

SUPREME COURT OF ARIZONA

In the Matter of Members of the) Arizona Supreme Court
State Bar of Arizona,) No. SB-10-0036-D
)
JEFFREY PHILLIPS,) Disciplinary Commission
Attorney No. 13362 and) Nos. 05-1161, 05-1888
ROBERT ARENTZ,) 06-1137, 06-1138
Attorney No. 5376) 06-1212, 06-1582
) 07-0085, 07-0176
) 07-0177, 07-0178
) 07-0231, 07-0232
) 07-0239, 07-0275
) 07-0278, 07-0289
) 07-0412, 07-0512
) 07-0569, 07-0628
) 07-0639, 07-0697
) 07-0887, 07-0889
) 07-0890, 07-0891
) 07-0892, 07-0894
) 07-0895, 07-1326
) 07-1342, 07-1461
) 07-1561, 07-1601
) 07-1885, 08-0397
)
) **JUDGMENT AND ORDER**
) **(Re: ROBERT ARENTZ)**
Respondents.)
_____) **FILED 06/24/2010**

The Disciplinary Commission of the Supreme Court of Arizona has rendered its decision in the captioned matter and this Court has considered Respondents' Petition for Review. Accordingly,

IT IS ORDERED that the Petition for Review regarding Respondent ROBERT ARENTZ is DENIED.

IT IS FURTHER ORDERED that Respondent ROBERT ARENTZ, a member of the State Bar of Arizona, is hereby suspended from the practice of law for a period of sixty days, effective thirty days from the date of this Judgment and Order, for conduct in violation of his duties and obligations as a lawyer, as disclosed in the Disciplinary Commission Report.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent ROBERT ARENTZ shall be placed on probation for a period of two years, effective upon the signing of the probation contract. Bar Counsel shall notify the Disciplinary Clerk of the date on which the probation begins. The terms of probation for Respondent ROBERT ARENTZ are as follows:

Terms of Probation

1. Probation is effective upon reinstatement and signing of the probation contract and runs for two years thereafter. After eighteen months, the director of LOMAP may terminate the probation if the terms have been satisfied and additional probation is not necessary.

2. Respondent shall refrain from engaging in any conduct that would violate the Rules of Professional Conduct or other rules of the Supreme Court of Arizona.

3. Respondent shall contact the director of LOMAP within thirty days from the date of the Order of Reinstatement and shall schedule and submit to a LOMAP audit within forty-five days thereafter. Following the audit, the director of LOMAP shall formulate and include recommendations based on the audit in a Probation Contract to be executed and implemented by the Respondent. The director of LOMAP shall also monitor the terms of probation.

4. Pursuant to ER 5.3, Respondent will be responsible to ensure compliance with the applicable rules by all non-lawyer intake personnel and staff over whom he has supervising authority. As applicable to his supervisory duties, Respondent ROBERT ARENTZ shall cause the following practices and procedures to be implemented and followed:

a. Before entering into any written attorney/client fee agreement for the firm, an Arizona licensed attorney must speak with the client and approve the legal fees to be charged and retention of the firm by the client. The attorney who meets with a potential client must be knowledgeable in the practice area, and the retention decision must be discussed before a decision is made on the retention. Retention attorneys should review all paperwork and ensure that all appropriate information is given to the client, even if the client lacks the sophistication or knowledge to ask the right questions.

b. Any non-attorney personnel conducting initial consultations with clients must clearly and affirmatively identify themselves as non-attorneys to prospective clients.

c. Non-attorney staff shall not give legal advice to clients and shall not make predictions or guarantees as to the outcome of a case.

d. Standard intake forms, including a standard fee agreement, shall be utilized. The firm will participate in fee arbitration whenever it is requested by the client and the firm has been unable to resolve the fee dispute directly with the client.

e. A standardized training manual for intake procedures shall be provided to each intake employee.

f. When accepting payment of a client's fees in a form other than cash, Respondent shall not accept payment without signed, written consent (which may be evidenced by a check, electronic signature, credit card authorization, or other writing) from the party making the payment.

5. A one-time ethics training program, not to exceed three hours, shall be given to all administrative staff employed by Respondent's firm, including intake and collection personnel. The program shall be provided by the director of LOMAP or a designee, and it shall be given at a time (or times) within the first six months of the Respondent's probationary term and in a manner that does not disrupt the firm's practice. The program may be repeated or additional programs may be given during the probationary period if needed as determined by the director of LOMAP. The initial program shall be taped and shown to any new personnel hired during the probationary period.

6. A one-time Continuing Legal Education ("CLE") ethics program, not to exceed three hours, shall be given to all attorneys employed by Respondent's firm. The program shall be provided by the director of LOMAP or a designee, and shall be given at a time (or times) within the first six months of the Respondent's probationary term and in a manner that does not disrupt the firm's practice. The program may be repeated or additional programs may be given during the probationary period. The initial program shall be taped and shown to any new lawyers hired during the probationary period.

7. During the period of probation, the State Bar may send unidentified "testers" to the Respondent's firm to test Respondent's compliance with the required intake procedures. The methodology of such random testing will be reviewed and approved in cooperation with Respondent's counsel and shall be conducted no more than quarterly unless such testing indicates non-compliance. A written evaluation of the results of such test shall be promptly provided to Respondent. Respondent agrees to pay for the reasonable costs associated with the probationary terms.

8. The Respondent shall employ a fee review process, for himself and all personnel over whom he has supervisory authority, that is consistent with *In re Schwartz* and ER 1.5, at the conclusion of all cases in order to determine whether a refund is due. All attorneys and other billable staff members who work under Respondent's supervision or control on criminal cases shall keep contemporaneous time records to enable the firm to conduct a "backward glance" at the conclusion of a case in order to determine whether a refund is due.

9. The Respondent shall provide a written accounting of time spent and fees incurred on any case handled by Respondent, or any person under Respondent's supervision or control, within fifteen days of a request by a client. When a client terminates the firm's representation in a criminal case and the firm has been permitted to withdraw by the court, the firm shall, within fifteen days following receipt of the Order permitting withdrawal, provide to the client a written accounting of time spent, fees incurred and when appropriate, a refund of any unearned fees.

10. If Respondent's firm uses client testimonials in advertisements, the client must acknowledge in writing that he or she is not receiving any money benefit (or the equivalent) for the appearance.

11. Respondent, in connection with his supervisory duties at the firm, shall develop a system for promptly advising of all client complaints against the firm or against lawyers employed by the firm that implicate the provisions of ERs 5.1 or 5.3. Respondent shall document his or the firm's response to each such complaint and shall maintain a file of such complaints and responses.

12. Respondent shall make all reasonable and good faith efforts to ensure compliance with these probation terms and shall respond directly or through his counsel to inquiries concerning the implementation of and compliance with these probationary terms.

13. Before conducting a screening investigation into any new complaint(s) relating to practices covered by this Judgment and Order, the State Bar, when appropriate and consistent with its normal practice, will first attempt to resolve the complaint(s) through A/CAP and Central Intake or will, when appropriate, consistent with its normal practice and pursuant to Rule 54(b)(1), Ariz. R. Sup. Ct., refer the matter to mediation. Nothing in this paragraph is intended to limit in any way the jurisdiction or power of the State Bar disciplinary agency.

14. To the extent Respondent has any authority regarding bonuses, bonuses to legal administrators or other non-lawyer employees in Respondent's firm's may not be based, in whole or in part, on the number of clients retained, the amount of fees generated, the number of clients who cancel, or the amount of fees refunded.

15. The Respondent shall maintain accurate, contemporaneous time records for all work done on a case, and to the extent he has supervisory authority over other billing employees, shall ensure that they maintain accurate, contemporaneous time records.

16. In the event that Respondent fails to comply with any of the foregoing terms and conditions, bar counsel shall file with the imposing entity a Notice of Non-Compliance, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Hearing Officer shall conduct a hearing within thirty days after receipt of said notice, to determine whether the terms of probation have been violated and if an additional sanction should be imposed. In the event there is an allegation that any of these terms have been violated, the burden of proof shall be on the State Bar of Arizona to prove non-compliance by a preponderance of the evidence.

IT IS FURTHER ORDERED that, as a condition precedent to reinstatement, Respondent ROBERT ARENTZ shall show that restitution has been paid to the following clients in the following amounts:

Restitution

Thomas Gowin (Count 8)	\$ 2,990.00
R. Uran (Count 9)	\$ 6,000.00
Orlando Corral (Count 12)	\$ 5,000.00
TOTAL:	\$ 13,990.00

IT IS FURTHER ORDERED that Respondent ROBERT ARENTZ shall comply with all the provisions of Rule 72, Ariz. R. Sup. Ct., including Rule 72(a), which requires that Respondent notify all of his clients, within ten days from the date hereof, of his inability to represent them and that he should promptly inform this Court of his compliance with this Order as provided in Rule 72(e).

IT IS FURTHER ORDERED that Respondent ROBERT ARENTZ shall comply with all rule provisions regarding reinstatement proceedings.

IT IS FURTHER ORDERED, pursuant to Rule 60(b), that the State Bar is granted judgment against Respondent ROBERT ARENTZ for costs and expenses of these proceedings applicable to him.

DATED this _____ day of June, 2010.

REBECCA WHITE BERCH
Chief Justice

TO:

Jeffrey L Phillips, Phillips & Associates PC
Robert F Arentz
Mark I Harrison
Steve Little
Martin Lieberman
Leticia V D'Amore
Sandra Montoya
Don Lewis
Beth Stephenson
Jode Ottman
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