

In the Matter of Steven J. Messer, Bar No. 019542, File Nos. 09- 1571 et. al., effective 06/13/2011. Attorney Reprimanded, Restitution, Fee Arbitration and Costs Ordered.

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 reprimanded Steven J. Messer. Additionally, restitution to three clients, participation in fee arbitration, and the payment of costs were ordered.

In multiple counts, Respondent was retained to assist clients in obtaining home loan modifications. Respondent thereafter failed to adequately communicate and diligently represent clients. Respondent's fee agreement contained inconsistencies regarding refunds for any unearned fees. In addition, he failed to promptly return funds that clients were entitled to receive and failed to render an accounting of fees upon request. Respondent also included incorrect factual information in his correspondence to mortgage lenders and he engaged in conflicts of interest with the law related services he offered clients. Respondent further failed to adequately supervise his non-lawyer assistants, failed to hold client monies in his trust account separate from his own property, failed to communicate to a client in writing the basis or rate of fees charged, and offered misleading communication about his legal services.

Respondent's negligent misconduct cause actual injury to clients and potential injury to clients and the legal system and constituted grounds for the imposition of discipline pursuant to the Rules of the Supreme Court of Arizona and specifically violated Rule 42, ERs 1.2, 1.3, 1.4, 1.5, 1.7, 1.8, 1.15, 1.16, 5.3, 5.7, 7.1 and 7.3.

In evaluating aggravating and mitigating factors, the following factors were found:

In aggravation: 9.22(c) (pattern of misconduct), 9.22(d) (multiple offenses), 9.22(h) vulnerability of victims, and 9.22(i) (substantial experience in the practice of law);

In mitigation: 9.32(a) (absence of prior disciplinary offenses), 9.32(b) (absence of a selfish or dishonest motive), 9.32(d) (timely good faith effort to make restitution or rectify consequences of misconduct), and 9.32(e) (full and free disclosure to disciplinary board or cooperative attitude towards proceedings).

The agreement is accepted and costs awarded in the amount of \$2,945.25. The proposed final judgment and order is reviewed, approved and signed.