy Trustee’s Office in Arizona. As part of the agreement, Mr. Stoller’s firm agreed to stop handling bankruptcy cases in Arizona, secured local counsel to handle the Arizona bankruptcy matters, and refunded fees.

Aggravating factors were prior disciplinary history, multiple offenses, and substantial experience in the practice of law.

Mitigating factors were timely good-faith effort to make restitution or rectify consequences, full and free disclosure to disciplinary board or cooperative attitude toward proceedings, and imposition of other penalties.

Mr. Stoller admitted to violating Rule 42, ARIZ.R.S.Ct., specifically ERs 1.4, 5.3, 7.1 and 8.4(d).

ALFONSO ROBERTO TRUJILLO

Bar No. 021619; File Nos. 10-0792, 10-1322

By final judgment and order of a hearing panel dated Feb. 14, 2011, Alfonso Roberto Trujillo, 1859 N. Rosemont, Mesa, was disbarred. In addition, he was ordered to pay restitution to two former clients and was assessed the costs and expenses of the disciplinary proceeding.

In one matter, Mr. Trujillo was hired by a construction company to pursue a lawsuit against a restaurant for failure to pay for work and restaurant equipment related to the development of the restaurant. Mr. Trujillo failed to inform his client that an arbitration hearing had been set or that an adverse arbitration award had been entered against his client. Eventually, Mr. Trujillo abandoned his client by discontinuing his representation of the client without providing notice to the client. Mr. Trujillo failed to diligently represent his client, failed to adequately communicate with his client, failed to promptly deliver unexpended cost funds to his client at the conclusion of representation, and failed to take all appropriate and ethical steps to prevent the entry of an adverse arbitration award against his client.

In another matter, Mr. Trujillo was hired by another construction company to file a lawsuit against a general contractor for failure to pay for work it had performed. Mr. Trujillo filed a lawsuit on his client’s behalf, but included an inappropriate party as a defendant. Mr. Trujillo failed to competently represent his client, failed to diligently represent his client, failed to adequately communicate with his client, failed to promptly deliver unexpended cost funds and client documents to his client at the conclusion of representation, and failed to give reasonable notice to his client that he was withdrawing from further representation.

During the State Bar’s investigation into the

allegations of one of the matters, Mr. Trujillo knowingly failed to respond to the State Bar’s requests for information. After changing addresses, Respondent failed to provide the State Bar office with a current street address or any other post office address within thirty days.

Aggravating factors were 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 pertaining to the disciplinary proceeding, and the fact that Mr. Trujillo had been conditionally admitted to practice law in Arizona.

The mitigating factor was inexperience in the practice of law.

Mr. Trujillo violated Rule 42, ARIZ.R.S.Ct., specifically ERs 1.1, 1.2, 1.3, 1.4, 1.15(d), 1.16(b), 1.16(d), 8.1(b), 8.4(c), and 8.4(d), and Rules 32(c)(3), 53(d), and 53(f), ARIZ.R.S.Ct. (2010).

CLIENT PROTECTION FUND QUARTERLY REPORT

The Client Protection Fund was created by the Board of Governors of the State Bar of Arizona in 1961 as required by a rule of the Supreme Court of Arizona. Its purpose is to promote public confidence in the administration of justice and to preserve the integrity of the legal profession by reimbursing clients who have sustained losses caused by the dishonest conduct of lawyers admitted and licensed to practice in Arizona.

The fund is a nonprofit charitable organization governed by a Declaration of Trust and administered by five volunteer trustees appointed by the Bar’s Board of Governors. The Fund receives a yearly assessment from each active and inactive member of the State Bar (paid with the annual bar dues). In addition, the fund earns interest on its invested fund balance.

More information about the fund is at www.azbar.org/cpf. Or contact the Fund Administrator at karen.weigand@staff.azbar.org or by phone: (602) 340-7286, toll free 866-482-9227.

The following is a brief summary of claims paid in the first quarter of 2011:

JOSEPH S. DIDIO

Bar No. 0119738 (two claims totaling \$6,534)

- The Trustees reviewed two claims filed by former clients of Didio, who had retained Didio to represent them in a tax lien foreclosure matter and a civil matter, respectively. The claimants both alleged that Didio did little or no work and then

ceased contact with them. For each claim, the Trustees found that Didio did not perform any services of value and that his failure to refund unearned fees constituted dishonest conduct. The Fund paid the claimants \$1,534 and \$5,000, respectively.

BRIAN E. FINANDER

Bar No. 007739 (\$100,000)

- ▶ The claimant retained Finander to represent her in a breach of contract matter. The claimant alleged that Finander significantly overbilled her for the work he performed. Typically, this type of claim would be considered a fee dispute and not compensable, however, the Trustees determined that Finander's conduct was so egregious that they exercised their sole and absolute discretion pursuant to Declaration of Trust Rule 3(I), and reimbursed the claimant \$100,000.

JAMES T. GREGORY

Bar No. 021499 (\$1,000)

- ▶ The claimant retained Gregory to represent him in a divorce/child custody matter. The claimant alleged that Gregory did little or no work and then ceased contact with him. The Trustees found that Gregory did not perform any services of value and that his failure to refund unearned fees constituted dishonest conduct. The Fund paid the claimant \$1,000.

DONNA PLATT

Bar No. 012317 (\$4,031.92)

- ▶ The claimant retained Platt to represent her in a medical malpractice matter. The claimant alleged that Platt was supposed to pay a Medicare lien against the claimant from the settlement proceeds, however, despite being ordered to do so by the Supreme Court, Platt did not pay the lien. The Trustees determined that Platt had converted a portion of the settlement proceeds, and reimbursed the claimant \$4,031.92.

RORY L. WHIPPLE

Bar No. 014093 (\$1,500)

- ▶ The claimants hired Whipple to assist them in setting up a trust, and preparing wills, medical directives, and powers of attorney. The claimants alleged that Whipple did little or no work and then ceased contact with them. The Trustees found that Whipple did not perform any services of value and that his failure to refund unearned fees constituted dishonest conduct. The Fund paid the claimant \$1,500.

WINTON D. WOODS, III

Bar No. 019374 (\$6,000)

- ▶ The claimant hired Woods to represent her in a personal injury matter. The claimant alleged that Woods settled her case and forwarded her portion of the settlement to her, however, Woods withheld \$6,000 in the event of medical liens. No such liens were filed, nevertheless, Woods

failed to return the \$6,000 to the claimant. Upon investigation, the Trustees concluded that Woods had converted a portion of the settlement proceeds, and reimbursed the claimant \$6,000.

The following is a brief summary of the claims paid in the second quarter of 2011:

CONRAD P. HERNANDEZ

Bar No. 020493 (\$7,250)

- ▶ The claimant retained Hernandez to represent him in a criminal matter. The claimant alleged that Hernandez did little or no work on his case prior to his death. The Trustees decided that Hernandez's death before he provided the services he was paid to perform supported payment of this claim, and the Fund paid the claimant \$7,250.

ROBERT R. JUNG

Bar No. 014198 (\$2,500)

- ▶ The claimants retained Jung to represent them in a mortgage modification matter. The claimants allege that Jung performed little or no work for them. The Trustees found that Jung did not perform any services of value and that his failure to refund unearned fees constituted dishonest conduct. The Fund paid the claimants \$2,500.

EDWARD A. LOSS, III

Bar No. 016975 (\$3,000)

- ▶ The claimant retained Loss to represent him in a DUI matter. The claimant alleged that Loss did little or no work on his case prior to his death. The Trustees decided that Loss's death before he provided the services he was paid to perform supported payment of this claim, and the Fund paid the claimant \$3,000.

CURTIS A. RAU

Bar No. 022983 (\$12,500)

- ▶ The claimant retained Rau to represent him in a criminal matter. The claimant alleged that Rau did little or no work on his case prior to his death. The Trustees found that Rau did not perform any services of value and that his failure to refund unearned fees constituted dishonest conduct. The Fund paid the claimant \$12,500.

JAMES M. SHINN

Bar No. 020677 (\$9,103.30)

- ▶ The claimant retained Shinn to represent him in a child support matter. The claimant alleged that he gave Shinn \$9,103.30 to pay his settlement with the Department of Economic Security (DES) for back child support; however, Shinn failed to forward the payment to the DES as instructed. Upon investigation, the Trustees concluded that Shinn had converted the settlement payment, and reimbursed the claimant \$9,103.30.