



BAR COMMUNITY

LAWYER REGULATION

DISABILITY INACTIVE STATUS

SCOTT H. SACHAROW

Bar No. 015280; File No. 07-5002

By Arizona Supreme Court judgment and order dated April 4, 2008, Scott H. Sacharow, 70 Valley Forge Dr., East Brunswick, NJ, was placed on disability inactive status for an indefinite period of time.

REINSTATEMENTS

GRAHAM T. FREER

Bar No. 021488; File No. 07-6012

Supreme Court No. SB-07-0205-R

By Arizona Supreme Court judgment and order dated Feb. 12, 2008, Graham T. Freer, 501 W. Broadway, Suite 1610, San Diego, CA 92101, was reinstated as a member of the State Bar of Arizona.

WILLIAM V. GALLO

Bar No. 009981; File No. 07-6011

Supreme Court No. SB-08-0013-R

By Arizona Supreme Court judgment and order dated Mar. 18, 2008, William V. Gallo, 940 Front St., Ste. 118, San Diego, CA 92101-0001, was reinstated as a member of the State Bar of Arizona.

PAUL J. RICHARD

Bar No. 014621; File No. 07-6015

Supreme Court No. SB-08-0015-R

By Arizona Supreme Court judgment and order dated Mar. 18, 2008, Paul J. Richard, 5915 E. Mountain Oaks Dr., Flagstaff, AZ, was reinstated as a member of the State Bar of Arizona.

Mr. Richard was admitted to

practice law in Arizona in 1992 and voluntarily resigned in 2003. At the time of his resignation, Mr. Richards was in good standing.

STEVEN P. TAUB

Bar No. 022059; File No. 07-6007
Supreme Court No. SB-07-0195-R

By Arizona Supreme Court judgment and order dated Feb. 12, 2008, Steven P. Taub, 2721 N. Central Ave., 11th Fl., Phoenix, AZ 85086, was reinstated as a member of the State Bar of Arizona.

Mr. Taub was admitted to practice law in Arizona in 2003 and was summarily suspended on Mar. 25, 2005, for failing to comply with mandatory continuing legal education requirements.

SANCTIONED ATTORNEYS

STEPHEN J. ALEXANDER

Bar No. 006878; File No. 05-0783
Supreme Court No. SB-08-0003-D

By Arizona Supreme Court judgment and order dated Mar. 18, 2008, Stephen J. Alexander, 21 Sagebrush Way, Azusa, CA 91702, was suspended for three years and assessed the costs and expenses of the disciplinary proceedings.

The State Bar was notified that Mr. Alexander was convicted and sentenced to probation and a prison term of six months in California on April 25, 2005, for filing a false 1997 tax return. The indictment stated that Mr. Alexander reported a total income in 1997 of \$14,885, when in fact his total income was \$200,000 higher, in violation of Title 26 U.S.C. § 7206(1).

In February 1997, Mr. Alexander opened a client trust account and deposited approximate \$1.3 million at the direction of Maryanne Baumgarten, who was representing a group of investors. Ms. Baumgarten was not a client and the funds were not received as payment for legal services. From May to September 1997, Mr. Alexander transferred funds to various parties at the direction of Ms. Baumgarten and received \$200,000 as compensation.

Three aggravating factors were found: dishonest or selfish motive, substantial experience in the practice of law and illegal conduct.

Four mitigating factors were found: absence of prior disciplinary record, character or reputation, imposition of other penalties or

sanctions and remoteness of prior offenses.

Mr. Alexander violated Rule 42, ARIZ.R.S.C.T., ER 8.4.

PERCIVAL R. BRADLEY

Bar No. 017149; File No. 06-1762
Supreme Court No. SB-08-0026-D

By Arizona Supreme Court judgment and order dated Feb. 21, 2008, Percival R. Bradley, 1726 N. Seventh St., Phoenix, AZ, was censured, placed on probation for one year and assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in the State Bar's Law Office Management Assistance Program.

Mr. Bradley was retained to represent a client in a personal injury case on a contingency fee basis. The incident occurred Aug. 10, 2004, at Starbucks. In December 2004, Mr. Bradley sent a letter of representation to Starbucks and requested information regarding insurance coverage and policy limits. The insurance carrier made numerous unsuccessful attempts to contact Mr. Bradley to discuss a settlement. Mr. Bradley failed to file the lawsuit before the statute of limitations ran. Mr. Bradley also failed to respond to the client's telephone calls and communicate with her regarding the status of the case. Specifically, he did not inform her that the statute of limitations had expired without a lawsuit being filed.

Four aggravating factors were found: dishonest or selfish motive, multiple offenses, submission of false evidence and substantial experience in the practice of law.

Four mitigating factors were found: absence of prior disciplinary record, full and free disclosure, character or reputation and remorse.

Mr. Bradley violated Rule 42, ARIZ.R.S.C.T., ERs 1.1, 1.2, 1.3, 1.4, 3.2 and 8.4(d).

CHARLES B. BURTON

Bar No. 002346; File No. 05-0820
Supreme Court No. SB-08-0024-D

By Arizona Supreme Court judgment and order dated Feb. 21, 2008, Charles B. Burton, 706 E. Bell Rd., Suite 111, Phoenix, AZ, was censured and assessed the costs and expenses of the disciplinary proceedings.

BAR COUNSEL INSIDER

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



Managing Past Case Files

Congratulations, you just wrapped up a case for your client. Now what do you with that mammoth file?

ER 1.16(d) requires that you return documents and property to which your client is entitled. According to Ariz. Ethics Op. 98-07, this means that you must return, or at least make a reasonable effort to return, any materials that were obtained from the client. After you've given reasonable notice to your client to pick up his or her materials, you must safeguard the materials for a period of time equal to the time under the abandonment of personal property law.

After you've given your client's property back, what next? Your client has a right to access the file, including any work product. How long you must retain the file for client access depends on your client's need of the materials. This may mean that you have to retain the file indefinitely on probate/estate matters or criminal life sentence cases. Remember, you must take all reasonable efforts to avoid prejudice to your client.

Can you digitize the file rather than retain the physical copy? The short answer is ... maybe. According to Ariz. Ethics Op. 07-02, you cannot digitize and then destroy an original document obtained from your client without your client's consent. However, you can digitize and then discard photocopies of documents obtained from your client. The documents that belong to you can be digitized and stored electronically. Bear in mind, however, that today's technology is often outdated and unusable tomorrow. Digitizing the documents of a file and rendering them inaccessible may ultimately end up being more detrimental than beneficial and may violate the ethics rules in such an instance. Keep in mind whether the chosen format to store the file lends itself to long-term storage and the march of time.

The best practice is to put your entire file retention policy in your fee agreement and review the policy again with your client at the conclusion of representation so there are no surprises. If you need further assistance in the area of file retention, State Bar Ethics Counsel and the Law Office Management Assistance Program are always available to help.

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

Mr. Burton's firm was retained to represent a client in a divorce. The client was informed that Mr. Burton's partner would be representing her at a rate of \$160 per hour. On Oct. 25, 2004, the client paid an advanced fee and signed the fee agreement but refused to initial the space adjacent to the rate because it stated an increased rate of \$190 per hour. Consequently, her case was transferred to another attorney within the firm without her knowledge. On Nov. 8, 2004, the client terminated the representation and requested a refund of her fee. She followed up with two certified letters, with no response. In addition, she left numerous messages and received a variety of excuses regarding the firm's failure to provide the refund. Although representation had been terminated, the client received a billing

invoice charging her for legal services. When requested by the State Bar to provide a response to the client's allegations, Mr. Burton could not explain the firm's failure to refund the unearned fees.

Four aggravating factors were found: prior disciplinary offenses, refusal to acknowledge wrongful nature of conduct, vulnerability of victim and substantial experience in the practice of law.

Six mitigating factors were found: absence of dishonest or selfish motive, personal or emotional problems, timely good-faith effort to make restitution or to rectify consequences of misconduct, full and free disclosure, character or reputation and remoteness of prior discipline.

Mr. Burton violated Rule 42, ARIZ.R.S.C.T., ERs 1.5, 1.16, 5.1(a) and 5.3.

CHRISTOPHER J. CHARLES

Bar No. 023148; File No. 07-0080

Supreme Court No. SB-08-0011-D

By Arizona Supreme Court judgment and order dated Feb. 6, 2008, Christopher J. Charles, 2200 E. Camelback Rd., Suite 221, Phoenix, AZ, was censured and placed on probation for one year and five months for violating Rule 53(g), ARIZ.R.S.Ct.

As a condition of admission, Mr. Charles was required to participate in the State Bar's Member Assistance Program beginning Aug. 23, 2005. Mr. Charles breached the MAP contract on Dec. 15, 2006.

Five mitigating factors were found: absence of prior disciplinary record, absence of dishonest or selfish motive, timely good-faith effort to rectify consequences of misconduct, cooperative attitude toward the proceedings, and remorse. There were no aggravating factors.

Mr. Charles violated Rule 53(g), ARIZ.R.S.Ct.

ANDREW D. DIODATI

Bar No. 014394; File Nos. 04-1903, 05-0196, 06-0244

Supreme Court No. SB-07-0197-D

By Arizona Supreme Court judgment and order dated Feb. 12, 2008, Andrew D. Diodati, 5631 W. Copperhead, Tucson, AZ 85251, was suspended for 60 days, placed on probation for one year and assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in the State Bar's Member Assistance Program and Trust Account Program.

In count one, Mr. Diodati wrote a non-sufficient funds check on his client trust account. He failed to provide the State Bar with requested documents to ascertain the status of his trust account and admitted to not keeping complete trust account records.

In count two, Mr. Diodati again wrote a non-sufficient funds check on his client trust account. When the State Bar requested an explanation, Mr. Diodati again admitted to failing to keep complete trust account records.

In count three, Mr. Diodati failed to timely provide disclosures to opposing counsel in violation of a court order.

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

Seven mitigating factors were found: absence of dishonest or selfish motive, personal or emotional problems, timely good-faith effort to rectify consequences of misconduct, full and free disclosure to disciplinary board, character or reputation, physical disability, mental disability and remorse.

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.

Mr. Diodati violated Rule 42, ARIZ.R.S.Ct., ERs 1.3, 1.15, 3.4, 8.1(b) and 8.4(d), and Rules 43, 44 and 53, ARIZ.R.S.Ct.

RUSSELL L. ESSLINGER

Bar No. 021767; File No. 06-0710

Supreme Court No. SB-07-0192-D

By Arizona Supreme Court judgment and order dated Feb. 12, 2008, Russell L. Esslinger, 4942 N. Sunrise Ave., Tucson, AZ 85705, was suspended for six months and one day and will be placed on probation upon reinstatement. He will also pay restitution and be assessed the costs and expenses of the disciplinary proceedings.

Mr. Esslinger was retained by clients to draft a will and perform a legal name change. The clients signed a fixed fee agreement and paid a fee of \$825. When Mr. Esslinger prepared the requested documents, they contained numerous clerical and spelling errors, and the information in the will did not comply with the information provided by the clients. The clients requested that he make the necessary corrections. Over the course of several months the clients left numerous messages for Mr. Esslinger regarding the final documents, with no response. They never received an acceptable will, legal name change or refund of fees paid. Mr. Esslinger also failed to respond to the State Bar's request for information. During formal proceedings, Mr. Esslinger did not answer the complaint and a default was entered against him.

Four aggravating factors were found: dishonest or selfish motive, pattern of misconduct, bad-faith obstruction and refusal to acknowledge wrongful nature of conduct.

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

Mr. Esslinger violated Rule 42, ARIZ.R.S.Ct., ERs 1.1, 1.2, 1.3, 1.4, 1.5, and 1.16, and Rules 72 and 53(d) and (f), ARIZ.R.S.Ct.

RAFAEL F. GALLEGO

Bar No. 013726; File Nos. 05-0689, 05-1264

Supreme Court No. SB-08-0016-D

By Arizona Supreme Court judgment and order dated Mar. 18, 2008, Rafael F. Gallego, 4075 S. 6th Ave., Tucson, AZ 85714, was suspended for one year and will be placed on probation for two years upon reinstatement. The terms of probation include participation in the State Bar's Law Office Management Assistance Program and Member Assistance Program. He will also be assessed the costs and expenses of the disciplinary proceeding.

Mr. Gallego represented a client charged with first-degree murder. The client was convicted and sentenced to life in prison without the possibility of parole for 25 years. The client retained another attorney to determine if a petition for post-conviction relief might be successful. In his review of the underlying record, the attorney spoke with several of Mr. Gallego's former employees and was informed that Mr.

Gallego was using illegal drugs prior to and during the trial. When confronted with the accusations by the State Bar, Mr. Gallego ultimately admitted to the drug use, thereby rendering ineffective assistance of counsel to his then-client.

Five aggravating factors were found: pattern of misconduct, submission of false evidence, false statements or other deceptive practices, substantial experience in the practice of law, failure to make restitution and illegal conduct.

Six mitigating factors were found: absence of prior disciplinary record, absence of dishonest or selfish motive, personal or emotional problems, mental disability or chemical dependency, remorse and remoteness of prior offenses.

Mr. Gallego violated Rule 42, ARIZ.R.S.Ct., ERs 1.1, 1.5(a), 1.16, 3.3, 8.1 and 8.4(b) and (d).

ROBERT HORTON GREEN

Bar No. 015089; File Nos. 04-0491, 04-2115, 05-0079, 05-0448, 05-0715, 05-0918, 05-1343, 05-1563, 05-1818, 06-0066, 06-1279

Supreme Court No. SB-08-0027-D

By Arizona Supreme Court judgment and order dated Mar. 18, 2008, Robert H. Green, 16635 S. 25th Place, Phoenix, AZ 85048, was suspended for two years retroactive to Aug. 31, 2005, and will be placed on probation for two years if reinstated. He was also assessed the costs and expenses of the disciplinary proceedings.

In total, Mr. Green failed in his responsibility to notify the court, counsel or his client of his suspension in 11 matters. Additionally, he practiced during his suspension. In others, Mr. Green failed to act with reasonable diligence and promptness, failed to keep his clients informed, failed to render requests for an accounting and failed to return unearned fees upon termination of representation.

In count one, Mr. Green was retained by a client on Aug. 15, 2000, to pursue a personal injury matter. Between August 2000 and August 2002, the client had sporadic contact with Mr. Green, at which times he would tell her that he was working on her case. At the two-year mark, Mr. Green told the client that if he could not achieve a settlement within a week, he would file a lawsuit. The statute of limitations expired without a settlement being achieved or a lawsuit being filed.

In count two, a client retained Mr. Green to represent her in a marriage dissolution proceeding. Mr. Green failed to appear for an expedited services conference and failed to communicate with the client regarding the status of her case. Weeks before trial, he informed the client that he was withdrawing from representation.

In count three, a client retained Mr. Green in August 2004 to assist him in getting his license renewed after a DUI conviction. The initial application was denied and he was given a reapplication date of August 2005. The judge inadvertently added an additional six months to the new date. Upon realizing the error, the client contacted Mr. Green, who assured him that he

would request a correction. Thereafter, Mr. Green did not communicate with the client regarding any effort to correct the order.

In count four, Mr. Green represented three clients in three separate and unrelated criminal matters. In the first matter, at the settlement conference on Jan. 27, 2005, the judge confronted Mr. Green in chambers about his pending suspension. Mr. Green's client was not aware of the pending suspension. In the second matter, Mr. Green asked for a continuance of the mitigation hearing and sentencing until Feb. 11, 2005, without informing the judge that his suspension would be effective Feb. 10, 2005. In the third matter, Mr. Green did not inform the judge of his pending suspension when he asked to have the trial date set for May 19, 2005, which would have fallen after the anticipated end of his suspension.

In count five, Mr. Green represented a client in a child support matter beginning in May 2004. In a meeting with the client in January or February 2005, Mr. Green stated that he had filed the requested documents but he did not inform the client of his pending suspension. In April 2005, the client found out that the documents had not been filed.

In count six, Mr. Green was paid a fee of \$2,000 to represent a client in a DUI matter. Mr. Green filed several motions to continue, the last of which was denied. Because the court's clerk could not contact Mr. Green to inform him of the denial, a warrant was issued for his client's arrest for failure to appear. Mr. Green filed a motion to quash and the matter was set for a change of plea hearing. Neither Mr. Green nor his client appeared for the hearing. The court's clerk, again, could not reach Mr. Green and on May 12, 2005, a warrant was issued for his client's arrest.

In count seven, Mr. Green represented a client in a matter to terminate spousal support. At the evidentiary hearing, the client's request to terminate spousal support was denied and he was ordered to pay \$21,777 within 30 minutes or be incarcerated. Because the client was unable to access the amount from his bank account, Mr. Green paid it in full. The client refunded the amount to Mr. Green.

In count eight, Mr. Green was retained by a client to handle post-decree dissolution matters. Mr. Green failed to comply with the client's request for information and documents relating to her case. On Mar. 1, 2005, Mr. Green mailed a check dated Dec. 28, 2004, to the client's ex-husband's attorney with no explanation for the delay.

Count nine involved numerous complaints from clients who had not been informed of his suspension. The clients and/or the court were either untimely informed or not informed of Mr. Green's pending or current suspension.

In count 10, Mr. Green was retained by a client to represent him in a quiet title action. The client made several unanswered requests for

an accounting of funds expended. Mr. Green was supposed to file a brief requesting an extension of time to file a motion in response to a motion for summary judgment. Mr. Green did not file the motion in time and summary judgment was entered against his client. Mr. Green failed to inform the client that the case had been decided against him.

In count 11, Mr. Green was retained to represent a client in a personal injury matter. The client was being deployed to Afghanistan for 14 months and Mr. Green was supposed to move the court to have the case transferred to the inactive calendar. He failed to take the appropriate action and the case was dismissed.

Five aggravating factors were found: prior disciplinary offenses, dishonest or selfish motive, pattern of misconduct, multiple offenses and substantial experience in the practice of law.

Five mitigating factors were found: personal and emotional problems, full and free disclosure, remorse, character and reputation and imposition of other penalties.

Mr. Green violated Rule 42, ARIZ.R.S.CT., ERs 1.2, 1.3, 1.4, 1.5, 1.8, 1.16, 3.2, 5.5, 8.4(c) and 8.4(d), and Rules 31(b) and 72(a), ARIZ.R.S.CT.

ROBERT M. HERSCH

Bar No. 007929; File No. 06-0972

Supreme Court Nos. SB-08-0046-D

By Arizona Supreme Court judgment and order dated Mar. 25, 2008, Robert M. Hersch, 3056 N. Country Club Rd., Tucson, AZ 85716, was censured, placed on probation for one year and assessed the cost and expenses of the disciplinary proceeding. The terms of probation include participation in the State Bar's Law Office Management Assistance Program.

An examination of Mr. Hersch's trust account for a three and one-half year period revealed multiple bookkeeping errors, which led to Mr. Hersch negligently disbursing funds on behalf of clients who did not have enough money in the trust account to cover disbursements made on their behalf.

Mr. Hersch also incurred bank fees on his trust account on 11 separate occasions between January 2003 and April 2005, when Mr. Hersch did not hold his own funds in the account designated for that purpose. As a result, other client funds inadvertently offset the payment of bank fees and administrative service charges. After discovering these fees in his monthly statement, Mr. Hersch deposited funds to cover them, but the fees had already been collected.

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

Six mitigating factors were found: timely good-faith effort to rectify the consequences of misconduct, cooperation with the State Bar, remorse, character and reputation, remoteness of prior discipline.

Mr. Hersch violated Rule 42, ARIZ.R.S.CT.,

ERs 1.5 and 1.15, and Rules 43 and 44, ARIZ.R.S.CT.

GARETH C. HYNDMAN

Bar No. 019500; File Nos. 06-1689, 06-1808

Supreme Court Nos. SB-08-0030-D

By Arizona Supreme Court judgment and order dated Mar. 18, 2008, Gareth C. Hyndman, 385 W. Honeysuckle Dr., Chandler, AZ 85248, was suspended for six months and one day, retroactive to Aug. 7, 2007. He will also pay restitution and be assessed the cost and expenses of the disciplinary proceeding. The terms of probation include participation in the State Bar's Law Office Management Assistance Program and Member Assistance Program, fee arbitration and agreed upon limitations of his practice of law.

In count one, Mr. Hyndman was retained by a client to represent him in a civil suit. Mr. Hyndman failed to file a disclosure statement. When opposing counsel filed a motion to compel and asked for sanctions, Mr. Hyndman failed to respond.

In count two, Mr. Hyndman was retained by a client to represent him in a civil suit. He again failed to file a disclosure statement and failed to respond to requests for admissions and discovery by opposing counsel. Mr. Hyndman also failed to appear for oral argument on a motion to vacate judgment entered in error and a motion for summary judgment. Mr. Hyndman failed to respond to the State Bar on both matters.

Three aggravating factors were found: prior discipline, pattern of misconduct and multiple offenses.

Two mitigating factors were found: absence of dishonest or selfish motive and personal and emotional issues.

Mr. Hyndman violated Rule 42, ARIZ.R.S.CT., ERs 1.3, 3.4 and 8.1(b), and Rules 32 and 53(d), ARIZ.R.S.CT.

JACK H. LASSETER

Bar No. 002086; File No. 06-1088

Supreme Court No. SB-08-0028-D

By Arizona Supreme Court judgment and order dated Mar. 18, 2008, Jack H. Lasseter, 683 S. Smokey Mountains Road, Tucson, AZ, was suspended for four months and placed on probation. He will also be assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in the State Bar's Member Assistance Program.

In count one, Mr. Lasseter, a retired member of the State Bar, was charged with and pled guilty in 1999 to indecent exposure, a class-one misdemeanor. Mr. Lasseter self-reported the incident to the State Bar.

In count two, Mr. Lasseter was tried and convicted in 2005 of indecent exposure and sentenced to three years of unsupervised probation and 36 hours of counseling.

Three aggravating factors were found: pattern of misconduct, substantial experience in the practice of law and illegal conduct.

Two mitigating factors were found: absence of prior disciplinary record and imposition of other penalties or sanctions.

Mr. Lasseter violated Rules 41 and 42, ARIZ.R.S.CT., ER 8.4(b); and Rule 53(h), ARIZ.R.S.CT.

MICHAEL L. LYNCH

Bar No. 013046; File No. 06-1747
Supreme Court No. SB-08-0005-D

By Arizona Supreme Court judgment and order dated Feb. 1, 2008, Michael L. Lynch, 430 W. Warner Road, Tempe, AZ, was censured and assessed the costs and expenses of the disciplinary proceedings.

Mr. Lynch was initially suspended for failing to comply with mandatory continuing legal education requirements for the year 2002-2003 because he lacked one hour of ethics credit. Upon completing the hour, he was reinstated on Oct. 25, 2004. However, from Mar. 1, 2004, through Oct. 25, 2004, Mr. Lynch continued to practice law while suspended. Consequently, on May 24, 2006, he was suspended for 90 days and placed on probation for one year. Mr. Lynch resumed the practice of law on the 91st day, not realizing that he had to take action to be reinstated. Mr. Lynch immediately notified clients, opposing counsel and the courts and filed for reinstatement, which was effective Nov. 2, 2006.

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

Four mitigating factors were found: absence of a dishonest or selfish motive, timely good-faith effort to make rectify consequences of misconduct, full and free disclosure and remorse.

Mr. Lynch violated Rule 42, ARIZ.R.S.CT., ER 5.5(a), and Rule 31(c), ARIZ.R.S.CT.

CLARENCE W. MULLIGAN III

Bar No. 010681; File No. 06-0577
Supreme Court No. SB-08-0029-D

By Arizona Supreme Court judgment and order dated Feb. 25, 2008, Clarence Mulligan III, 1811 S. Alma School Rd., Suite 265, Mesa, AZ, was censured, placed on probation for one year and assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in

the State Bar's Trust Account Ethics Enhancement Program.

Mr. Mulligan used his trust account to make numerous deposits and withdrawals for the sale of stock by two clients. The funds in the trust account were general client business funds and not held in connection with the specific legal representation of the clients.

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

Three mitigating factors were found: absence of dishonest or selfish motive, timely good-faith effort to make restitution, remorse.

Mr. Mulligan violated Rule 42, ARIZ.R.S.CT., ERs 1.15 and 8.1(b), and Rules 43, 44 and 53, ARIZ.R.S.CT.

ROSVAL A. PATTERSON

Bar No. 018872; File No. 06-0741
Supreme Court No. SB-08-0006-D

By Arizona Supreme Court judgment and order dated Jan. 24, 2008, Rosval A. Patterson, 777 E. Thomas Rd., Suite 210, Phoenix, AZ, was censured, placed on probation for one year and assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in the State Bar's Law Office Management Assistance Program and Trust Account Ethics Enhancement Program.

In response to notification of an overdraft of Mr. Patterson's trust account, the State Bar requested trust account records for March through May 2006. A review of the records revealed that Mr. Patterson failed to safeguard client property in his possession, failed to exercise due professional care by commingling personal funds in his trust account, failed to maintain proper internal controls, failed to record all transactions promptly and completely, failed to maintain a proper account ledger for each client and failed to perform a monthly three-way reconciliation.

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

Two mitigating factors were found: absence of prior disciplinary record and absence of dishonest or selfish motive.

Mr. Patterson violated Rule 42,

ARIZ.R.S.CT., ER 1.15, and Rules 43 and 44, ARIZ.R.S.CT.

G. TERRIS PORTER

Bar No. 003493; File No. 04-2080
Supreme Court No. SB-08-0007-D

By Arizona Supreme Court judgment and order dated Feb. 11, 2008, G. Terris Porter, 1052 E. Deuce of Clubs, Show Low, AZ, was censured, placed on probation for two years and assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in the State Bar's Law Office Management Assistance Program.

In count one, Mr. Patterson was retained to represent a client in the collection of past due child support and enforcement of current child support. In 1995, the client signed a contingency fee agreement, which paid Mr. Porter 40 percent of any recovery, including current child support. Mr. Porter was given authority, by the client, to endorse, deposit and distribute funds according to the fee agreement. From Sept. 11, 1997, to February 2004, Mr. Porter did not perform any services for his clients other than to receive and distribute the child support payments. The client terminated representation in November 2004 and asked for a full accounting of all child support payments received by Mr. Porter. He did not timely provide an accounting. The dispute was submitted to the State Bar's Fee Arbitration Program, which determined that Mr. Porter owed the client an additional \$4,814.

In count two, the State Bar requested Mr. Porter's trust account records for the period of time he represented the client in count one. A review of the records revealed that Mr. Porter commingled funds by leaving earned fees in the client trust account, failed to keep and preserve complete records for five years after disposition of all funds, failed to record all transactions promptly and completely, failed to safeguard client property, failed to promptly deliver all entitled funds to the client, failed to render a full accounting, failed to exercise due professional care, failed to properly supervise employees and others in the performance of his duties and failed to safeguard funds held in trust.

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

Six mitigating factors were found: absence of prior disciplinary record, absence of dishonest or selfish motive, timely good-faith effort to make restitution, full and free disclosure, character or reputation and remorse.

Mr. Porter violated Rule 42, ARIZ.R.S.CT., ERs 1.2(a), 1.3, 1.4, 1.5(d), 1.15 and 5.3, and Rules 43 and 44, ARIZ.R.S.CT.

STUART J. REILLY

Bar No. 005275; File No. 06-0817
Supreme Court No. SB-08-0018-D

By Arizona Supreme Court judgment and order dated Mar. 18, 2008, Stuart J. Reilly, P.O. Box 80410, Phoenix, AZ, was suspended for four years and will be placed on probation for two years upon reinstatement. He will also pay restitution and be assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in the State Bar's Member Assistance Program.

In November 2000, Mr. Reilly was retained to represent a husband and wife relating to alleged standard treatment received at a hospital. Mr. Reilly failed to file a lawsuit before expiration of the statute of limitations or take any action to preserve the claim. From 2000 to January 2004, Mr. Reilly did not inform his clients that he had not filed the suit or that he had been suspended from the practice of law from Mar. 28, 2002, until Dec. 30, 2002. On Jan. 15, 2004, Mr. Reilly finally informed the clients that he had not filed the lawsuit and then attempted to negotiate a settlement with them for his failure to act on their behalf. Unable to reach a settlement, each side retained counsel to represent them in the negotiations. Consequently, the clients agreed to a settlement amount of \$30,000, which Mr. Reilly failed to pay. In addition, between Feb. 26, 2002, and Feb. 26, 2006, Mr. Reilly served two consecutive two-year terms of probation. The terms of his probation required providing a list of active cases. The clients in this matter should have been on the list but Mr. Reilly did not include them.

Five aggravating factors were

found: prior disciplinary offenses, dishonest or selfish motive, pattern of misconduct, bad-faith obstruction of the disciplinary process and substantial experience in the practice of law.

One mitigating factor was found: personal or emotional problems.

Mr. Reilly violated Rule 42, ARIZ.R.S.C.T., ERs 1.1, 1.2, 1.3, 1.4, 1.7, 3.2, 8.4(c) and (d), and Rule 53(f), ARIZ.R.S.C.T.

ROBERT G. ROBINSON

Bar No. 003457; File No. 06-2074

Supreme Court No. SB-08-0010-D

By Arizona Supreme Court judgment and order dated Jan. 28, 2008, Robert G. Robinson, 5724 W. Palmdale, Glendale, AZ, was censured and assessed the costs and expenses of the disciplinary proceedings.

Mr. Robinson failed to expeditiously respond to the State Bar's inquiry regarding a complaint letter. Mr. Robinson was on probation in two other matters, at the time. The probation had been concluded but not yet formally terminated.

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

One mitigating factor was found: absence of dishonest or selfish motive.

Mr. Robinson violated Rule 42, ARIZ.R.S.C.T., ER 8.1, and Rule 53(d), ARIZ.R.S.C.T.

HUBERT S. SINCHAK

Bar No. 020682; File No. 06-0707

Supreme Court No. SB-07-0191-D

By Arizona Supreme Court judgment and order dated Feb. 12, 2008, Hubert S. Sinchak, 11811 N. Tatum Blvd., Suite 3031, Phoenix, AZ, was suspended for six months and one day. He will be placed on probation for two years upon reinstatement and assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in the State Bar's Law Office Management Assistance Program and Member Assistance Program.

Mr. Sinchak was retained to assist a client in probating her aunt's estate. The client paid an advanced fee and Mr. Sinchak prepared the case for an informal rebate based on the client having possession of her

aunt's original will. The application for informal probate was rejected because the will indicated that client's aunt had two children when, in fact, she had none. Mr. Sinchak corrected the error and demanded additional funds to continue the representation. The client terminated representation and hired a new attorney who requested the client's file. Mr. Sinchak refused to release the file unless the client signed an agreement pertaining to payment of his fees, which he claimed were in excess of the advanced fee. The client filed an inquiry with the State Bar which urged Mr. Sinchak to promptly return the file to the client. Mr. Sinchak instead filed an application to be appointed as the special administrator to the estate, without informing the client, and presented the will to the court for that purpose. Mr. Sinchak ignored statutory requirements in having himself appointed as special administrator of the estate.

Three aggravating factors were found: dishonest or selfish motive, bad-faith obstruction of disciplinary proceeding and refusal to acknowledge wrongful nature of conduct.

One mitigating factor was: absence of prior disciplinary record.

Mr. Sinchak violated Rule 42, ARIZ.R.S.C.T., ERs 1.1, 1.7, 1.9, 1.16 and 8.4(d).

RANDY J. TUNAC

Bar No. 022069; File Nos. 05-0905, 05-1890, 06-1410, 06-0187

Supreme Court No. SB-08-0014-D

By Arizona Supreme Court judgment and order dated Feb. 29, 2008, Randy J. Tunac, 3300 N. Central Ave., Suite 650, Phoenix, AZ, was censured and placed on probation for two years. He will pay restitution and be assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in the State Bar's Law Office Management Assistance Program and Member Assistance Program.

In count one, Mr. Tunac was retained to represent a client in an immigration matter. He was supposed to handle the bond hearing and to adjust the client's status after the hearing. Mr. Tunac failed to timely inform the client of the hearing date and was not adequately

prepared for the hearing. The client was ordered deported.

In count two, Mr. Tunac was retained to assist a client with an application for permanent residency. Mr. Tunac failed to adequately communicate with the client and he failed to file the necessary documentation by the deadline. The client's application was denied.

In count three, Mr. Tunac was retained to assist a client with an appeal of an immigration decision regarding her removal and the renewal of her work authorization and paid a fee of \$2,575. Mr. Tunac filed the notice of appeal but failed to file a separate brief in support of the notice. The appeal was denied and the client was ordered to depart the United States. Mr. Tunac did not inform the client of the order and did not respond to the client's attempts to contact him. The client did not find out about the deportation until she personally contacted the Department of Justice.

In count four, Mr. Tunac was retained to represent a client defend against a removal proceeding. Mr. Tunac was paid a fee of \$5,750. Mr. Tunac failed to timely file an application for convention against torture and an order of removal was issued. Mr. Tunac then filed a petition for review in the Ninth Circuit. While the appeal was pending, Mr. Tunac withdrew from representation without informing the client of pending court deadlines or turning over his file. He also failed to inform the court of his withdrawal. The appeal was dismissed and the order was sent to Mr. Tunac who again did not inform the client.

Three aggravating factors were found: pattern of misconduct, multiple offenses, vulnerability of the victims.

Seven mitigating factors were found: absence of prior disciplinary record, absence of dishonest or selfish motive, inexperience in the practice of law, personal or emotional problems, good-faith effort to make restitution, full and free disclosure and character and reputation.

Mr. Tunac violated Rule 42, ARIZ.R.S.C.T., ERs 1.1, 1.3, 1.4, 1.5, 1.16, 5.3 and 8.4(d).

WILLIAM WAHL III

Bar No. 019356; File No. 06-1509

Supreme Court No. SB-08-0017-D

By Arizona Supreme Court judgment and order dated Mar. 18, 2008, William Wahl III, 4110 N. Scottsdale Rd., Suite 165, Scottsdale, AZ, was suspended for six months and one day. He was also ordered to complete 15 hours of continuing education, including three hours of ethics. He will also be assessed the costs and expenses of the disciplinary proceedings.

Mr. Wahl was suspended on Mar. 25, 2005, for failing to comply with mandatory continuing legal education requirements. He was reinstated on June 9, 2006. During his suspension, Mr. Wahl continued to represent clients. The State Bar requested a written response from Mr. Wahl regarding his actions and he did not reply within the stated timeframe.

Three aggravating factors were found: bad-faith obstruction of the disciplinary proceedings, multiple offenses and substantial experience in the practice of law.

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

Mr. Wahl violated Rule 42, ARIZ.R.S.C.T., ERs 5.5, 8.1(b), 8.4(c) and (d), and Rule 53(f), ARIZ.R.S.C.T.

DION C. WARE

Bar No. 019357; File Nos. 06-1022, 06-1589

Supreme Court No. SB-08-0009-D

By Arizona Supreme Court judgment and order dated Mar. 18, 2008, Dion C. Ware, 5133 N. Central Ave., Suite 128, Phoenix, AZ, was suspended for two years and will be placed on probation upon reinstatement. He will pay restitution and be assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in the State Bar's Law Office Management Assistance Program and Member Assistance Program.

In count one, Mr. Ware was retained to represent a woman and her daughter in two matters. One matter concerned placing a lien on real property to secure a loan and to take recovery action on the loan itself. The second matter concerned correcting the title on a motor vehicle. Mr. Ware

was paid a fee of \$500. Over the course of seven months, Mr. Ware failed to communicate with the clients regarding the status of the matters and failed to accomplish what he was hired to do. The clients submitted a complaint to the State Bar. Mr. Ware failed to respond to the State Bar's inquiry.

In count two, in early 2005, Mr. Ware was retained to represent a client in two probate matters. He was paid a fee of \$3,000. In April and June 2005, Mr. Ware filed letters of personal representative for both matters. From that point until September 2006, Mr. Ware failed to communicate with his client regarding the status of each matter. The client submitted a bar complaint in September 2006. From that point until December 2006, the State Bar attempted to contact Mr. Ware via mail, voice mail and email, without success.

Seven aggravating factors were found: dishonest or selfish motive, pattern of misconduct, multiple offenses, bad-faith obstruction of the disciplinary proceeding, vulnerability of the victim, substantial experience in the practice of law and indifference to making restitution.

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

Mr. Ware violated Rule 42, ARIZ.R.S.C.T., ERs 1.1, 1.2, 1.3, 1.4, 1.5, 1.15, 3.2 and 8.4(d), and Rules 32(c)(3), 43(d)(2) and 53(f), ARIZ.R.S.C.T.

RORY L. WHIPPLE

Bar No. 014093; File Nos. 05-1600, 06-0163

Supreme Court No. SB-07-0201-D

By Arizona Supreme Court judgment and order dated Feb. 12, 2008, Rory L. Whipple, 6040 E. Main St., #426, Mesa, AZ, was suspended for 30 days and upon reinstatement will be placed on probation for one year and nine months. He will also be assessed the costs and expenses of the disciplinary proceedings. The terms of probation include participation in the State Bar's Law Office Management Assistance Program and Member Assistance Program.

In count one, Mr. Whipple was retained to represent a client in a child custody matter. The client made numerous attempts to communicate with Mr. Whipple without success. Mr. Whipple failed to file an objection to parenting conference recommendation, which resulted in ruling adverse to the client. The client then terminated the representation and requested a refund and his file. When he did not receive a response from Mr. Whipple, he filed a complaint with the State Bar. Mr. Whipple failed to respond to the State Bar's inquiry into the matter.

In count two, Mr. Whipple was retained to represent a client in a criminal matter. Mr. Whipple agreed to file a writ of habeas corpus but failed to do so. When the client was unable

to contact Mr. Whipple for approximately six months, he terminated representation and requested a refund. Mr. Whipple failed to respond to the State Bar's inquiry into the matter.

The Disciplinary Commission rejected the parties' tender of discipline by consent. The hearing on remand dealt only with mitigating and aggravating factors.

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

Five mitigating factors were found: absence of dishonest or selfish motive, personal or emotional problems, timely good-faith effort to make restitution, delay in disciplinary proceedings, and remorse.

Mr. Whipple violated Rule 42, ARIZ.R.S.Ct., ERs 1.3, 1.4, and

1.16, and Rule 53(f), ARIZ.R.S.Ct.

DALE E. WHITING

Bar No. 015357; File No. 06-0194

Supreme Court No. SB-07-0189-D

By Arizona Supreme Court judgment and order dated Feb. 12, 2008, Dale E. Whiting, P.O. Box 11591, Chandler, AZ, was suspended for six months and one day and will be placed on probation for one year upon reinstatement. He will be assessed the costs and expenses of the disciplinary proceedings.

Mr. Whiting was retained to represent a client in a marriage dissolution. Mr. Whiting used his client to contact her then-spouse, who was represented by counsel, regarding the dissolution proceedings. Mr. Whiting's actions had no other purpose than to embarrass, delay or burden the opposing parties.

During the hearing on the merits, Mr. Whiting intentionally hindered and obstructed the disciplinary proceedings by his unilateral decision to instruct his client to not appear and testify. Based on this conduct, the hearing officer found two significant aggravating factors: bad-faith obstruction of the disciplinary proceeding and submission of false evidence, false statements or other deceptive practices during the disciplinary process. The hearing officer also found two additional aggravating factors: refusal to acknowledge the wrongful nature of conduct and substantial experience in the practice of law.

There were no mitigating factors.

Mr. Whiting violated Rule 42, ARIZ.R.S.Ct., ERs 4.2, 4.4, and 8.4(a).

DAVID M. ZORIN

Bar No. 023550; File No. 06-1347

Supreme Court No. SB-07-0193-D

By Arizona Supreme Court judgment and order dated Feb. 12, 2008, David M. Zorin, Two N. Central Ave., Phoenix, AZ, was disbarred and assessed the costs and expenses of the disciplinary proceedings.

Mr. Zorin was conditionally admitted to the practice of law in July 2005 and ordered to participate in the Member Assistance Program (MAP). Mr. Zorin failed to comply with the conditions of his admission by not maintaining contact with his MAP monitor and failing to submit to random biological fluid testing.

One aggravating factor was found: bad-faith obstruction of the disciplinary proceedings.

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

Mr. Zorin violated Rule 42, ARIZ.R.S.Ct., ER 8.1(b), and Rules 53(f) and (g), ARIZ.R.S.Ct.