

SANCTIONED ATTORNEYS

SUZANNE BAFFA

Bar No. 022807

Supreme Court No. SB-06-0159-M

The Arizona Supreme Court, by order dated Feb. 12, 2007, revoked the license to practice law of Suzanne Baffa, 10401 N. 100th St., House 5, Scottsdale, AZ 85258.

Ms. Baffa procured her admission to practice in Arizona through fraud or misrepresentation. The Whittier Law School Honor Code Board and Law School faculty determined that Ms. Baffa obtained her law degree through fraud, material misrepresentations and forgery and retroactively revoked her law degree. Without a law degree from an ABA-accredited law school, Ms. Baffa fails to meet the requirements for admission to practice law in Arizona. As such, the Supreme Court revoked Ms. Baffa's license to practice law in Arizona retroactive to the date of her admission, May 27, 2004.

RONALD J. ELLETT

Bar No. 012697; File No. 04-0666

Supreme Court No. SB-06-0163-D

By Arizona Supreme Court judgment and order dated Nov. 22, 2006, Ronald J. Ellett, 2999 N. 44th St., Suite 550, Phoenix, AZ 85018, a member of the State Bar, was censured and placed on probation for one year. The terms of probation include participation in the State Bar's Law Office Management Assistance Program. Mr. Ellett was ordered to pay restitution of \$1,975 and assessed the costs and expense of the disciplinary proceedings of \$2,545.75, together with interest at the legal rate.

In a bankruptcy matter, Mr. Ellett failed to promptly and diligently verify if his clients' instructions had changed regarding certain clients' funds in his trust account. Mr. Ellett transferred a portion of those funds into his operation account without his clients' knowledge or authorization as payment for legal fees. He failed to recognize a potential conflict of interest between clients when divorce proceedings ensued and failed to timely return clients' funds upon termination of the representation. Mr. Ellett's conduct was negligent.

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

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

Mr. Ellett violated Rule 42, ARIZ.R.S.C.T., ERs 1.2, 1.3, 1.7, 1.15 and 1.16(d).

NICHOLAS S. HENTOFF

Bar No. 012492; File Nos. 05-0132, 05-0381

Supreme Court No. SB-06-0145-D

By Arizona Supreme Court judgment and order dated Oct. 11, 2006, Nicholas S. Hentoff, 4206

ETHICS OPINIONS

Opinion No. 07-01 (June 2007)

A lawyer has no *per se* duty to provide information about a client's case or upcoming trial to the client's family or friends. The lawyer may provide this information if the client gives informed consent or consent is impliedly authorized in order to carry out the representation. Depending on the circumstances, however, the lawyer's ethical duty to provide competent representation to his/her client may require such contact. It is a balancing test. This opinion assumes that the client is a competent adult.

Opinion No. 07-02 (June 2007)

In appropriate cases, a lawyer may keep current and closed client files as electronic images in an attempt to maintain a paperless law practice or to more economically store files.

After digitizing paper documents, a lawyer may not, without client consent, destroy *original* paper documents that belong to or were obtained from the client. After digitizing paper documents, a lawyer may destroy *copies* of paper documents that were obtained from the client unless the lawyer has reason to know that the client wants the lawyer to retain them. A lawyer has the discretion to decide whether to maintain the balance of the file solely as electronic images and destroy the paper documents.

Need an Opinion?

Check out the State Bar Web site at www.myazbar.org/Ethics/ for a listing of the ethics opinions issued between 1985 and 2007, as well as Arizona's Rules of Professional Conduct. If you are an Arizona attorney and have an ethics question, call our ethics counsel, Patricia A. Sallen, at the ethics hotline: (602) 340-7284.

W. Carver Rd., Laveen, AZ 85339, a member of the State Bar, was censured and placed on probation for one year. The terms of probation include participating in the State Bar's Law Office Management Assistance Program. He was ordered to pay restitution in the amounts of \$1,200 in count one and \$5,000 in count two. He also was assessed the costs and expenses of the disciplinary proceedings in the amount of \$600, together with interest at the legal rate.

In count 1, Mr. Hentoff represented a client in several criminal and civil matters. After the representation concluded, he sold client property that he was holding to pay outstanding costs when the property was considered community property and an injunction prohibited the sale or disposal of community property without the consent of both parties. Mr. Hentoff did not have his client's consent to sell the property or apply the sales proceeds to out-

standing costs or fees.

In count 2, a post-conviction relief matter, Mr. Hentoff failed to adequately communicate with the client the reasons for delaying the filing of the post-conviction relief petition and failed to timely refund unearned legal fees.

Two aggravating factors were found: prior disciplinary offenses and multiple offenses.

Two mitigating factors were found: absence of dishonest or selfish motive and full and free disclosure to the disciplinary board or cooperative attitude toward proceedings.

Mr. Hentoff violated Rule 42, ARIZ.R.S.CT., ERs 1.4, 1.8(a), 1.15 and 1.16(d).

ROGER A. MCKEE

Bar No. 002715

Supreme Court No. SB-06-0136-D

By Arizona Supreme Court order dated Mar. 13, 2007, Roger A. McKee, 6544 N. 7th Ave., #12, Phoenix, AZ 85013, an inactive member of the State Bar, was found in contempt of the Disciplinary Commission's report and order filed Dec. 24, 2001, and the Supreme Court's memorandum decision filed July 15, 2002. Mr. McKee was ordered permanently enjoined from those activities that constitute the practice of law, including document preparation, advertising that promotes himself as a provider of "legal services," expressing legal advice or opinions, and representing a person or entity in any legal proceeding or negotiation. Mr. McKee will remain subject to the jurisdiction of the Supreme Court with respect to the unauthorized practice of law matters.

JOSUE-ALFONSO MUNOZ S.

Bar No. 014571; File No. 05-0921

Supreme Court No. SB-07-0002-D

By Arizona Supreme Court judgment and order dated Jan. 30, 2007, Josue-Alfonso Munoz S., a suspended member of the State Bar, was censured and placed on probation for one year. The terms of probation include participation in the State Bar's Law Office Management Assistance Program and Trust Account Ethics Enhancement Program. Mr. Munoz S. was assessed the costs and expenses of the disciplinary

proceedings in the amount of \$897.50, together with interest at the legal rate.

The State Bar received an insufficient funds notice regarding Mr. Munoz S.'s trust account resulting in an investigation by the State Bar's staff examiner. The investigation disclosed that Mr. Munoz S. had failed to safeguard client funds, failed to exercise due professional care regarding the overdraft and other record-keeping violations, failed to consistently record all transactions to the account promptly and completely, failed to disburse funds with pre-numbered checks, failed to consistently maintain duplicate deposit slips and failed to consistently conduct monthly three-way reconciliations.

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

Two mitigating factors were found: full and free disclosure to the disciplinary board or cooperative attitude toward proceedings and absence of a dishonest or selfish motive.

Mr. Munoz S. violated Rule 42, ARIZ.R.S.CT., ER 1.15, and Rules 43 and 44, ARIZ.R.S.CT.

CHRISTOPHER J. PIEKARSKI

Bar No. 019251; File Nos. 05-0748, 05-0857

Supreme Court No. SB-06-0169-D

By Arizona Supreme Court judgment and order dated Feb. 9, 2007, Christopher J. Piekarski, 3411 N. 32nd St., Phoenix, AZ 85018, a member of the State Bar, was suspended for 30 days and placed on probation for two years. The terms of probation require him to participate in the State Bar's Law Office Management Assistance Program and obtain a qualified practice monitor. Mr. Piekarski was assessed the costs and expenses of the disciplinary proceedings.

Mr. Piekarski knowingly practiced law while summarily suspended for failure to comply with mandatory continuing legal education requirements. While suspended, he made numerous appearances in court, filed numerous pleadings, continued to engage new clients, performed legal services for existing clients and failed to inform his clients or

BAR COUNSEL INSIDER

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



Fees & Conflicts

It is not uncommon for someone other than the client to pay for a lawyer's services. But did you know that a specific ethical rule regulates such transactions?

ER 1.8(f) requires that when a lawyer accepts compensation from someone other than the client, the lawyer shall obtain informed consent from the client, the person paying the lawyer's fees shall not interfere with the lawyer's professional judgment, and confidential information must be protected, as required by ER 1.6.

Informed consent in this context denotes the agreement by a client after the lawyer has adequately explained the material risks to the proposed course of conduct. While it is not necessary to obtain the client's written consent, it is always advisable to do so to demonstrate that the client received adequate information concerning the arrangement as contemplated under ER 1.8(f). Written consent insulates the lawyer from future allegations that he or she did not adequately convey the material risks.

The lawyer also must consider whether the payment arrangement will interfere with his or her professional judgment. The fact that a person or entity other than the client pays the lawyer does not in and of itself affect the lawyer's professional judgment or relationship as long as the client selected the lawyer and the lawyer is directly responsible to the client. See Ethics Ops. 89-10 and 99-08.

The risk is if the payor's interests differ from those of the client. The payor may want to minimize the money spent on the representation such that it constrains the lawyer's ability to provide effective representation, or the payor may want to be advised of the progress of the representation or request other information that is confidential.

A lawyer should determine at the outset whether the third-party payment arrangement will interfere with his or her professional relationship with the client. In addition, if at any point the lawyer's representation may be materially limited by his or her own interests, such as in maintaining the fee arrangement or responsibilities to the payor, the lawyer must comply with ER 1.7.

It is also supremely important that the lawyer ensure that he or she protects confidential information. Unless the client explicitly authorizes the lawyer to disclose information to the payor, the lawyer is bound by ER 1.6, which protects "information relating to the representation," regardless of whether it is technically confidential or attorney-client privileged. This topic should be center in the discussion with the client when obtaining informed consent. The lawyer should determine the client's desire to share information with a third party and should routinely affirm the client's wishes as the representation progresses.

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

the court that he had been suspended. Mr. Piekarski also failed to respond to the State Bar's requests for information during its investigation and failed to participate in the disciplinary proceedings until after a default judgment was entered.

One aggravating factor was

found: substantial experience in the practice of law.

One mitigating factor was found: absence of a prior disciplinary record.

Mr. Piekarski violated Rule 31(b), ARIZ.R.S.CT., and Rule 42, ARIZ.R.S.CT., ERs 5.5(a) and 8.4(c) and (d).

JOHN DANIEL ROLPH

Bar No. 021302; File Nos. 05-0662, 05-0998, 05-1137, 05-1313, 05-1398, 05-1985, 05-2127, 05-2190, 05-2194, 06-0077, 06-0211

Supreme Court No. SB-07-0016-D

By Arizona Supreme Court judgment and order dated April 17, 2007, John Daniel Rolph, P.O. Box 71252, Phoenix, AZ 85050, a suspended member of the State Bar, was disbarred. He was ordered to pay restitution totaling \$10,297 to complainants in nine of the 11 counts of this matter and assessed the costs and expenses of the disciplinary proceedings.

In counts 1, 3 through 8, 10 and 11, Mr. Rolph accepted advance fees and costs from clients in bankruptcy and/or divorce matters. He then failed to perform the contracted services, failed to reasonably communicate with clients and abandoned their cases. In count two, a breach of contract pro bono case, Respondent failed to reasonably communicate with the client and failed to do any agreed upon work during the two-year representation. The court dismissed the case for lack of prosecution.

In count 9, Mr. Rolph failed to comply with an order of probation in File No. 03-1538. In all counts he failed to timely respond to the State Bar during its investigation. In the formal disciplinary proceeding, Mr. Rolph failed to file an answer or otherwise defend.

Four aggravating factors were found: prior disciplinary offenses, pattern of misconduct, multiple offenses and bad-faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency. No mitigating factors were found.

Mr. Rolph violated Rule 42, ARIZ.R.S.Ct., ERs 1.1, 1.2, 1.3, 1.4, 1.5, 1.15(d), 1.16(d), 3.2 and 8.1(b), and Rules 53(e) and (f), ARIZ.R.S.Ct.

SCOTT F. SAIDEL

Bar No. 003992; File No. 05-6001

Supreme Court No. SB-06-0167-D

By Arizona Supreme Court order dated Feb. 8, 2007, Scott F. Saidel, 4230 N.W. 58th Lane, Boca Raton, FL 33496, was reinstated as a member of the State Bar of Arizona and placed on probation for two years. Under the terms of probation, Mr. Saidel may not consume illegal substances or abuse alcohol, must submit to random body fluid testing and must participate in the State Bar's Member Assistance Program. Mr. Saidel also will obtain a qualified practice monitor approved by the State Bar's Law Office Management Assistance Program if he actively practices law in Arizona during the period of probation.

RONALD G. SALTSMAN

Bar No. 004512; File No. 05-1650

Supreme Court No. SB-07-0018-D

By Arizona Supreme Court judgment and order dated Mar. 19, 2007, Ronald G. Saltsman, 141

E. Palm Lane, Suite 203, Phoenix, AZ 85004, a member of the State Bar, was censured and placed on probation for one year. The terms of the probation include participating in the State Bar's Law Office Management Program, Trust Account Ethics Enhancement Program, and Trust Account Program. Mr. Saltsman was assessed the costs and expenses of the disciplinary proceedings of \$1,300.25, together with interest at the legal rate.

The State Bar received an insufficient funds notice from the bank regarding Mr. Saltsman's client trust account. Upon investigation it was found that Mr. Saltsman failed to properly safeguard clients' funds; failed to exercise professional care in the performance of his duties regarding the overdraft and other record keeping violations; failed to maintain internal office controls adequate to safeguard client property held in trust; failed to maintain individual client ledgers, general ledger or check register or anything of the equivalent in which to record transactions; failed to complete monthly three-way reconciliation of clients' individual ledgers, trust account general ledger or register and trust account bank statement; and failed to comply with the trust account guidelines.

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

Three mitigating factors were found: absence of a dishonest or selfish motive, full and free disclosure to disciplinary board or cooperative attitude toward proceedings, and remoteness of prior offenses.

Mr. Saltsman violated Rule 42, ARIZ.R.S.C.T., ER 1.15, and Rules 43 and 44, ARIZ.R.S.C.T.

LAWRENCE B. SMITH

Bar No. 000968; File No. 06-6000

Supreme Court No. SB-07-0001-R

By Arizona Supreme Court order dated Mar. 14, 2007, Lawrence B. Smith, P.O. Box 13543, Tucson, AZ 85732, a suspended member of the State Bar and applicant for reinstatement, was denied reinstatement. Mr. Smith failed to demonstrate by clear and convincing evidence proof of his rehabilitation, compliance with all disciplinary orders and rules, competence and overall fitness to practice law.

LAURENCE B. STEVENS

Bar No. 006460; File No. 04-1268, 05-0434

Supreme Court No. SB-06-0157-D

By Arizona Supreme Court judgment and order dated Nov. 21, 2006, Laurence B. Stevens, 7373 N. Scottsdale Rd., Suite D225, Scottsdale, AZ 85253, a member of the State Bar, was censured and placed on probation for two years. The terms of probation include participation in the State Bar's Member Assistance and Law Office Management Assistance Programs. The terms of probation also require that he obtain an approved practice monitor. Mr. Stevens was

ordered to pay restitution in the amount of \$608 and assessed the costs and expenses of the disciplinary proceedings in the amount of \$1,641, together with interest at the legal rate.

In a dissolution-of-marriage matter, Respondent failed to complete the client's qualified domestic relations order and failed to adequately communicate with the client about the status of her case.

Two aggravating factors were found: prior disciplinary offenses and substantial experience in the practice of law.

Four mitigating factors were found: absence of a prior disciplinary record, personal or emotional problems, full and free disclosure to the disciplinary board or cooperative attitude toward proceedings and character or reputation.

Mr. Stevens violated Rule 42, ARIZ.R.S.C.T., ERs 1.2, 1.3, 1.4 and 8.4(d).

GENE R. STRATFORD

Bar No. 004621; File No. 06-0120

Supreme Court No. SB-07-0082-D

By Arizona Supreme Court judgment and order dated May 9, 2007, Gene R. Stratford, 777 E. Thomas Rd., Suite 130, Phoenix, AZ 85014, a member of the State Bar, was censured and placed on probation for one year. The terms of the probation include participating in the State Bar's Law Office Management Assistance Program, Trust Account Ethics Enhancement Program, and Trust Account Program. Mr. Stratford was assessed the costs and expenses of the disciplinary proceedings of \$792.50, together with interest at the legal rate.

The State Bar received an insufficient funds notice on Mr. Stratford's closed client trust account. Upon investigation it was found that Mr. Stratford failed to keep complete and accurate trust account records, failed to deposit funds to cover bank charges, failed to supervise his employees handling his client trust accounts, failed to maintain internal controls to safeguard client property, failed to conduct a monthly three-way reconciliation and failed to exercise due professional care regarding his client trust account obligations.

Three aggravating factors were found: a pattern of misconduct, multiple 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.

Mr. Stratford violated Rule 42, ARIZ.R.S.C.T., ER 1.15(a) and (b), and Rule 43, 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.