



BEFORE THE DISCIPLINARY COMMISSION OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A SUSPENDED MEMBER) No. 03-0346
OF THE STATE BAR OF ARIZONA,)
STEPHEN M. JOHNSON,) DISCIPLINARY COMMISSION
Bar No. 015831) REPORT
RESPONDENT.)

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on March 13, 2004, pursuant to Rule 58(e), Ariz. R. S. Ct., for consideration of the Hearing Officer's Report, filed January 14, 2004, recommending acceptance 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) providing for a six month and one day suspension.

Decision

The Commission's standard of review is set forth in Rule 58(b), which states that the Commission reviews questions of law de novo. In reviewing findings of fact made by a hearing officer, the Commission applies a clearly erroneous standard.

Therefore, having found no findings of fact clearly erroneous, the seven¹ members of

1 Commissioners Bowman and Nelson did not participate in these proceedings. Pamela M. Katzenberg, a hearing officer from Tucson, participated as an ad hoc member. Commissioner Osborn recused.

1 the Commission by a majority of five,² recommend adopting and incorporating by reference
2 the Hearing Officer's findings of fact, conclusions of law, and recommendation for a six
3 month and one day suspension.

4 RESPECTFULLY SUBMITTED this 30th day of March 2004.

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Craig B. Mehrens, Chair
7 Disciplinary Commission

8 Original filed with the Disciplinary Clerk
9 this 30th day of March 2004.

10 Copy of the foregoing mailed
11 this 30th day of March 2004 to:

12 Martin Lieberman
13 Hearing Officer 7W
14 111 West Monroe, Suite 1650
15 Phoenix, AZ 85003-1736

16 Stephen G. Montoya
17 Respondent's Counsel
18 3200 N. Central, Suite 225
19 Phoenix, AZ 85012-2490

20 Copy of the foregoing hand-delivered
21 this 30th day of March 2004 to:

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23

24 ² Commissioners Atwood and Choate were opposed and recommended rejecting the
25 Agreement. Commissioner Atwood believed that application of the American Bar
26 Associations *Standards for Imposing Lawyer Sanctions*, Standard 7.1 (disbarment) was
appropriate, as Respondent knowingly engaged in deceit or misrepresentation with the intent
to obtain a benefit for himself. Commissioner Choate believed that based on the
Respondent's prior suspension of six months and one day for similar misconduct in File No.
SB-03-0120-D, that a lengthier suspension and/or disbarment might be appropriate.

Maret Vessella
Deputy Chief Bar Counsel
State Bar of Arizona
111 West Monroe, Suite 1800
Phoenix, AZ 85003-1742

By K. Weigand

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