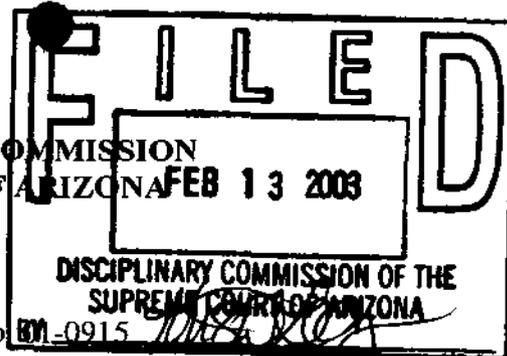


BEFORE THE DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ARIZONA



1
2 IN THE MATTER OF A SUSPENDED MEMBER)
3 OF THE STATE BAR OF ARIZONA,)

4 DAVID B. APKER,
5 Bar No. 004741)

6 RESPONDENT.)
7

No. 07-0915

DISCIPLINARY COMMISSION
REPORT

8 This matter came before the Disciplinary Commission of the Supreme Court of
9 Arizona on February 8, 2003, pursuant to Rule 53(d), Ariz. R. S. Ct., for consideration of the
10 Hearing Officer's Report, filed December 12, 2002, recommending a six (6) month and one
11 (1) day suspension, restitution, and costs.

12 Decision

13 The Commission's standard of review is set forth in Rule 53(d)2, which states that
14 the Commission reviews questions of law *de novo*. In reviewing findings of fact made by a
15 hearing officer, the Commission applies a clearly erroneous standard.
16

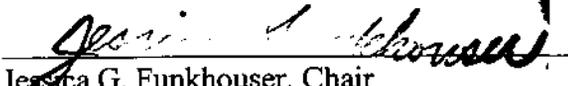
17 Therefore, having found no findings of fact clearly erroneous, the nine¹ members of
18 the Commission unanimously recommend adopting and incorporating by reference the
19 Hearing Officer's findings of fact,² conclusions of law, and recommendation for a
20

21
22 ¹ Commissioner Bowman did not participate in these proceedings and an attorney member
23 seat remains vacant. Albert B. Lassen, an attorney and Hearing Officer from Apache
24 County and Patricia A. Orozco, an attorney from Yuma County participated as ad hoc
25 members.

26 ² The Commission does not find Respondent's current summary suspension for non-payment
of dues to be an aggravating factor. In addition, the Commission agrees with the Hearing
Officer that the 1986 informal reprimand in file no. 85-1933 remote; however, the 2001
suspension in file no. 99-2298 is not considered remote, and therefore is an aggravating
factor pursuant to *Standard* 9.32(m).

six (6) month and one (1) day suspension, restitution in the amount of \$4,000.00 to the State Bar's Client Protection Fund, and costs of these disciplinary proceedings.

RESPECTFULLY SUBMITTED this 13 day of February 2003.


Jessica G. Funkhouser, Chair
Disciplinary Commission

Original filed with the Disciplinary Clerk
this 13 day of February 2003.

A copy of the foregoing mailed
this 14th day of February 2003.

Frederick K. Steiner, Jr.
Hearing Officer 8T
2915 East Sherran Lane
Phoenix, AZ 85016-7057

David B. Apker
Respondent
2111 E. Highland, Suite 230
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Phoenix, AZ 85064-0280

and

David B. Apker
Respondent
610B N. Taylor Street
Gunnison, CO 81230

A copy of the foregoing hand-delivered
this 14th day of February 2003.

James D. Lee
Senior Bar Counsel
State Bar of Arizona
111 West Monroe, Suite 1800
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By Karen Weigand
/kdl