



1 The Commission determined however, that the Hearing Officer erred in concluding  
2 that Respondent did not violate Rule 53(c) willful violation of any rule or order of the court,  
3 including child support orders.<sup>1</sup> See Hearing Officer's Report and Recommendation, pp. 15 -  
4 17, Conclusions of Law on Contempt Citations.

5 The Hearing Officer's findings of fact as stated support that for over 7 months,  
6 Respondent knowingly failed to obey court orders and was found to be in contempt of court  
7 on March 5, 2002 and July 1, 2002, for failure to pay child support and spousal maintenance  
8 as previously ordered. See Report, pp. 7 -10. Clear and convincing evidence is present in  
9 the record that Respondent did not comply with the court orders, thus, violating Rule 53(c).

10 The Commission then reviewed ABA *Standard* 6.22 Violations of Duties Owed to  
11 the Legal System which provides that:

12 Suspension is appropriate when a lawyer knowingly violates a  
13 court order or rule, and there is injury or potential injury to a  
14 client or a party, or interference with a legal proceeding.

15 The *Commentary* to this *Standard* states that such knowing violations occur when a lawyer  
16 fails to comply with a court order that applied directly to him, as in the case of divorce  
17 decrees ordering spousal maintenance or child support.

18 Having concluded that suspension is the presumptive sanction for Respondent's most  
19 serious misconduct involving a knowing violation of a court order, the Commission then  
20 considered an appropriate sanction.

21 Given Respondent's non-cooperation with the State Bar, including his failure to  
22 appear at the scheduled hearings and his subsequent failure to provide any medical evidence  
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<sup>1</sup> Formerly Rule 51(k).

1 to support this assertion,<sup>2</sup> the Commission agrees with the Hearing Officer that Respondent  
2 should be required to establish his rehabilitation and fitness to practice law through formal  
3 reinstatement proceedings. See Rules 64 and 65, Ariz. R. S. Ct.

4 In addition, the cases offered for a proportionality analysis support a six month and  
5 one day suspension in light of Respondent's aggravating factors, including his failure to  
6 cooperate and his failure to submit evidence in mitigation.

7 Therefore, the Commission unanimously adopts the Hearing Officer's  
8 recommended sanction of a six month and one day suspension, one year of probation upon  
9 reinstatement (LOMAP), and costs. The Commission however, does not adopt the Hearing  
10 Officer's conditions of reinstatement as they appear unnecessary given that formal  
11 reinstatement proceedings are recommend. The Commission instead, recommends as an  
12 additional term of probation, participation in the State Bar's Member Assistance Program  
13 (MAP) for a period of one year. Specific terms of probation shall be addressed at the  
14 reinstatement proceedings.  
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16 RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of August, 2004.

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19 Craig B. Mehrens, Chair  
20 Disciplinary Commission

21 Original filed with the Disciplinary Clerk  
22 this 9<sup>th</sup> day of August, 2004.

23 Copy of the foregoing mailed  
24 this 9<sup>th</sup> day of August, 2004, to:

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26 <sup>2</sup> Respondent failed to provide any evidence in mitigation despite a continuation of the hearing to do so.

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