

FILED
MAR - 9 2004
DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA
BY *K. Weigand*

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**BEFORE THE DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ARIZONA**

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

DENNIS P. BAYLESS,
Bar No. 012052

RESPONDENT.

) No. 02-2156
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)
) **DISCIPLINARY COMMISSION**
) **REPORT**
)
)

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on February 21, 2004, 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 November 17, 2003, providing for a censure and one year of probation terms to include submission of educational article to the *Arizona Attorney*, regarding compliance with Rule 64, Ariz. R. S. Ct.,¹ and costs of these proceedings. The Commission requested oral argument. Respondent, Respondent's counsel, and counsel for the State Bar were present.

Decision

The eight² members of the Commission unanimously recommend accepting and incorporating by reference the Agreement and Joint Memorandum providing for a censure and one year of probation with the following terms and conditions:

¹ Formerly Rule 71, Ariz. R. S. Ct.

² Commissioner Choate did not participate in these proceedings. Bruce G. MacDonald, a hearing officer from Tucson, participated as an ad hoc member.

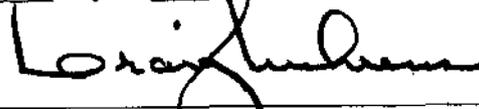
Terms of Probation

1. Respondent shall be placed on probation for a period of one year effective the date of the final Judgment and Order.
2. Respondent shall submit to the State Bar an educational article describing his conduct in this matter and compliance with Rule 64, Ariz. R. S. Ct.
3. Respondent shall submit a written payment plan for restitution to client Webb and Pinal County Superior Court as ordered in *Matter of Bayless*, SB-02-0038-D (2002) within 30 days of the date of the final Judgment and Order in this instant matter.³
4. The probation period in this instant matter and in File No. SB-02-0038-D (2002) may be extended until the restitution in SB-02-0038-D (2002) is paid in full, pursuant to Rule 60(5)(a).
5. In the event the State Bar receives information that Respondent has failed to comply with any of the foregoing conditions, bar counsel shall file with the hearing officer a notice of non-compliance, pursuant to 60(5)(C). The hearing officer shall conduct a hearing within 30 days after the receipt of said notice to determine whether a condition of probation has been breached and if so, to recommend an appropriate sanction therefore.
6. In the event there is an allegation that any of these terms have been breached, the burden of proof shall be on the State Bar to prove non-compliance by clear and convincing evidence.

³ The parties agreed to amended probation terms #3, 4 and 6 at oral argument. See Commission transcript, pp. 15-17.

7. Respondent shall be assessed the costs and expenses incurred in these disciplinary proceedings pursuant to Rule 60(b).

RESPECTFULLY SUBMITTED this 9th day of March 2004.



Craig B. Mehrens, Chair
Disciplinary Commission

Original filed with the Disciplinary Clerk
this 9th day of March 2004.

Copy of the foregoing mailed
this 9th day of March 2004 to:

J. Conrad Baran
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John P. Bruno
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Copy of the foregoing hand-delivered
this 9th day of March 2004 to:

Shauna R. Miller
Senior Bar Counsel
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Phoenix, AZ 85003-1742

By K. Weigand

/mps