

SANCTIONED ATTORNEYS

KATHLEEN D. MASTERS

Bar No. 005003; File No. 05-0341

Supreme Court No. SB-06-0033-D

By Arizona Supreme Court judgment and order dated May 24, 2006, Kathleen D. Masters, 1520 White Span Rd., Prescott, AZ 86303, a suspended member of the State Bar, was suspended for six months and one day pursuant to an agreement for discipline by consent. Upon reinstatement, Ms. Masters will be placed on probation for two years to include participation in the State Bar's Law Office Management Program and Member Assistance Program. Ms. Masters was assessed \$667.73, the costs and expenses of the disciplinary proceedings, together with interest at the legal rate.

In a probate/personal representative matter, Ms. Masters abandoned her client. She failed to file documents with the court as promised, failed to communicate with her client and failed to refund unearned fees paid by client for over seven months.

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 to disciplinary board or cooperative attitude toward proceedings.

Ms. Masters violated Rule 42, ARIZ.R.S.C.T., ERs 1.1, 1.2(a), 1.3, 1.4(a)(3) and (b), 1.15 and 1.16(a)(2).

KEVIN McFADDEN

Bar No. 014545; File No. 04-1904

Supreme Court No. SB-06-0119-D

By Arizona Supreme Court judgment and order dated August 4, 2006, Kevin P. McFadden, 1745 S. Alma School Rd., Suite 230, Mesa, AZ 85210, a member of the State Bar, was censured. Mr. McFadden was assessed the costs and expenses of the disciplinary proceedings in the amount of \$635, together with interest at the legal rate.

In one matter, Mr. McFadden held settlement funds to satisfy a medical lien, resulting from his handling of his stepfather's personal-injury case, in his personal bank account instead of a client trust account. The conduct resulted in no prejudice to any parties.

In the second matter, Mr. McFadden raised good-faith but non-meritorious claims in the context of his personal bankruptcy. Mr. McFadden took the position that the amount his parents paid to satisfy tax liabilities was not a loan, despite the existence of a promissory note. His position was a good-faith reflection of his belief as to his parents' intent at the time of the payment of the tax liability.

In both matters Mr. McFadden's misconduct was found to be negligent.

Assistance for Members

Bar Counsel Insider aims to provide practical and important information to State Bar members about ethics and the disciplinary process. This month, the Member Assistance Program is featured. It is directed by Hal M. Nevitt, a licensed clinical social worker, a licensed substance abuse counselor and certified employee assistance professional. The program is one of the tools available to bar counsel in resolving disciplinary complaints.

You arrive at court one day, and opposing counsel is late, disorganized and disheveled. As you greet one another, you detect the unmistakable odor of alcohol on his/her breath.

Or maybe you just had an argument with your spouse. You get in the car and as you drive to the office you take stock of your life. You realize that for the last several months your life has been spinning out of control. Too many hours at work, sleepless nights worrying about cases, fractured relationships with staff, and now it has spilled over into your marriage.

Or you are a judge. Your judicial assistant tells you that one of the scheduled litigants is waiting in your office. As you enter, you find that person passed out on your couch, incapacitated by drugs, alcohol or both.

What can you do?

Call MAP, the State Bar of Arizona's Member Assistance Program. MAP has been helping Arizona lawyers navigate the issues of stress, addiction and mental illness for more than a decade. MAP is offered by the State Bar, to members, as an early intervention alternative.

Studies reveal that an estimated 40 percent of lawyers suffer from depression, and at least 25 percent suffer from alcoholism or some form of addiction. These numbers are well above those for the general population.

MAP is separate from the State Bar's Lawyer Regulation office and assists lawyers, judges, law school students and others, on a confidential, humane and professional level.

MAP offers all of the following services confidentially, and on a sliding fee scale:

Assessment and Referral

MAP provides assessments on issues of chemical dependency and mental health that affect the legal profession. Referral options and recommendations are discussed with clients regarding appropriate treatment organizations, agencies and private practitioners.

Consultation

Consultation is provided to law firms, organizations and individuals regarding chemical

If you have specific questions regarding this column or the Member Assistance Program, call Hal Nevitt, the MAP Director, at (602) 340-7334 or (602) 885-4533. And you can always contact the State Bar's Ethics Hotline at (602) 340-7284.



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dependency and mental health issues in the workplace.

Peer Support and Counseling

MAP is augmented by the Member Assistance Committee, made up of lawyers, judges, law students and others who provide peer support to lawyers who identify a problem and request assistance. Peer assistance is also available to colleagues and family members. MAP attempts to match clients with trained volunteers who share similar demographic characteristics and who have successfully managed a similar problem.

Planned Interventions

Intervention is a group process initiated by family, friends or colleagues with the objective of confronting a chemically dependent attorney, judge or law student with the facts regarding his or her using behavior.

Education and Outreach

MAP provides speakers to educate the legal community on issues of addiction, mental health and related topics. In the past several years the MAP director and committee members have addressed law students, bar associations, law firms and legal organizations on the impact of chemical dependency, mental illness and stress on the legal profession and the available services.

In addition, MAP performs evaluations mandated by the Lawyer Regulation Office, subsequent to either the informal or formal disciplinary process. MAP also performs evaluations mandated by the Supreme Court Committee on Character and Fitness. In both these scenarios, the confidentiality afforded to voluntary participants is limited.

It is vitally important that Bar members recognize that MAP offers absolute confidentiality to voluntary participants and does not communicate information to the Lawyer Regulation Office, except when MAP participation is mandated through discipline.

If you are a lawyer, judge or law student riding along that bumpy, challenging and often frustrating career path and you get lost, who ya gonna call?

Call MAP, we want to help.

One aggravating factor was found: substantial experience in the practice of law.

Four mitigating factors were found: absence of a prior disciplinary record, lack of a dishonest or selfish motive, full and free disclosure to a disciplinary board or cooperative attitude toward proceedings, and character or reputation.

Mr. McFadden violated Rule 42, ARIZ.R.S.C.T., ERs 1.15 and 3.1.

JESSE R. MIRANDA

Bar No. 005265; File Nos. 04-1384, 04-1821, 04-1898, 05-0044, 05-0186

By Arizona Supreme Court judgment and order dated May 24, 2006, Jesse R. Miranda, 2600 N. Central Ave., Suite 850, Phoenix, AZ 85004, a disbarred member of the State Bar, was disbarred in a second case. Mr. Miranda was ordered to return the vehicle given to him by his former client in File No. 05-0186, and submit a written accounting to his former client in File No. 04-1898 of all real and personal property he purportedly purchased from the former client. Mr. Miranda also was ordered to pay restitution of \$35,000, and was assessed the costs and expenses of the disciplinary proceedings.

In the first matter, Mr. Miranda solicited an employee to prepare fraudulent loan documents. In the second matter, he attempted to pay discipline costs ordered in File No. 03-1655 with a check written on his client trust account. In the third matter, Mr. Miranda entered into a business arrangement with a client while he represented the client and while still counsel of record for the client.

In the fourth matter, Mr. Miranda failed to satisfy medical liens out of client settlement and/or award funds. In the fifth matter, he failed to timely file a notice of appeal for a client in a criminal matter, failed to respond to the client's requests for information and failed to return unearned fees and other property to the client. Mr. Miranda failed to respond to the State Bar's requests for information in all matters and also defaulted on the formal complaint.

Eight aggravating factors were found: prior disciplinary offenses, dishonest or selfish motive, a pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, refusal to acknowledge wrongful nature of conduct, substantial experience in the practice of law, and

indifference to making restitution. No mitigating factors were found.

Mr. Miranda violated Rule 42, ARIZ.R.S.Ct., ERs 1.2, 1.3, 1.4, 1.5, 1.7(a), 1.8, 1.15, 1.16, 8.1(b), and 8.4(c) and (d), and Rules 43, 44 and 53(d) and (f), ARIZ.R.S.Ct.

JOHN G. MORRISON

Bar No. 006192; File Nos. 04-0392, 04-1462

Supreme Court No. SB-06-0068-D

By Arizona Supreme Court judgment and order dated June 27, 2006, John G. Morrison, 5080 N. 40th St., Suite 265, Phoenix, AZ 85018, a member of the State Bar, was suspended for one year. Upon reinstatement, Mr. Morrison will be placed on probation, the length and terms of which will be determined upon reinstatement. Mr. Morrison was assessed the costs and expenses of the disciplinary proceedings.

In count one, Mr. Morrison simultaneously represented, in unrelated matters, two clients who were friends. During the litigation proceedings, one client agreed to testify unfavorably as a witness against the other client. Defense counsel was unaware that Mr. Morrison represented both clients. Mr. Morrison knowingly engaged in a conflict of interest while representing both clients and knowingly failed to disclose the witness client's whereabouts to defense counsel in violation of the discovery rules.

In count two, Mr. Morrison missed a deadline to remove a personal injury matter from the inactive calendar and the case was dismissed for lack of prosecution. Mr. Morrison failed to advise the client of the dismissal and, instead, manufactured a settlement, which he paid from his private funds. Mr. Morrison prepared a false account and release for his client to sign. Mr. Morrison repeatedly lied to the client for over two years about the status of the case.

Three aggravating factors were found: multiple offenses and substantial experience in the practice of law in all counts, and dishonest or selfish motive in count two.

Seven mitigating factors were found: absence of a prior disciplinary record, personal or emotional problems, timely good-faith effort to make restitution or to rectify consequences of misconduct, full and free disclosure to the disciplinary board or cooperative attitude toward proceedings, character or reputation and remorse in all counts, and absence of selfish or dishonest motive in count one.

Mr. Morrison violated Rule 42, ARIZ.R.S.Ct., ERs 1.3, 1.4, 1.7, 3.2, 3.3, 3.4, and 8.4(c) and (d).

SUSAN M. ROBBINS

Bar No. 012331; File No. 04-2019

Supreme Court No. SB-06-0026-D

By Arizona Supreme Court judgment and order dated February 27, 2006, Susan M. Robbins, 10211 W. Thunderbird Blvd., Suite 201, Sun City, AZ 85351, a member of the State Bar, was

censured, and ordered to pay the costs and expenses of the disciplinary proceedings in the amount of \$749, together with interest at the legal rate.

In a medical malpractice matter, Ms. Robbins's request for extension of time to serve the complaint included a misleading statement. She failed to take timely and appropriate remedial steps to correct the statement with the court and failed to do so later in response to a motion brought by the opposing party that raised the issue. Ms. Robbins' failure to correct the misleading statement after the opposing party's attorney filed his motion to dismiss caused actual harm to the legal system as a potentially otherwise unnecessary evidentiary hearing was held.

One aggravating factor was found: 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, full and free disclosure to disciplinary board or cooperative attitude toward proceedings, character or reputation, imposition of other penalties or sanctions and remorse.

Ms. Robbins violated Rule 42, ARIZ.R.S.C.T., ERs 3.3(a)(1) and 8.4(d).

JOHN T. RYAN

Bar No. 006963; File Nos. 03-2224


Supreme Court No. SB-06-0004-D

By Arizona Supreme Court judgment and order dated March 14, 2006, John T. Ryan, 3440 N. 16th St., Suite 5, Phoenix, AZ 85016-7125, a member of the State Bar, was suspended for 60 days and placed on probation for two years with participation in the State Bar's Law Office Management Program with a practice monitor. Mr. Ryan was assessed the costs and expenses of the disciplinary proceedings in the amount of \$876.25, together with interest at the legal rate.

Mr. Ryan's client trust account records revealed that he had commingled personal and client funds in the account. Mr. Ryan issued a check against the trust account knowing it contained insufficient funds and applied a client's advance payment for an appeal of a matter to the client's unpaid bill in that matter without authorization from the client.

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

Four mitigating factors were found: 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, character or reputation and remorse.

Mr. Ryan violated Rule 42, ARIZ.R.S.C.T., ERs 1.2 and 1.15, and Rules 43 and 44, ARIZ.R.S.C.T. 

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.