



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

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IN THE MATTER OF A MEMBER )  
OF THE STATE BAR OF ARIZONA, ) No. 01-0098  
)  
)  
**MICHAEL J. VINGELLI,** )  
**Bar No. 002899** )  
) **DISCIPLINARY COMMISSION**  
) **REPORT**  
)  
RESPONDENT. )

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on November 8, 2003, 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 September 29, 2003, providing for a censure, two years of probation with a Law Office Management Assistance Program audit, and costs of these disciplinary proceedings. Respondent, Respondent's counsel and counsel for the State Bar were present.

**Decision**

The nine<sup>1</sup> members of the Commission unanimously recommend accepting and incorporating by reference the Agreement and Joint Memorandum<sup>2</sup> providing for a censure,

<sup>1</sup> Commissioner Gutierrez did not participate in these proceedings. One public seat remains vacant. Maria Hoffman, a former commissioner and public member from Tucson and Helen Purcell, a public member from Tucson, participated as ad hoc members.  
<sup>2</sup> The parties stipulated to correct inadvertent errors in the Joint Memorandum. The Rule 52 language should be deleted and the length of the dispute of the matter should be five years instead of three. See Joint Memorandum p. 2:6-7 & 21-22. Also see Commission transcript, p. 6: 2-11.

two years of probation, and costs. The terms<sup>3</sup> of probation are as follows:

- 1) Respondent shall, within thirty days of the Supreme Court's final judgment and order, contact the director of LOMAP to schedule an audit of his law office. Following the audit, Respondent shall enter into a Memorandum of Understanding that will be effective for a period of two years from the date upon which all parties have signed the Memorandum. Respondent shall comply with all recommendations of the LOMAP director or designee.
- 2) 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 a Notice of Non-Compliance with the Disciplinary Commission. The Disciplinary Commission may refer the matter to a hearing officer to conduct a hearing at the earliest possible date, but in no event later than thirty days following receipt of said notice. If the matter is referred to a hearing officer, the hearing officer shall determine whether the terms of probation have been breached, and if so, to recommend appropriate action and response to such breach.
- 3) 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.

RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of December 2003.



Jessica G. Funkhouser, Chair  
Disciplinary Commission

<sup>3</sup> The Commission notes that the standard compliance language was inadvertently omitted from the Agreement. The parties stipulated to addition of it. See Commission transcript, p. 6:11-24.

1 Original filed with the Disciplinary Clerk  
this 3<sup>rd</sup> day of December 2003.

2 Copy of the foregoing mailed  
this 3<sup>rd</sup> day of December 2003 to:

3 Thomas A. Zlaket  
4 Respondent's Counsel  
5 310 S. Williams Blvd., Suite 170  
6 Tucson, AZ 85711-4446

7 Copy of the foregoing hand-delivered  
this 3<sup>rd</sup> day of December 2003 to:

8 Shauna R. Miller  
9 Senior Bar Counsel  
10 State Bar of Arizona  
11 111 West Monroe, Suite 1800  
12 Phoenix, AZ 85003-1742

13 By K Weigand

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