

In the Matter of Andrea Lynn Carlson, File Nos. 10-0585, 10-0682, effective 04/15/2011. Attorney Suspended for One Year, Restitution, Fee Arbitration, and costs imposed.

Pursuant to Rule 57(a)(4)(A), Ariz.R.Sup.Ct., the PDJ approved the Agreement for Discipline by Consent submitted by the parties and suspended Andrea Lynn Carlson.

In Count One, Respondent represented a client in a dissolution matter and appeared for hearing in which findings favorable to Respondent's client were made. After the hearing, Respondent went to lunch with her client and became intoxicated. After lunch, Respondent and the client went to a business owned by the opposing party and there, Respondent engaged in criminal and unprofessional conduct. Respondent yelled, swore at and assaulted one of the employees. The police were called and Respondent was charged with assault and disorderly conduct. Respondent was ordered to complete a 12 month monitored diversion program with the Tucson City Court.

Respondent became intoxicated in the presence of her client, disclosed details of the client's case that were unfavorable to the opposing party in the presence of non-parties, revealed information relating to the representation of her client without the client's informed consent, used means that had no substantial purpose than to embarrass the opposing party, and engaged in criminal conduct that reflected adversely on her honesty, trustworthiness, and fitness as a lawyer and such conduct was prejudicial to the administration of justice.

In Count Two, Respondent represented a client in a dissolution proceeding. The fee agreement stated that an advance fee of \$2,500.00 was required at the onset of representation and half of the advanced fee was deemed "earned upon receipt." The fee agreement did not include specific language that the client may be entitled to a refund of the unused portion of the earned upon receipt funds if the representation was terminated. The Schedule of Costs provided that work performed by non-lawyer assistants would be billed at \$50.00 per hour. Respondent's invoices to the client for January and February 2010 included inaccurate amounts for legal fees and costs. On February 8, 2010, Respondent was ordered by the court to maintain one half (\$20,927.80) of the total of the community equity account valued at \$41,855.60 in her trust account until further order by the court. The other half was to be divided equally (\$10,463.90) for each party's expenses.

Respondent violated the court's order and deposited \$41,855.60 into her business account instead of her trust account. Respondent thereafter, disbursed funds from her business account and transferred funds into her trust account. On February 15, 2010, the client asked for a portion of the unused funds and an accounting of the funds held in trust. Respondent failed to promptly deliver those funds and to provide a full accounting to the client. Respondent billed the client at a higher rate than the fee agreement provided for, withdrew money from the trust account for advanced legal fees, failed to abide by her client's decisions concerning the

objectives of representation, co-mingled and converted court ordered trust account funds for advanced legal fees incurred by the client without notice to the client and the client's consent, failed to transfer the court ordered funds to the client's new attorney, failed to timely maintain complete records of her trust account, and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Respondent's misconduct as described above constituted grounds for the imposition of discipline pursuant to the Rules of the Supreme Court of Arizona and violated Rule 42, ERs 1.2, 1.4, 1.5(d)(3), 1.6(a), 1.15(a), 1.15(c), 1.15(d), 1.16(d), 3.4(c), 4.4(a), 8.4(b), 8.4(c), 8.4(d) and Rules 41(g), 43(a), 43(b), 43(d), 43(f) and 53(c).

Respondent's mental state was found to be knowing and her misconduct caused actual harm to the client and the legal system and caused potential harm to the profession and the public.

The following factors were found in aggravation: 9.22(b) (dishonest or selfish motive), 9.22(c) (pattern of misconduct), 9.22(d) (multiple offenses), 9.22(h) (vulnerability of victims) and 9.22(k) (illegal conduct).

The following factors were found in mitigation: 9.32(c) (personal or emotional problems), 9.32(e) (full and free disclosure to a disciplinary board or cooperative attitude), 9.32(f) inexperience in the practice of law), 9.32(k) (imposition of other penalties or sanctions) and 9.32(l) (remorse).

The agreement is accepted and costs awarded in the amount of \$1,396.25. The proposed final judgment and order is reviewed, approved and signed.