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AUG - 9 2004

DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA
BY *[Signature]*

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

IN THE MATTER OF A SUSPENDED MEMBER)	Nos.	02-1526, 02-1954
OF THE STATE BAR OF ARIZONA,)		03-0103, 03-1015
)		
JOHN R. ROBERTS, JR.,)	DISCIPLINARY COMMISSION	
Bar No. 019966)	REPORT	
)		
RESPONDENT.)		
)		

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on July 10, 2004, pursuant to Rule 58(e), Ariz. R. S. Ct., for consideration of the Hearing Officer's Report, filed April 23, 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 three and one half year suspension, participation in the State Bar's Trust Account Ethics Enhancement Program (TAEHP), participation in the State Bar's Members Assistance Program (MAP), two years of probation upon reinstatement with terms and conditions to be determined at the time of reinstatement, including participation in the State Bar's Law Office Management Assistance Program (LOMAP), and costs of these disciplinary proceedings.

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.

1 Therefore, having found no findings of fact clearly erroneous, the nine members of
2 the Commission by a majority of eight¹ recommend adopting and incorporating by reference
3 the Hearing Officer's findings of fact, conclusions of law, and recommendation for a three
4 and one half year suspension with conditions of reinstatement, two years of probation upon
5 reinstatement (LOMAP), and costs of these disciplinary proceedings.

6 **Terms and Conditions**

7 1. Respondent shall be suspended from the practice of law for three and one half
8 years.

9 2. As a condition of reinstatement, Respondent shall:

10 a. demonstrate restitution of unearned fees to John Vardian by submitting to
11 fee arbitration, restitution in the amount of \$1,500.00 to Gary W. Pederson, and Curtis
12 Walker, and unpaid fees in the amount of \$2,500.00 to Dr. Dennis W. Kirsten;

13 b. demonstrate participation in the State Bar's Trust Account Ethics
14 Enhancement Program (TAEPP);

15 c. demonstrate participation, satisfactory to the court, in the State Bar's
16 Members Assistance Program (MAP); and,

17 d. demonstrate payment of all costs that are or will be due and owing to the
18 State Bar as a result of these proceedings as provided by Rule 65(a)(1), Ariz. R. S. Ct.
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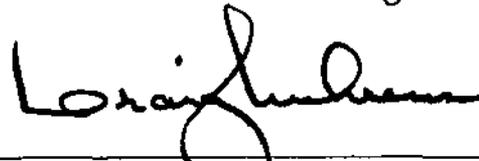
20 3. Upon reinstatement, Respondent shall serve a two-year term of probation under
21 the terms and conditions to be determined at the time of reinstatement, including
22 participation in the State Bar's Law Office Management Assistance Program (LOMAP).
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24 In the event that Respondent fails to comply with any of the foregoing conditions,
25 and the State Bar receives information, bar counsel shall file with the Hearing Officer a
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¹ Commissioner Gutierrez was opposed and felt that the sanction was too harsh.

1 Notice of Non-Compliance, pursuant to Rule 60(a)5, Ariz. R. S. Ct. The Hearing Officer
2 shall conduct a hearing within thirty days after receipt of said notice, to determine whether
3 the terms of probation have been violated and if an additional sanction should be imposed.
4 In the event there is an allegation that any of these terms have been violated, the burden of
5 proof shall be on the State Bar of Arizona to prove non-compliance by clear and convincing
6 evidence.

7 RESPECTFULLY SUBMITTED this 9th day of August, 2004.

8 

9
10 Craig B. Mehrens, Chair
11 Disciplinary Commission

12 Original filed with the Disciplinary Clerk
13 this 9th day of August, 2004, to:

14 Copy of the foregoing mailed
15 this 9th day of August, 2004, to:

16 Robert J. Lord
17 Hearing Officer 6L
18 7047 E. Greenway Pkwy., Suite 140
19 Scottsdale, AZ 85254

20 John R. Roberts, Jr.
21 Respondent
22 407 Longfellow Lane
23 Columbia, MO 65203-0001

24 Dana David
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by: KW Weigand

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