SUPREME COURT OF ARIZONA

FILED
AUG 13 2003
NOEL K. DESSAINT
CLERK SUPREME COURT
BY

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA	) Supreme Court No. SB-03-0097-D
	) Disciplinary Commission Nos. 00-0016, 01-0611
JON R. POZGAY, Attorney No. 003680	)
RESPONDENT.	) **JUDGMENT AND ORDER**

This matter having come on for hearing before the Disciplinary Commission of the Supreme Court of Arizona, it having duly rendered its decision and no discretionary or *sua sponte* review occurring,

IT IS ORDERED, ADJUDGED AND DECREED that **JON R. POZGAY**, a member of the State Bar of Arizona, is hereby suspended from the practice of law for a period of four (4) years, effective thirty (30) days from the date of this order, for conduct in violation of his duties and obligations as a lawyer, as disclosed in the commission report.

IT IS FURTHER ORDERED that **JON R. POZGAY** shall be placed on probation for a period of two (2) years upon reinstatement, under the following terms and conditions:

1) Upon reinstatement and prior to accepting representation of any client, Respondent shall submit to a law office audit by the Law Office Management Assistance Program (LOMAP) Director, or her designee, such audit will include a review of the hearing record, and shall comply with all recommendations of the LOMAP Director or her designee including, if deemed appropriate at that time, a practice monitor.

2) Respondent shall complete the Trust Account Ethics Enhancement Program (TAEEP) offered by the State Bar prior to or within sixty (60) days of reinstatement and shall pay all required fees.

3) Respondent shall develop a treatment plan with the qualified mental health therapist of his choice, and shall submit a treatment progress report to the State Bar upon application for reinstatement.

4) Respondent shall attend and complete the State Bar's Professionalism Course prior to or within three (3) months of reinstatement. If Respondent has already completed the course, he shall complete it again.

5) 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 with the Hearing Officer a Notice of Non-Compliance. The Hearing Officer shall conduct a hearing at the earliest possible date, but in no event later than thirty (30) days following receipt of notice, to determine whether a condition of probation has been breached and, if so, to recommend an appropriate sanction.

6) 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.

IT IS FURTHER ORDERED that Respondent shall pay restitution in the amount of $81,063.82 to the Alversons. Respondent shall develop a payment plan by which the entire amount will be repaid by the time he is eligible for reinstatement. Upon application for reinstatement, Respondent shall be required to provide proof of payment in full of restitution.

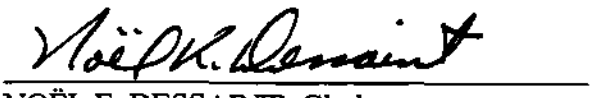
IT IS FURTHER ORDERED that Respondent shall pay in full any and all claims paid by the Client Protection Fund, not to exceed the maximum permissible payment of $100,000.00.

IT IS FURTHER ORDERED that Respondent shall comply with all the provisions of Rule 63, Rules of the Supreme Court of Arizona, including, but not limited to, Rule 63(a), which requires that Respondent notify all of his clients, within ten (10) 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 63(d).

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

IT IS FURTHER ORDERED that pursuant to Rule 52(a)8, the State Bar of Arizona is granted judgment against **JON R. POZGAY** for costs and expenses of these proceedings in the amount of $8,851.35, together with interest at the legal rate from the date of this judgment.

DATED this 13th day of August, 2003.



NOËL E. DESSAINT, Clerk

The foregoing instrument is a full, true and correct copy of the original on file in this office.

ATTEST:
Noel K. Dessaint, Clerk of the Supreme Court
State of Arizona

By Deputy

TO:
Jon R. Pozgay, Respondent (Certified Mail, Return Receipt)
Maret Vesella, Deputy Chief Bar Counsel
C. Eileen Bond, Hearing Officer 7N
Douglas M. Brooks, Clerk, Disciplinary Commission (Cert. Copy)
Dee Steadman, Lawyer Regulation Records Manager, State Bar of Arizona (Cert. Copy)
William Suter, Clerk, United States Supreme Court (Cert. Copy)
Cathy Catterson, Clerk, United States Court of Appeals for the Ninth Circuit (Cert. Copy)
Richard Weare, Clerk, United States District Court, District of Arizona (Cert. Copy)
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