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BEFORE A HEARING OFFICER

IN THE MATTER OF A MEMBER )  
OF THE STATE BAR OF ARIZONA, )  
)  
THAINE M. CROWN, JR., )  
Bar No. 012100 )  
)  
RESPONDENT. )

Nos. 01-0732, 01-1524, 02-1476  
02-1533

HEARING OFFICER'S REPORT  
AND RECOMMENDATION

PROCEDURAL HISTORY

Probable Cause Orders were filed on December 11, 2002 and July 2, 2002. An eight-count Complaint was filed on December 16, 2002 and served by mail on December 17, 2002. On January 15, 2003 Respondent filed a Motion for Extension of Time to File Answer. Respondent was given until January 24, 2003 to file an answer. Respondent did not file an answer; therefore, the Disciplinary Clerk entered a Default on February 24, 2003. A hearing on aggravation and mitigation was held on April 2, 2003, Karen Clark appeared on behalf of the State Bar. Respondent did not appear. A phone call was made to Mr. Crown to determine whether he would appear later. It was agreed that the hearing would be continued until April 16, 2003. The Respondent did attend on April 16, 2003, as did the Bar through its attorney, Karen Clark.

FINDINGS OF FACT

The facts listed below are those set forth in the State Bar's Complaint and are deemed admitted by way of default.

At all times relevant hereto, Respondent was a member of the State Bar of Arizona, having

been admitted on October 21, 1988.

**Count I**

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2           1. On March 30, 2001, Respondent wrote check number 2719 from his IOLTA trust account  
3 in order to pay for a State Bar continuing legal education program.

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5           2. On April 6, 2001, Respondent's check was sent back to Respondent noting that he could  
6 not pay for the continuing legal education program with a trust account check.

7           3. On April 20, 2001, the State Bar requested that Respondent produce information  
8 concerning his trust account, including individual client ledgers.

9           4. On May 15, 2001, Respondent responded and provided documentation pursuant to the  
10 State Bar's request. Respondent stated that the check represented earned fees that had not been  
11 transferred to his operating account. However, Respondent failed to produce the requested individual  
12 client ledgers.

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14           5. On May 18, 2001, the State Bar again wrote the Respondent requesting additional  
15 documents and also again requesting individual client ledgers.

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17           6. On June 18, 2001, Respondent provided some of the requested documents, but did not  
18 produce the requested individual client ledgers.

19           7. Respondent failed to produce trust account records to verify that the check represented  
20 earned fees. Specifically, Respondent could not produce a copy of a client ledger card showing the  
21 origin of fees that were earned, or a copy of his general journal reflecting the transfer of the earned  
22 fees into his operating account.

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24           8. In addition, a review of the documents provided by Respondent revealed that Respondent  
25 was writing checks from his trust account to cover general business expenses.

1 9. Respondent failed to keep client and/or third party property separate from his own  
2 property.

3 10. Respondent failed to keep complete records of the handling, maintenance and disposition  
4 of client and/or third party trust account funds.

5 **Count II**

6 11. In File no. 01-0732, the State Bar advised Respondent by letter dated April 20, 2001 of  
7 the charges in the matter, and asked him for a written response as well as supporting documents.

8 12. Respondent provided a written response on May 15, 2001, but failed to provide all of the  
9 requested documentation.

10 13. On May 18, 2001, the State Bar again wrote Respondent requesting additional  
11 information and specific documentation.

12 14. On June 7, 2001, the State Bar again wrote Respondent, requesting Respondent provide  
13 a written response to the May 18, 2001 request for additional information and documents.

14 15. Respondent provided a written response on June 18, 2001, but again failed to provide  
15 all of the requested documentation.

16 16. On October 29, 2001, the State Bar again wrote Respondent requesting additional  
17 information and specific documentation.

18 17. On November 19, 2001, the State Bar again wrote Respondent requesting Respondent  
19 to provide a written response to the October 29, 2001 request for additional information and  
20 documents.

21 18. Respondent failed to respond to the State Bar's requests for information dated October  
22 29 and November 19, 2001.  
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**Count III**

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19. Mike Hall ("Mr. Hall") retained Respondent to represent him in a post-dissolution matter.

20. Respondent failed to ensure that Mr. Hall's ex-wife provided wage and salary statements, even though Mr. Hall asked Respondent to obtain these documents.

21. On or about August 15, 2000, Mr. Hall's wages were garnished in an amount that Mr. Hall thought exceeded the Arizona Child Support Guidelines.

22. On August 17, 2000, Mr. Hall met with Respondent at Respondent's office. Respondent told Mr. Hall that he would obtain a hearing date regarding the garnishment of Mr. Hall's wages.

23. Mr. Hall wrote to Respondent on September 19, 2000 and January 22, 2001, requesting that Respondent take action regarding the wage garnishment. Respondent failed to respond to Mr. Hall's written requests.

24. As of July 25, 2001, the date of Mr. Hall's complaint to the State Bar, Respondent had failed to obtain a hearing date regarding the wage garnishment.

25. Respondent also represented Mr. Hall in a separate personal injury case.

26. At the meeting with Respondent on August 17, 2000, Mr. Hall and Respondent also discussed the personal injury matter. Respondent claimed that he had contacted Mr. Hall's insurer about the accident.

27. Mr. Hall's insurer subsequently informed Mr. Hall that Respondent had not spoken to them regarding the bodily injury portion of the claim.

28. Mr. Hall terminated Respondent's services on the personal injury matter.

29. Mr. Hall subsequently requested a full accounting from Respondent.

30. On or about October 25, 2001, Respondent sent Mr. Hall a letter addressed to the wrong

1 address, enclosing a notice from the judgment creditor dated September 27, 2001, but failing to  
2 address Mr. Hall's request for an accounting or Mr. Hall's other concerns.

3 31. Respondent failed to abide by a Mr. Hall's decisions concerning the objectives of  
4 representation and failed to consult with Mr. Hall as to the means by which they were to be pursued.

5 32. Respondent failed to act with reasonable diligence and promptness in representing Mr.  
6 Hall.

7 33. Respondent failed to keep Mr. Hall reasonably informed about the status of his matters  
8 and failed to promptly comply with Mr. Hall's reasonable requests for information.

9 34. Respondent failed to explain a matter to the extent reasonably necessary to permit Mr.  
10 Hall from making informed decisions regarding the representation.

11 35. Respondent failed to provide Mr. Hall with an accounting after Mr. Hall requested a full  
12 accounting from Respondent.

13 36. Respondent, upon termination of the representation of Mr. Hall, failed to take steps  
14 reasonably practical to protect Mr. Hall's interests.

15 37. Respondent failed to make reasonable efforts to expedite litigation consistent with Mr.  
16 Hall's interests.

17 38. Respondent knowingly made a false statement of material fact or law to a third person  
18 by telling Mr. Hall he had contacted Mr. Hall's insurer about the personal injury case, when he had  
19 not.

20 39. Respondent engaged in conduct prejudicial to the administration of justice.

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24 **Count IV**

25 40. In File no. 01-1524, the State Bar advised Respondent by letter dated April 20, 2001 of  
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49. Respondent failed to provide competent representation to Mr. Sutton.

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50. Respondent failed to abide by Mr. Sutton's decisions concerning the objectives of the representation and failed to consult with Mr. Sutton regarding the means by which the objectives were to be pursued.

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51. Respondent failed to act with reasonable diligence and promptness in representing Mr. Sutton.

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52. Respondent failed to keep Mr. Sutton reasonably informed about the status of the matter.

53. Respondent failed to promptly comply with reasonably request for information from Mr. Sutton.

54. Respondent engaged in conduct prejudicial to the administration of justice.

#### Count VI

55. In File no. 02-1476, the State Bar advised Respondent by letter dated August 22, 2002, of the charges in the matter and asked Respondent for a written response.

56. On October 30, 2002, the State Bar wrote Respondent, and again requested he provide a written response to the charges in File no. 02-1476.

57. On November 20, 2002, the State Bar wrote Respondent, and requested for a third time that he provide a written response to the charges in File no. 02-1476.

58. Respondent failed to respond to the requests for information sent by the State Bar on August 22, October 30 and November 20, 2002, in File no. 02-1476.

#### Count VII

59. In or about October 1996, Ernest Falgout ("Mr. Falgout") retained Respondent to represent him in a divorce. That case was dismissed in April 1998. In July 1998, the case was

reinstated.

1           60. Mr. Falgout's wife moved to California with his two sons. Mr. Falgout told Respondent  
2 that all he wanted was a divorce from his ex-wife along with an order setting out visitation rights,  
3 joint custody and child support.  
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5           61. During the representation, Mr. Falgout had difficulty communicating with Respondent  
6 to ascertain the status of his case.

7           62. In 1999, Mr. Falgout's wife invited Mr. Falgout and his family to California for their  
8 son's first birthday party. When he got there however, Mr. Falgout was served with a restraining  
9 order by his father-in-law, prohibiting him from having contact with his children.  
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11           63. On an unknown date shortly thereafter, Mr. Falgout then called Respondent who assured  
12 Mr. Falgout not to worry and that Respondent would take care of the matter.

13           64. Subsequently, Mr. Falgout would check periodically with Respondent for the status of  
14 the case and was assured by Respondent that everything was progressing.

15           65. When the case was not progressing in a timely manner, Mr. Falgout questioned  
16 Respondent about it, and Mr. Falgout received excuses from Respondent such as: "the judge didn't  
17 understand the case due to its complexity" and "the judge was an alcoholic."  
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19           66. Finally, Mr. Falgout called to get a progress report. Respondent told Mr. Falgout that  
20 his ex-wife had filed for divorce in California, and had lied about the pending Arizona action stating  
21 one had not been filed. The wife was awarded sole custody, a higher child support amount than  
22 would have been awarded in Arizona, and a restraining order against Mr. Falgout.  
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24           67. Respondent told Mr. Falgout that the complaint had been served on Respondent's office,  
25 and admitted he had never notified Mr. Falgout about the California divorce.  
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1 68. Respondent then assured Mr. Falgout that he could get the California divorce overturned  
2 and the Arizona proceeding could continue.

3 69. Respondent eventually told Mr. Falgout that he could not fix the problem and to obtain  
4 another attorney who could practice in California and Arizona.

5 70. Respondent failed to provide competent representation to Mr. Falgout.

6 71. Respondent failed to abide by Mr. Falgout's decisions concerning the objectives of the  
7 representation and failed to consult with Mr. Falgout regarding the means by which the objectives  
8 were to be pursued.

9 72. Respondent failed to act with reasonable diligence and promptness in representing Mr.  
10 Falgout.

11 73. Respondent failed to keep Mr. Falgout reasonably informed about the status of the  
12 matter.

13 74. Respondent failed to promptly comply with reasonable requests for information from Mr.  
14 Falgout.

15 75. Respondent failed to make reasonable efforts to expedite litigation in the interest of Mr.  
16 Falgout.

17 76. Respondent engaged in conduct prejudicial to the administration of justice.

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20 **Count VIII**

21 77. In File no. 02-1533, the State Bar advised Respondent by letter dated September 10,  
22 2002, of the charges in the matter and asked Respondent for a written response.

23 78. On October 30, 2002, the State Bar wrote Respondent, and again requested he provide  
24 a written response to the charges in File no. 02-1533.  
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1 79. Respondent failed to respond to the requests for information sent by the State Bar on  
2 September 10 and October 30, 2002, in File no. 02-1533.

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4 **CONCLUSIONS OF LAW**

5 The hearing officer makes the following conclusions of law based upon the findings of fact  
6 which are deemed admitted by default:

7 **Count I** Respondent failed to keep his property separate from that of his client; did not keep  
8 complete records of the handling of clients accounts; and did not keep sufficient records of the funds  
9 in his possession. Respondent's conduct as described in this count violated Rule 42, Ariz. R. S. Ct.,  
10 specifically, ER 1.15(a) and Rules 43(d) and 44.

11  
12 **Count II** Respondent failed to communicate sufficiently with the State Bar in their investigation  
13 proceedings; failed to completely respond to State Bar inquiries and did not permit inspection or  
14 furnish a copy of records, files and accounts; and failed to cooperate with State Bar. Respondent's  
15 conduct as described in this count violated Rule 42, Ariz. R. S. Ct., specifically ER 8.1(b), and Rule  
16 51(h) and (i).

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18 **Count III** Respondent's client's did not get an expeditious handling of their affairs. Respondent's  
19 conduct as described in this count violated Rule 42, Ariz. R. S. Ct., specifically, ERs 1.2, 1.3, 1.4,  
20 1.15(b), 1.16(d), 3.2, 4.1 and 8.4(d). This Hearing Officer finds that Respondent's conduct did not  
21 involve dishonesty, fraud or deceit; therefore, a violation of ER 8.4(c) is not found.

22  
23 **Count IV** Respondent failed to respond to the State Bar's inquiry for information; failed to  
24 respond promptly to inquiries from Bar Counsel regarding the investigative procedure; and failed to  
25 cooperate with the staff of the State Bar. Respondent's conduct as described in this count violated  
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Rule 42, Ariz. R. S. Ct., specifically ER 8.1(b), and Rule 51(h) and (i).

1 **Count V** Respondent failed to provide competent representation to his client; failed to keep his  
2 client reasonably informed about the status of his client's case; failed to act with reasonable diligence  
3 and promptness and failed to promptly comply with requests for information from his client.  
4 Respondent's conduct as described in this count violated Rule 42, Ariz. R. S. Ct., specifically ERs  
5 1.1, 1.2, 1.3, 1.4 and 8.4(d). This Hearing Officer finds that Respondent's conduct did not involve  
6 dishonesty, fraud or deceit; therefore, a violation of ER 8.4(c) is not found.  
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8 **Count VI** Respondent failed to respond to the State Bar's inquiry for information; failed to  
9 respond promptly to inquiries from Bar Counsel regarding the investigative procedure; and failed to  
10 cooperate with the staff of the State Bar. Respondent's conduct as described in this count violated  
11 Rule 42, Ariz. R. S. Ct., specifically ER 8.1(b), and Rule 51(h) and (i).  
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13 **Count VII** Respondent failed to provide competent representation to his client; failed to keep  
14 his client reasonably informed about the status of his client's case; failed to act with reasonable  
15 diligence and promptness and failed to promptly comply with requests for information from his client.  
16 Respondent's conduct as described in this count violated Rule 42, Ariz. R. S. Ct., specifically ERs  
17 1.1, 1.2, 1.3, 1.4, 3.2 and 8.4(d). This Hearing Officer finds that Respondent's conduct did not  
18 involve dishonesty, fraud or deceit; therefore, a violation of ER 8.4(c) is not found.  
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20 **Count VIII** Respondent failed to respond to the State Bar's inquiry for information; failed to  
21 respond promptly to inquiries from Bar Counsel regarding the investigative procedure; and failed to  
22 cooperate with the staff of the State Bar. Respondent's conduct as described in this count violated  
23 Rule 42, Ariz. R. S. Ct., specifically ER 8.1(b), and Rule 51(h) and (i).  
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## ABA STANDARDS

1           ABA *Standard* 3.0 provides that four criteria should be considered: (1) the duty violated; (2)  
2 the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct; and  
3 (4) the existence of aggravating and/or mitigating factors.  
4

5           Where there are multiple acts of misconduct, the respondent should receive one sanction that  
6 is consistent with the most serious instance of misconduct. *Matter of Cassalia*, 173 Ariz. 372, 843  
7 P.2d 654 (1992). The most serious misconduct in this matter concerns Respondent's violations of  
8 duties owed to his clients.

9           This Hearing Officer considered *Standard* 4.0 (Violations of Duties Owed to Clients) in  
10 determining the appropriate sanction warranted by Respondent's conduct. Specifically, *Standard*  
11 4.12 (Failure to Preserve the Client's Property) provides that suspension is generally appropriate  
12 when a lawyer knows or should know that he is dealing improperly with client's property and causes  
13 injury or potential injury to a client. *Standard* 4.42 (Lack of Diligence) provides that suspension is  
14 generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury  
15 or potential injury to a client or a lawyer engages in a pattern of neglect and causes injury or potential  
16 injury to a client. Respondent's pattern of neglect with respect to client matters, failure to perform  
17 services and lack of communication caused potential injury to his clients.  
18

19           Since the Respondent failed to respond to the State Bar's Complaint, which resulted in a  
20 default all allegations are deemed admitted. Rule 53(c) Ariz. R. S. Ct. There have been the following  
21 violations: two violations of ER 1.1; three violations of ER 1.2; three violations of ER 1.3; three  
22 violations of ER 1.4; one violations of ER 1.15(a); one violation of ER 1.15(b); one violation of ER  
23 1.16(d); two violation of ER 3.2; one violation of ER 4.1; four violations of ER8.1(b); three  
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1 violations of ER 8.4(d); four violations of Rule 51(h); four violations of Rule 51(i); one violation of  
2 Rule 43(d); and one violation of Rule 44(b). While this is a default matter, this Hearing Officer does  
3 not find that there is clear and convincing evidence that Respondent violated ER 8.4(c) as alleged in  
4 Counts III, V and VII.

#### 5 **Aggravation and Mitigation**

6 This Hearing Officer has also considered the following aggravating and mitigating factors in  
7 this case, pursuant to *Standards* 9.22 and 9.32, respectively. There are four factors in aggravation.  
8 9.22(d) multiple offenses. 9.22(e) bad faith obstruction of the disciplinary proceedings and  
9 Respondent's failure to cooperate with the State Bar's investigation of these matters. 9.22(g) refuses  
10 to acknowledge wrongful nature of conduct for failing to participate in these disciplinary proceedings  
11 until the aggravation/mitigation stage and the attitude of the Respondent in failure to accept  
12 responsibility for his conduct is a violation of this rule. 9.22(i) the Respondent has substantial  
13 experience in the practice of law. There are two factors in mitigation. 9.32(a) absence of a prior  
14 disciplinary record. 9.32(b) absence of a dishonest or selfish motive.  
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#### 18 **PROPORTIONALITY REVIEW AND DISCUSSION**

19 The Supreme Court has held in order to achieve proportionality when imposing discipline, the  
20 discipline in each situation must be tailored to the individual facts of the case in order to achieve the  
21 purposes of discipline. *In re Wines*, 135 Ariz. 203, 660 P.2d 454 (1983); *In re Wolfram*, 174 Ariz.  
22 49, 847 P.2d 94 (1993). The State Bar in their aggravation/mitigation memorandum suggest a two-  
23 year suspension as an appropriate sanction. They cite three cases to support their position. In the  
24 *Matter of McGuire* SB-99-0029-D (1999), In the *Matter of McFadden* SB-00-0072-D (2000) and  
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1 In the *Matter of McCarthy* SB-01-0121-D (2001). After the Aggravation/Mitigation Hearing, the  
2 State Bar, through its counsel, changed its position and recommended a six-month and one-day  
3 suspension. This is based upon the facts that were elicited at this hearing.

4 This Hearing Officer finds himself in a quandary. On the one hand, because of the failure of  
5 the Respondent to answer any of the State Bar's Complaint all matters are deemed admitted by way  
6 of default. On the other hand, during the Aggravation and Mitigation Hearing, there was evidence  
7 that certain actions were not serious violations that required imposing serious lawyer sanctions.

8 Based upon the testimony of Mr. Falgout (Count VII), it is the Hearing Officer's opinion that  
9 the Complainant, Mr. Falgout, was adequately represented by Respondent. Mr. Falgout was told  
10 he would need to obtain a California attorney to represent him as there was nothing before the  
11 Arizona courts and the Respondent was not licensed to practice in California. The gist of the  
12 testimony of Mr. Falgout was to the effect that he was not happy with the results of the litigation and  
13 it is the opinion of this Hearing Officer that Mr. Falgout was advised to matters in a letter which has  
14 been admitted into evidence dated 9/29/98 from the Respondent to Mr. Falgout. Mr. Falgout  
15 admitted that he may have been aware of what was happening, but he didn't understand the legal  
16 ramifications. He did not obtain counsel in California, which he should have done, because of a lack  
17 of funds. This Hearing Officer believes, and would find, if possible, that in spite of the findings which  
18 must be made by default, that Mr. Falgout was aware of what was transpiring at all times even though  
19 he may not have understood the total legal ramifications. This is fortified by the payment of attorney  
20 fees on 5/16/01 and the letter of September 29, 1998.

21 With regard to Mr. Hall's garnishment proceedings (Count III), the evidence seemed to show  
22 that Mr. Hall had a pre-existing judgment against him of \$16,000 for spousal maintenance. The initial  
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1 problem with Mr. Hall was that his check was garnished for a greater amount than he thought was  
2 reasonable and necessary. Mr. Hall was unhappy and clearly was asking for reimbursement of the  
3 \$1,000 that he had paid for attorney fees. This Hearing Officer finds that the Respondent earned his  
4 fee in the matter, especially in light of Mr. Hall wanting to know whether the Respondent wanted  
5 more money for attorney fees. He must have envisioned that the Respondent had done sufficient  
6 work to earn the initial \$1,000 retainer that had been paid.

7 The Respondent states that he did not cooperate with the State Bar because the statements  
8 by the State Bar investigator was to the effect that they wanted everything he had because they were  
9 the prosecutors. This created an adversarial situation. I would suggest to the State Bar that the  
10 investigator should be advised that they are investigating a complaint and until all the facts are learned  
11 and considered, it is only an investigative procedure rather than prosecutorial. It is not until there is  
12 sufficient grounds to determine that violations have occurred that the situation becomes prosecutorial.  
13 Admittedly, in the experience of this Hearing Officer, the State Bar can be zealous (maybe over  
14 zealous at times) he has never found the State Bar to be oblivious to understanding the real facts of  
15 a situation. The Respondent's defensive reaction to the antagonistic demeanor of the investigator  
16 from the State Bar was misplaced and was not sufficient to warrant his total failure to produce  
17 documents or cooperate with the State Bar in arriving at the facts. The failure by the Respondent to  
18 answer the Complaint was totally inappropriate and has created the situation at hand which is the  
19 conclusive findings of facts as to all allegations in the eight counts of the Complaint, except for ER  
20 8.4(c).  
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23 In the Memorandum of Aggravation and Mitigation, the State Bar through its attorney,  
24 requested a two-year suspension pursuant to a proportionality review. After the hearing on  
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1 aggravation and mitigation was held and the circumstances were delved into at some length, the State  
2 Bar through its counsel, recommended that there should be a minimum suspension of six months and  
3 one day. This show of compassion and understanding by the attorney for the State Bar is  
4 commendable.

5 The questions propounded of the Respondent and his answers as to the trust account, its  
6 application, its purpose, and its use, showed a total lack of knowledge and understanding as to the  
7 separation of the trust account and the business account as well as the co-mingling of funds. The  
8 findings of writing trust checks for Continuing Legal Education courses as well as writing trust  
9 checks to cover business expenses along with the failure to keep records of trust funds is an inviolate  
10 obligation which requires suspension. *In re Retter*, 180 Ariz. 515, 885 P.2d 1080 (1994). According  
11 to the Commentaries to *Standard* 4.12, suspension is appropriate for lawyers who engage in  
12 misconduct that does not amount to misappropriation or conversion. The most common cases  
13 involve "lawyers who co-mingle client funds with their own..."

14  
15 The Respondent's stubbornness, obstinance and refusal to respond to the Complaint by the  
16 State Bar demonstrates a total disregard for the disciplinary process established by the Supreme  
17 Court. This cannot be tolerated. It is this mental attitude along with the violations established in the  
18 Findings of Fact and Conclusions of Law that make the Hearing Officer find that the Respondent  
19 should be suspended from the practice of law for six months and one day.  
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#### 21 **RESTITUTION**

22 This Hearing Officer finds that Mr. Falgout must have felt that he was indebted to the  
23 Respondent because of the payment of \$419.55 on 5/16/01. Clients do not make a payment if they  
24 do not think they owe this money. Accordingly, there is no restitution owed to Mr. Falgout. The  
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1 Hearing Officer finds that the Respondent earned his fees from the work performed in Mr. Hall's  
2 case. Mr. Hall would not have requested of the Respondent as to whether more funds were due if  
3 he had not felt that the Respondent had not been doing sufficient work. Although the outcome was  
4 questionable, the Respondent is entitled to the fees that he earned. Mr. Hall is not entitled to  
5 restitution because he was not happy with the results.  
6

### 7 RECOMMENDATION

8 The purpose of lawyer discipline is not to punish the lawyer, but to protect the public and  
9 deter future misconduct. *In re Fioramonti*, 176 Ariz. 182, 187, 859 P.2d 1315, 1320 (1993). It is  
10 also the objective of lawyer discipline to protect the public, the profession and the administration of  
11 justice. *In re Neville*, 147 Ariz. 106, 708 P.2d 1297 (1985). Yet another purpose is to instill public  
12 confidence in the bar's integrity. *Matter of Horwitz*, 180 Ariz. 20, 29, 881 P.2d 352, 361 (1994).  
13

14 In imposing discipline, it is appropriate to consider the facts of the case, the American Bar  
15 Association's *Standards for Imposing Lawyer Sanctions* ("*Standards*") and the proportionality of  
16 discipline imposed in analogous cases. *Matter of Bowen*, 178 Ariz. 283, 286, 872 P.2d 1235, 1238  
17 (1994).  
18

19 Upon consideration of the facts, application of the *Standards*, including aggravating and  
20 mitigating factors, and a proportionality analysis, this Hearing Officer recommends the following:

- 21 1. Respondent shall be suspended from the practice of law for six months and one day.
- 22 2. Respondent shall be placed on probation for two years, upon reinstatement, with the  
23 following terms and conditions:
  - 24 a.) Respondent shall submit to a law office audit by the State Bar's Law Office

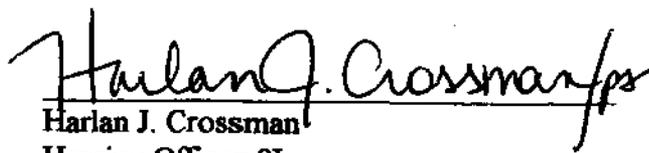
1 Management Assistance Program (LOMAP) director or designee, and shall comply with all  
2 recommendations; and,

3 b.) Respondent shall complete the Ethics Enhancement Program (EEP) offered by the  
4 State Bar within the two-year period of probation and shall pay all required fees.

5 3. No restitution is applicable in this case.

6 4. Respondent shall pay the costs and expenses incurred in these disciplinary proceedings.

7 DATED this 30<sup>th</sup> day of April, 2003.

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9   
10 Harlan J. Crossman  
11 Hearing Officer 8L

12 Original filed with the Disciplinary Clerk  
13 this 30<sup>th</sup> day of April, 2003.

14 Copy of the foregoing mailed  
15 this 30<sup>th</sup> day of April, 2003, to:

16 Thaine M. Crown, Jr.  
17 Respondent  
18 One East Camelback Road, Suite 550  
19 Phoenix, AZ 85012-1650

20 Copy of the foregoing hand-delivered  
21 this 30<sup>th</sup> day of April, 2003, to:

22 Karen Clark  
23 Senior Bar Counsel  
24 State Bar of Arizona  
25 111 West Monroe, Suite 1800  
26 Phoenix, AZ 85003-1742

by: K Weigand