

1 determined that while this finding is clearly erroneous, it does not change the outcome of the
2 case. In addition, the Hearing Officer relied on ABA *Standard* 6.22; however, in *Matter of*
3 *Taylor*, 180 Ariz. 290, 883 P.2d 1046 (1994), the Commission concluded that practicing law
4 while suspended is a violation of one of the duties a lawyer owes as a professional and is
5 governed by *Standard* 7.2. Although the presumptive sanction is suspension for both
6 *Standards*, the Commission finds that *Standard* 7.2 is more appropriate and is consistent
7 with precedent. Deference is given to the Hearing Officer's report and recommendation.
8 *Matter of Pappas*, 159 Ariz. 516, 768 P.2d 1161 (1989). The Commission determined after
9 consideration of the matter that although the recommended six-month suspension is
10 proportional, considering the factors in mitigation a shorter suspension is more appropriate.
11 In particular, the Commission took into account the fact that Respondent has had no prior
12 discipline in over thirty years of practice.
13

14 In light of these findings, the Commission recommends a thirty-day suspension and
15 restitution in the amount of \$3,681.00 with interest at the legal rate from the date of the
16 Judgment and Order to be paid to E. Lucille Boettge. Restitution shall be paid by
17 Respondent in accordance with a payment plan to be designed and agreed upon by the
18 parties. The assessment of costs is *not* recommended. Rule 52(a)8 provides that the
19 statement of costs *shall* be filed within seven days. The Hearing Officer's report was filed
20 March 12, 2003, and the State Bar's Statement of Costs and Expenses has not been filed.
21 Further, the Hearing Officer's Report and Recommendation is incorporated by reference.
22

23 RESPECTFULLY SUBMITTED this 2nd day of June 2003.

24 

25 Jessica G. Funkhouser, Chair
26 Disciplinary Commission

Original filed with the Disciplinary Clerk
this 2nd day of June 2003.

Copy of the foregoing mailed
this 2nd day of June 2003 to:

John Pressley Todd
Hearing Officer 7X
1275 West Washington
Phoenix, AZ 85007-2997

Donald W. Hart
Respondent
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Copy of the foregoing hand-delivered
this 2nd day of June 2003 to:

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By K. Weigand

/kdl