



BEFORE THE DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ARIZONA

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IN THE MATTER OF A MEMBER )  
OF THE STATE BAR OF ARIZONA, )

Nos. 00-1497, 00-1936, 01-1007,  
02-0055, 02-1611, 02-1763,  
02-1825

MICHAEL E. KEELY,  
Bar No. 004993

DISCIPLINARY COMMISSION  
REPORT

RESPONDENT.

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on July 12, 2003, pursuant to Rule 56(a), Ariz. R. S. Ct., for consideration of the Tender of Admissions and Agreement for Discipline by Consent (Agreement) and Joint Memorandum in Support of Agreement for Discipline by Consent (Joint Memorandum), filed May 29, 2003, providing for a forty-five day suspension, two years of probation upon reinstatement with the Law Office Management Assistance Program (LOMAP) and fee arbitration, and costs of these disciplinary proceedings.

Decision

The eight<sup>1</sup> members of the Commission unanimously recommend accepting and incorporating by reference the Agreement and Joint Memorandum providing for a forty-five day suspension, two years of probation upon reinstatement, and costs. The terms of probation are as follows:

<sup>1</sup> Commissioner Bowman did not participate in these proceedings. Larry W. Suci, a Hearing Officer from Yuma participated as an ad hoc member. Commissioner Mehrens recused.

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- 1) Respondent will, within thirty days after reinstatement, contact the director of LOMAP at the State Bar of Arizona to schedule a law office audit regarding communication, calendaring, and diligent representation of clients (e.g., a tickler system). The LOMAP director or her designee will complete an audit of Respondent's law office procedures no later than ninety days after Respondent is reinstated, unless extraordinary circumstances require additional time. Following the audit, Respondent will enter into a Memorandum of Understanding that will be effective for a period of two years after all parties have signed the Memorandum. Respondent will have contact with the director of LOMAP (or her designee) on a monthly basis to discuss his compliance with the terms of the Memorandum of Understanding and will meet with the director of LOMAP every three months after the parties have signed the Memorandum. Respondent understands he may be required to have a Practice Monitor acceptable to bar counsel, who will take steps to ensure he complies with the requirements of the Memorandum of Understanding. Such steps may include personal meetings with the Practice Monitor on a monthly basis to review and discuss his compliance with the terms of the Memorandum of Understanding. Respondent understands that no attorney/client relationship will exist between himself and a Practice Monitor, and that the Practice Monitor will be required to report any violation of the Memorandum of Understanding, the Rules of Professional conduct or the Rules of the Supreme Court to bar counsel.
  
- 2) Respondent shall participate in fee arbitration through the State Bar of Arizona as set forth in the Agreement.<sup>2</sup> Respondent shall pay any amount ordered within the time set forth in the fee arbitration awards.
  
- 3) Respondent will be responsible for the costs and expenses associated with his participation in LOMAP.

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<sup>2</sup> See Agreement pp. 33-36.

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- 4) In the event Respondent fails to comply with any of the foregoing terms and information thereof is received by the State Bar, bar counsel shall file a Notice of Non-Compliance with the Disciplinary Commission. The Disciplinary Commission may refer the matter to a hearing officer to conduct a hearing at the earliest possible date, but in no event later than thirty days following receipt of said notice. If the matter is referred to a hearing officer, the hearing officer shall determine whether the terms of probation have been breached, and if so, to recommend appropriate action and response to such breach.
- 5) If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar to prove non-compliance by a preponderance of the evidence.

10 RESPECTFULLY SUBMITTED this 31<sup>st</sup> day of July 2003.

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13 Jessica G. Funkhouser, Chair  
14 Disciplinary Commission

15 Original filed with the Disciplinary Clerk  
16 this 31<sup>st</sup> day of July 2003.

17 Copy of the foregoing mailed  
18 this 31<sup>st</sup> day of July 2003 to:

19 Harry T. Goss  
20 Hearing Officer 8H  
21 1720 Avenida Del Mundo, #1402  
22 Coronado, CA 92118

23 Michael D. Kimerer  
24 Holly R. Gieszl  
25 Respondent's Co-Counsel  
26 *Kimerer & Derrick, P.C.*  
27 221 East Indianola Ave.  
28 Phoenix, AZ 85012-2002

Copy of the foregoing hand-delivered  
this 31<sup>st</sup> day of July 2003 to:

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By Kevin Weigand

/kdl