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LIZZLYN OF ARIZONA

BETTE & LINDY KELLY P. O. BOX 639 PINE, ARIZONA 85544

February 18, 2004
Docket # 03512

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FEB 23 2004

ACC Commissioner
Mark Spitzer, Chairman
1200 W. Washington
Phoenix, Arizona 85077

W - 03512A-03-0279

Dear Mr. Spitzer,

After speaking with Commissioner Mundell, I am copying you on the following.

Just a brief history of why we feel the PSWID Board DOES NOT represent the people of our district. A few planted people on the PSWID board resigned, leaving just ~~two~~³ members and three applicants for the vacated spots. The Chairman Protem of the board (another developer) said the applicants were not qualified, so they revoked the authority of the board and it was turned over to the Gila County Supervisors September of 2004. Since our supervisor from District one has a history of promoting new development, we feel he is in cahoots with the developers. They are trying to take what little water Pine has to supply a 78 lot development and others with marginal water supplies, not within the PSWID at our expense..

Since the county supervisors have taken control of our water district there have been no open meetings of the PSWID and the public has not been able to obtain the expenditures of our tax money. I feel their attorney Mr. Glieg has received a good portion of the money, leaving PSWID broke. I have enclosed some information we have obtained on the Net concerning Gliege. You may or may not be interested.

When the commissioners and staff review docket # 03512, for application of Pine Water Co. rates, please keep in mind that The Pine Water Co. has been the best we have had in Pine for the past 40 years. They are the first water co. that has had the knowledge and money to begin to improve this old system.

Until a new source of water is found we need the protection of the ACC from these real estate/developers.

Sincerely,

Elizabeth Kelly
Elizabeth Kelly

Arizona Corporation Commission
DOCKETED

FEB 23 2004

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AZ CORP COMMISSION
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by consent for 120 days, effective Jan. 15, 2003, for failing to abide by a client's instructions; failing to withdraw as attorney of record and failing to promptly and diligently deliver client funds to clients. Upon reinstatement, Mr. Giles will be placed on two years' probation and participate in the Law Office Member Assistance Program and pay restitution totaling \$20,387.81. Mr. Giles must pay the State Bar's costs and expenses of \$1,500.34, with interest.

Mr. Giles' misconduct concerns his actions as a commercial collection attorney for whom he had a longtime working relationship. When management changed, Mr. Giles failed to timely cease work on some of the collections against the instructions of his client, failed to withdraw as attorney of record, failed to promptly and diligently account for prior and current collection matters that resulted in the failure to promptly deliver to clients funds, and failure to provide a timely, full and complete accounting of his trust account pursuant to the Trust Account Guidelines.

Five aggravating factors were present: prior discipline, pattern of misconduct, multiple offenses, vulnerability of the victim and substantial experience in the practice of law. There were five mitigating factors: full and free disclosure to the disciplinary agencies and a cooperative attitude towards the proceedings, delay in disciplinary proceedings, imposition of other penalties or sanctions, remorse and remoteness of prior offense.

Mr. Giles violated ERs 1.2, 1.3, 1.4, 1.15 and 8.4(d) and Rules 43 and 44, ARIZ.R.S.CT.

JOHN G. GLIEGE

Bar No. 003644; File Nos. 00-0309 and 01-1296

By Supreme Court Judgment and Order dated Feb. 20, 2003, John G. Gliege, P.O. Box 1388, Flagstaff, AZ 86002, was censured and ordered to serve a one-year period of probation, including participation in the Law Office Member Assistance Program. Mr. Gliege must pay the State Bar's costs and expenses of \$1,152.29, with interest.

Mr. Gliege failed to hold clients funds separate and apart from non-client funds, failed to record all transactions promptly and completely, failed to preserve complete client trust account records for a period of five years, failed to deposit a client's funds intact into his trust account, failed to use internal controls to safeguard funds and property held in trust and failed to reconcile his trust account on a monthly basis.

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

motive, personal or emotional problems, timely good faith effort to make restitution or rectify the consequences of his misconduct, full and free disclosure to a disciplinary board and cooperative attitude toward the proceedings, character or reputation, physical disability, remorse and remoteness of the prior offense.

Mr. Gliege violated ER 1.15(a) and Rules 43(a) & (d) and 44(a) & (b)(3), ARIZ.R.S.CT.

MARSHA L. GRIFFITHS

Bar No. 015093; File No. 00-1981

By Supreme Court Judgment and Order dated Oct. 31, 2002, Marsha L. Griffiths, 326 S. Hanseman, Carbondale, IL 62901, was suspended for six months and one day for failing to communicate court dates to her clients; failing to appear for hearings and practicing law while suspended. Ms. Griffiths was ordered to pay the State Bar's costs and expenses of \$1,264.42, with interest.

Ms. Griffiths represented a defendant in a civil matter. Ms. Griffiths joined in a co-defendant's motion for summary judgment and then failed to appear at the hearing. Ms. Griffiths also failed to appear at a status conference and settlement conference; failed to submit settlement memoranda; failed to file her joint pre-trial statement; failed to inform her client about the missed court dates; and failed to inform the court, opposing counsel and the State Bar of her new address. Ms. Griffiths was administratively suspended on April 28, 2000, and Sept. 15, 2000, and was not reinstated until Oct. 20, 2000, yet she appeared at the pretrial conference on Sept. 6, 2000. Ms. Griffiths has received three prior informal reprimands.

Two aggravating factors were found: prior discipline and pattern of misconduct. One mitigating factor was found: absence of dishonest or selfish motive.

Ms. Griffiths violated ERs 1.1, 3.2, 3.4(c), 5.5 and 8.4(d) and Rules 31(c)(3) and 51(e) and (k), ARIZ.R.S.CT.

THEODORE E. HANSEN

Bar No. 006359; File Nos. 00-0842, 00-0850, 00-1217, 00-1303, 00-2300, 00-2388, 99-1734 and 99-1824

By Supreme Court Judgment and Order dated July 9, 2002, Theodore E. Hansen, 2266 S. Dobson Rd, Suite 200, Mesa, AZ 85202, was suspended for 18 months for failing to diligently and competently represent his clients and for engaging in trust account violations and the unauthorized practice of law while suspended. Upon reinstatement, Mr. Hansen will be placed on two years' probation and ordered to participate in both the Member Assistance Program and the Law Office Member Assistance Program. Mr. Hansen must pay restitution to twelve clients

of \$2,517.43 and must pay the State Bar's costs and expenses, with interest.

Mr. Hansen failed to prepare and provide annual minutes for a corporate client, failed to communicate with the client and failed to take steps necessary to protect the client's interests when he was terminated. Mr. Hansen also failed to adequately represent clients who came to him to have their articles of incorporation published. Mr. Hansen received publication costs in advance from his clients, but failed to pay the publisher who then refused to file the required Affidavit of Publication. This resulted in clients having their corporate charters revoked and required them to obtain new counsel to rectify the effects of Mr. Hansen's misconduct. Mr. Hansen failed to respond timely to State Bar inquiries in these matters. Mr. Hansen wrote insufficient funds checks from his client trust account and otherwise mishandled the trust account resulting in ten overdrafts over a six-month period. On several occasions during 2000, Mr. Hansen was summarily suspended for non-compliance with MCLE and remains suspended. During the times he was suspended, Mr. Hansen continued to prepare and file incorporation papers for clients and continued to use his IOLTA account.

Seven aggravating factors were found: prior discipline, selfish motive, pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency, substantial experience in the practice of law and indifference to making restitution. Two mitigating factors were found: delay in the disciplinary process and remorse.

Mr. Hansen violated ERs 1.3, 1.4, 1.15, 1.16(d), 5.5, 8.1(b) and Rules 31(a)(3), 33(c), 43, 44 and 51(h) and (i), ARIZ.R.S.CT.

BARRY H. HART

Bar No. 006081; File Nos. 96-1547, 96-2121, 97-1282, 97-1311, 98-1741, 98-1869, 99-0779, 99-1215 and 99-1391

By Supreme Court Judgment and Order dated Nov. 1, 2002, Barry H. Hart, P.O. Box 1865, Cave Creek, AZ 85327, was suspended for two years and ordered to serve a two-year period of probation, including participation in fee arbitration and the Member Assistance Program. Mr. Hart must pay restitution to two clients totaling \$7,415.85 and must pay the State Bar's costs and expenses of \$3,371.43, with interest.

Mr. Hart failed to diligently represent his clients, failed to adequately communicate with his clients, failed to provide an accounting when requested by a client, failed to take the steps necessary upon termination of representation to protect his clients' interests, mishan-

INTERIM SUSPENSION

WILLIAM J. DOWNEY

Bar No. 007379; File Nos. 00-0429, 00-1469 and 00-2058

By Supreme Court Judgment and Order dated March 26, 2003, William J. Downey, Phoenix, Arizona, was placed on interim suspension pursuant to Rule 52(c), Ariz.R.S.Ct., until further order of the Court.

ROBERT SUZENSKI

Bar No. 011115; File No. 03-0159

By Supreme Court Judgment and Order dated March 20, 2003, Robert Suzenski, Phoenix, Arizona, was placed on interim suspension pursuant to Rule 52(c), Ariz.R.S.Ct., until final disposition of all pending proceedings.

SANCTIONED ATTORNEYS

NAIDA B. AXFORD

Bar No. 006292; File No. 00-1920

By Supreme Court Judgment and Order dated Oct. 31, 2002, Naida B. Axford, Two N. Central, Phoenix, AZ 85004, was suspended for one year for the unauthorized practice of law while on MCLE suspension. Ms. Axford was ordered to pay the State Bar's costs and expenses of \$3,064.98, with interest.

Ms. Axford was suspended from the practice of law on Feb. 11, 1997, for failure to comply with MCLE requirements. On Oct. 10, 2000, Ms. Axford was suspended for six months and a day in a separate discipline case. In January 2000, while on suspension for failure to comply with MCLE, Ms. Axford practiced law by drafting a petition for review for a client that was filed with the Supreme Court. In addition, throughout the disciplinary proceedings, Ms. Axford knowingly refused to cooperate with, and failed to respond to, the State Bar.

Six aggravating factors found: prior discipline, dishonest or selfish motive, pattern of misconduct, bad faith obstruction of the disciplinary process, refusal to acknowledge the wrongful nature of her conduct and substantial experience in the practice of law. There was one mitigating factor found: personal or emotional problems.

Ms. Axford violated ERs 3.4(c), 5.5(c), 8.1(b) and 8.4(d) and Rules 51(e), (f), (h), (i) and (k), ARIZ.R.S.Ct.

LEONIDAS G. CONDOS

Bar No. 016153; File No. 00-1764

By Supreme Court Judgment and Order dated Dec. 26, 2002, Leonidas G. Condos,

4201 S. Alma School Rd., Mesa, AZ 85210, was censured by consent and placed on one year's probation, to include participation in the Member Assistance Program and attending the Trust Account Ethics Enhancement Program. Mr. Condos must pay the State Bar's costs and expenses of \$683.30, with interest.

Mr. Condos represented a client in Indiana in a personal injury matter. Mr. Condos settled the claims and was obligated to hold \$25,000 from the settlement to pay a medical provider. Between April and July 1997, Mr. Condos attempted to pay the provider, but each time the check was returned for insufficient funds. Upon discovery, Mr. Condos obtained a cashier's check for the debt. On at least six occasions Mr. Condos' Indiana trust account balance fell below \$25,000. Employee embezzlement was the cause of the account deficiencies.

One aggravating factor was found: substantial experience in the practice of law. Five mitigating factors were found: absence of prior disciplinary record, personal or emotional problems, timely good faith effort to make restitution or rectify the consequences of the misconduct, full and free disclosure to a disciplinary board or cooperative attitude toward the proceedings and remorse.

Mr. Condos violated ER 1.15 and Rules 43 and 44, ARIZ.R.S.Ct.

DALE R. Gwilliam

Bar No. 004979; File No. 01-2294

By Supreme Court Judgment and Order dated Jan. 22, 2003, Dale R. Gwilliam, 2141 E. Broadway, Suite 214, Tempe, AZ 85282, was censured for unauthorized practice and failing to cooperate with the State Bar. Mr. Gwilliam must pay the State Bar's costs and expenses of \$2,386.38, with interest.

Mr. Gwilliam was summarily suspended for failure to provide his MCLE certificate for the 1999/2000 Education Year on Mar. 12, 2001. He was reinstated on June 14, 2002. In the mid-1990s Mr. Gwilliam started his representation of a couple in litigation involving the use of property. Mr. Gwilliam learned of his suspension in April 2001 and, even though he was suspended, he continued to represent the clients in their litigation, including appellate work. He did not withdraw from the case until November 2001. Mr. Gwilliam failed to inform his clients, the courts, his co-counsel or the opposing counsel of his suspension. Mr. Gwilliam failed to cooperate with the State Bar's investigation of this matter.

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

were found: absence of a dishonest or selfish motive, personal or emotional problems, timely good faith effort to rectify the consequences of the misconduct, cooperative attitude, imposition of other penalties or sanctions and remorse.

Mr. Gwilliam violated Rule 42, ARIZ.R.S.Ct., particularly, ERs 5.5(a) (unauthorized practice), 8.1 (disciplinary matters) and 8.4(a) (misconduct) and Rules 31(a)(3) (membership), 33(c) (pro hac vice) and 51(h) (disciplinary grounds), ARIZ.R.S.Ct.

PHILLIP D. HINEMAN

Bar No. 011887; File Nos. 99-1374, 00-1054, 01-0033 and 01-0555

By Supreme Court Judgment and Order dated Jan. 8, 2003, Phillip D. Hineman, 2929 North 44th St., Suite 120, Phoenix, AZ 85018, was censured for charging excessive fees and failing to adequately communicate the basis of the fee to the client. Mr. Hineman was also placed on one year's probation, including obtaining a practice monitor. Mr. Hineman must pay the State Bar's costs and expenses of \$4,598.83, with interest.

The formal complaint in this matter involved four counts. In the majority of these cases, Mr. Hineman charged excessive fees and his fee agreements failed to adequately communicate or explain the basis for the fees. In one case, in addition to the excessive fees and failure to adequately explain his fees to the client, Mr. Hineman entered into a business transaction with his client to satisfy unpaid legal fees. Mr. Hineman accepted a quitclaim deed to the client's house to secure payment for delinquent legal fees. Mr. Hineman failed to satisfy the affirmative obligation to provide notice to the client to consult with independent counsel. Absent advice from independent counsel, Mr. Hineman then failed to obtain the client's written consent to proceed with the transaction.

Three aggravating factors were found: prior disciplinary offenses, multiple offenses and substantial experience in the practice of law. Four mitigating factors were found: absence of selfish or dishonest motive, timely good faith effort to make restitution or to rectify consequences of misconduct, full and free disclosure to disciplinary board or cooperative attitude toward proceedings and remorse.

Mr. Hineman violated ERs 1.5(a) and (b) (fees) and 1.8(a) (conflict).

CHARLES M. GILES

Bar No. 001701; File Nos. 96-1471, 98-2582 and 99-1564

By Supreme Court Judgment and Order dated Nov. 1, 2002, Charles M. Giles, 2720 E. Broadway, Tucson, AZ 85716, was suspended