

discipline update

BRIAN D. ALPERT **BAR NO. 00452**

By Supreme Court Judgment and Order dated February 17, 2000, Brian D. Alpert, 9236 E. Dreyfus Pl., Scottsdale, was disbarred for conduct in violation of his duties and obligations as a lawyer. This discipline is identical to that imposed by the Supreme Court of Illinois on May 25, 1999. Alpert was ordered to pay costs and expenses incurred by the State Bar.

Alpert was disbarred by the Supreme Court of Illinois on May 25, 1999, as a result of a request to impose reciprocal discipline. Alpert knowingly participated in a joint enterprise to profit from fraudulent personal injury claims, improperly solicited prospective clients, had an improper business relationship with a non-lawyer that included the aiding in the unauthorized practice of law, sharing fees, and the advancing of funds to clients. Alpert failed to adequately address the elements on Rule 58(c) to prove that the imposition of reciprocal discipline was unwarranted.

The reciprocal discipline was imposed pursuant to Rule 58, Ariz.R.S.Ct.

BRENT B. BRADSHAW **BAR NO. 007673**

By Supreme Court Judgment and Order dated March 15, 2000, Brent B. Bradshaw, 7429 E. Minnezona Ave., Scottsdale, was disbarred for conduct in violation of his duties and obligations as a lawyer. In addition, Bradshaw was ordered to pay the costs and expenses incurred by the State Bar, with interest at the legal rate, from the date of the judgment.

Bradshaw represented six clients in criminal matters between October 1996 and October 1997. One of the clients was a juvenile. Bradshaw failed to adequately represent each of the clients and Bradshaw's lack of dili-

gence and attention to his client matters caused delays in the clients' proceedings. Bradshaw failed to notify the courts and opposing counsel in four cases that he had been suspended for 30 days. Bradshaw disobeyed and violated rulings and orders of the court in five of the cases. Bradshaw made false statements of material facts to the courts and others during his representation of the juvenile. Bradshaw accepted compensation from someone other than the juvenile without the client's consent. Bradshaw committed a criminal act by his use of methamphetamine and was dishonest with the court. Bradshaw failed to cooperate with the State Bar in its investigation of these matters.

Bradshaw's conduct violated Rule 42, Ariz.R.S.Ct., particularly, ER 1.1, ER 1.3, ER 1.8(f), ER 3.2, ER 3.3, ER 3.4(c), ER 4.1, ER 8.1(b), ER 8.4(b), (c) and (d), Rule 51(e), (h), (i) and (k), Rule 63(a), Ariz.R.S.Ct.

PHILIP E. FLETCHER **BAR NO. 013530**

By Supreme Court Judgment and Order dated January 14, 2000, Philip E. Fletcher, 8560 E. 22nd St., Suite 200, Tucson, was censured, placed on one year of probation and ordered to resume his child support payments for violation of his duties and obligations as a lawyer, by consent agreement. Fletcher was ordered to pay the costs and expenses incurred by the State Bar.

Fletcher's misconduct arose from his failure to pay investigators and consultants in a timely manner. Fletcher failed to respond and cooperate with the State Bar of Arizona.

Fletcher's conduct violated Rule 42, Ariz.R.S.Ct., particularly, ER 1.15, and ER 8.1(b).

MICHAEL S. HALLADAY, II **BAR NO. 003795**

By Supreme Court Judgment and

Order dated December 1, 1999, Michael S. Halladay, II, 2331 S. Palm Dr., Tempe, was disbarred for conduct in violation of his duties and obligations as a lawyer. Halladay was ordered to satisfy any and all judgments and arbitration awards entered against him. In addition, Halladay was ordered to pay the costs and expenses incurred by the State Bar.

Halladay also failed to timely respond to the Bar's inquiries regarding the first four counts of the formal complaint.

Halladay represented an individual and child in a personal injury-motor vehicle action. Halladay settled the child's case in late 1995, but needed to have a conservator appointed and obtain the probate court's approval before dispersing the settlement money as the child was a minor. Halladay waited until February 1996 to retain an attorney to file the petition with the probate court. The attorney filed the petition on March 12, 1996, with a hearing set for April 29, 1996. The attorney attempted to obtain a fee affidavit from Halladay regarding his time in the personal injury lawsuit for the hearing, but was unable to do so, despite several calls to Halladay. At the hearing, the court conditionally approved the settlement pending receipt of Halladay's affidavit, which Halladay did not file until September 20, 1996. As a result, the attorney could not obtain the order for conservator or the conservator's letters that were necessary to obtain the settlement funds. By the time Halladay had submitted the affidavit, the insurance draft had expired and a new one could not be issued due to the insurance company's financial difficulties and non-payment of claims. Halladay finally obtained funds for the child and paid not only the principal amount due, but additional interest and waived all of his fees.

In another matter, Halladay was

improperly using his trust account to make a loan to a long-standing client and to funnel loan payments between a client and another individual.

Halladay was retained to represent an individual in a post-conviction relief matter in late 1988 or early 1989. Halladay assured the client that work was progressing and that he would file the petition by May 28, 1997. Halladay failed to complete the petition and only filed a petition for review from the Court of Appeals affirmation of the conviction that was denied by the Supreme Court in December, 1991. Halladay failed to provide an accounting to his client of his fees.

Halladay represented an individual in a personal injury action. During the course of the representation, Halladay accepted a medical lien on behalf of the hospital that treated his client. Halladay needed to obtain the hospital's endorsement on the settlement check that was received to pay the lienholder. Halladay thereafter converted those funds to his own use. The hospital sued and received a default judgment in October 1997 that has since been satisfied. Halladay also failed to adequately communicate with his client, failed to provide a timely accounting of the funds and failed to advise his client of the misappropriation of funds. Halladay has agreed to pay restitution to his client.

The remaining complaints dealt with Halladay's accepting retainers to do work for clients and then neglecting and abandoning those clients and failing to perform the work that he was retained to do.

Halladay's conduct violated Rule 42, Ariz.R.S.Ct., particularly, ER 1.1, ER 1.2, ER 1.3, ER 1.4, ER 1.6, ER 1.14, ER 1.15, ER 1.16, ER 8.1(b), ER 8.4, Rule 51(h) and (i), Ariz.R.S.Ct.

JAMES M. HELDENBRAND
BAR NO. 011790

By Supreme Court Judgment and Order dated January 13, 2000, James M. Heldenbrand, 505 W. McDowell, Building B, P. O. Box 34772, Phoenix,

was censured and placed on two years of probation for violation of his duties and obligations as a lawyer, by consent agreement. Heldenbrand was ordered to pay the costs and expenses incurred by the State Bar. In June 1993, Heldenbrand entered into a business agreement with a company called Landlord Services to assist in the collection, garnishment and eviction of tenants for landlords and property management companies. Heldenbrand negligently failed to supervise Landlord Services and, as a result, Landlord Services was: (a) not returning client telephone calls; (b) not providing accountings to clients who so requested; and (c) failed to forward client funds to the clients.

When Heldenbrand became aware of the problems with Landlord Services, he timely addressed those concerns and retained an independent accounting firm to audit his accounts. Heldenbrand acknowledged that he should not have delegated administrative responsibility of his client files and accounts. After the status of all client files could be determined, Heldenbrand provided full restitution to his clients.

Heldenbrand's conduct violated Rule 42, Ariz.R.S.Ct., particularly, ER 1.3, ER 1.4, ER 1.15, ER 5.3, ER 5.4, ER 8.4, Rule 44(b) and (c), Ariz.R.S.Ct.

JOSEPH A. HERBERT
BAR NO. 012493

By Supreme Court Judgment and Order dated March 23, 2000, Joseph A. Herbert, 2 N. Central, 18th Floor, Phoenix, was suspended for 30 days for conduct in violation of his duties and obligations as a lawyer, by consent agreement. Herbert was also ordered to pay the costs and expenses incurred by the State Bar.

Herbert represented a partnership in a number of landlord-tenant matters. Upon notification that his services were no longer needed, Herbert failed to turn over the client's files and asserted a lien right to those files which prejudiced the client, as a number of pending legal matters were delayed. Herbert failed to protect his

clients upon his termination. Additionally, Herbert withdrew funds from the client's account without the client's knowledge or consent and did not give the client an opportunity to question any of Herbert's attorney's fees.

Herbert's conduct violated Rule 42, Ariz.R.S.Ct., particularly, ER 1.15 and ER 1.16(d), Ariz.R.S.Ct.

JACK L. PHELPS
BAR NO. 002825

By Supreme Court Judgment and Order dated February 17, 2000, Jack L. Phelps, 7950 E. Acoma, Suite 101, Scottsdale, was disbarred for conduct in violation of his duties and obligations as a lawyer. Phelps was ordered to pay restitution in the amount of \$77,721 to three clients. Phelps was also ordered to pay the costs and expenses incurred by the State Bar.

Phelps had previously been disciplined and subject to additional disciplinary action for violating the terms of the order of reinstatement for which he was disbarred. In these complaints, Phelps failed to communicate with clients, failed to diligently pursue their claims and neglected their affairs. Phelps did not respond to the complaint and a default was entered.

Phelps' conduct violated Rule 42, Ariz.R.S.Ct., particularly, ER 1.2, ER 1.3, ER 1.4, ER 1.16(d), ER 4.4, ER 8.1(b), ER 8.4, ER 8.4(c), ER 8.4(d), Rule 31(c)(3), Rule 51(h) and (i), Ariz.R.S.Ct.

PHILIP M. PRINCE
BAR NO. 005747

By Supreme Court Judgment and Order dated February 17, 2000, Philip M. Prince, 6931 Lockwood Lane East, Lockport, NY, was suspended for six months, effective retroactive to December 1, 1997, for conduct in violation of his duties and obligations as a lawyer, by consent agreement. Prince was also ordered to pay the costs and expenses incurred by the State Bar.

Prince, while under suspension for non-payment of dues, filed a Notice of Appearance and substantive

discipline

pleadings in an attempt to assist a childhood friend with a domestic relations matter pro bono.

Prince's conduct violated Rule 42, Ariz.R.S.Ct., particularly, ER 5.5, ER 8.1(b), Rule 51(e), (h), (i) and (k), Ariz.R.S.Ct.

JOHN A. SUMMERS BAR NO. 012579

By Supreme Court Judgment and Order dated February 15, 2000, John A. Summers, 809 N. Fifth Ave., Phoenix, was suspended pursuant to a consent agreement for two years, effective retroactive to March 31, 1998, for conduct in violation of his duties and obligations as a lawyer. After reinstatement, Summers will serve a period of one year of probation. Summers was also ordered to pay costs and expenses incurred by the State Bar.

Summers failed to communicate with his clients and failed to diligently pursue his clients' legal matters that caused harm to the clients, some in the form of adverse rulings. Summers also failed to cooperate with the State Bar in its investigation of these matters.

Summers' conduct violated Rule 42, Ariz.R.S.Ct., particularly, ER 1.1, ER 1.2, ER 1.3, ER 1.4, ER 1.5, ER 1.15, ER 1.16(d), ER 3.2, ER 3.4(c), ER 8.1(b), ER 8.4, ER 8.4(d) and Rule 51(h) and (i), Ariz.R.S.Ct.

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, ages, addresses and bar numbers.