

**FILED**  
APR - 7 2004  
HEARING OFFICER OF THE  
SUPREME COURT OF ARIZONA  
BY *[Signature]*

**BEFORE A HEARING OFFICER  
OF THE SUPREME COURT OF ARIZONA**

IN THE MATTER OF A MEMBER ) Nos. 02-2149, 02-2336, 03-0979  
OF THE STATE BAR OF ARIZONA, ) 03-0991, 03-1672  
)  
MICHAEL R. GRONDIN, )  
Bar No. 020828 )  
) **HEARING OFFICER'S REPORT**  
)  
RESPONDENT. )

**PROCEDURAL HISTORY**

Probable Cause Orders were filed on September 17, 2003 and October 8, 2003. A five count Complaint was filed on December 17, 2003. The parties filed a Tender of Admissions and Agreement for Discipline by Consent (Agreement) and a Joint Memorandum in Support of Agreement for Discipline by Consent (Joint Memorandum) on March 5, 2004. No hearing has been held. It is unknown if the Complainants have been notified of this Agreement.

**FINDINGS OF FACT and CONCLUSIONS OF LAW**

1. At all times relevant hereto, Respondent was an attorney licensed to practice law in the State of Arizona, having been admitted to practice in Arizona on May 24, 2001. On October 22, 2003, the State Bar filed a Motion for Interim Suspension of Respondent that was granted by the Supreme Court

1 of Arizona on December 11, 2003.

2 2. With his response to the State Bar in File No. 02-2336, Respondent  
3 attached a request to be transferred to disability inactive status. The State Bar  
4 forwarded the request to the Disciplinary Commission without comment.  
5 Respondent's request as submitted by the State Bar did not comply with the  
6 requirements of Rule 63, Ariz. R. S. Ct., and could not be docketed as a formal  
7 petition under that rule.  
8

9  
10 3. The State Bar filed a formal Complaint against Respondent on December  
11 17, 2003.

12 **Count One (02-2149)**

13  
14 4. The Mohave County Public Defender's Office engaged Respondent  
15 through various contracts to represent criminal defendants from approximately  
16 July 2002 until October 25, 2002.

17  
18 5. Respondent is addicted to methamphetamine. Beginning in August 2002  
19 and continuing through November 2002, Respondent failed to appear for  
20 hearings and trials without attempting to contact the Court because he was  
21 under the influence of methamphetamine.

22  
23 6. On or about October 11, 2002, in *State v. Drummond*, Kingman Justice  
24 Court File No. CR-02-643, Respondent failed to appear for a change of plea  
25 hearing. The court continued the matter to November 1, 2002. Respondent

1 failed to appear for the continued hearing. On that day, the court relieved  
2 Respondent of his *criminal* defense contract, finding that Respondent "has not  
3 given this matter the due diligence that the Court requires."  
4

5 7. October 22, 2002, Mohave County Superior Court Judge Richard Weiss  
6 relieved Respondent of another contract because Respondent failed to appear  
7 for hearing for an in-custody defendant.

8  
9 8. On or about October 21, 2002, in *State v. Anastasoff*, Mohave County  
10 Superior Court File No. CR-2002-1016, Respondent failed to appear for a case  
11 management hearing and failed to notify the court in advance of his absence.  
12 On account of Respondent's failure to appear, a bench warrant was issued for  
13 Respondent's client. On November 1, 2002, Respondent failed to appear for  
14 the continued October 21, 2002 case management hearing after he notified the  
15 court that he was ill. The hearing was continued again until November 12,  
16 2002.  
17

18  
19 9. On or about October 23, 2002, in *State v. Broomhead*, Mohave County  
20 Superior Court File No. CR-2002-71, Respondent failed to appear for a  
21 sentencing hearing. Shortly before the hearing, Respondent's client appeared at  
22 Respondent's office as previously arranged, but was merely given some  
23 documents to submit to the court at the sentencing hearing. Because of  
24 Respondent's absence, the court continued the hearing, relieved Respondent of  
25

1 his defense contract, and appointed another attorney to represent the defendant.

2 10. On October 23, 2002, Respondent failed to appear for two other matters  
3 before another judge. The first matter, *State v. Vivian*, Mohave County  
4 Superior Court File No. CR-99-44, Respondent failed to appear for a violation  
5 hearing and failed to notify the court in advance of his intended absence. The  
6 court continued the matter, relieved Respondent of his defense contract, and  
7 appointed new counsel to represent the defendant. In the second matter, *State v.*  
8 *Platt*, Mohave County Superior Court File No. CR-2001-1487, Respondent  
9 failed to appear for a deposition hearing and failed to notify the court in  
10 advance of his intended absence. The court continued the matter, relieved  
11 Respondent of his defense contract, and appointed new counsel to represent the  
12 defendant.  
13  
14  
15

16 11. On or about October 29, 2002, in *State v. Thompson*, Kingman Justice  
17 Court in File No. CR-02-1068, Respondent failed to appear for a pretrial  
18 conference. The court continued the matter to November 12, 2002, and ordered  
19 the Public Defender's Office to reassign the case to different counsel.  
20

21 12. On or about October 30, 2002, in *State v. Thompson*, Mohave County  
22 Superior Court File Nos. CR-2001-1308/CR-2002-0845/0846/0848/0852,  
23 Respondent failed to appear for a probation violation/omnibus hearing. The  
24 court was unable to contact Respondent. The court relieved Respondent of his  
25

1 defense contract and continued the matter until November 6, 2002. On  
2 November 4, 2002, the court issued an order to show cause why Respondent  
3 should not be found in contempt of court for his failure to appear at the October  
4 30, 2002 hearing.

6 13. On November 19, 2002, Respondent appeared before the Honorable  
7 James E. Chavez in *State v. McManus*, Mohave County Superior Court File No.  
8 CR-98-260 and requested leave of court to withdraw as defense counsel  
9 claiming that he was unable to continue. The matter was scheduled to go to  
10 trial on December 3, 2002. Respondent's withdrawal necessitated vacation of  
11 the trial date that had had been set almost a year. Respondent informed his  
12 client of his intent to withdraw only shortly before scheduled hearing.

15 14. Respondent delayed client cases without their consent, failed to diligently  
16 represent his clients, failed to keep his clients reasonably informed about the  
17 status of their cases, failed to expedite litigation, abandoned the cases of several  
18 criminal defendants, and failed to return the unearned portion of the fees paid to  
19 him for his services.

21 **Count Two (02-2336)**

22 15. On or about September 18, 2002, Gary Light retained Respondent to  
23 represent him in two *criminal* matters: a felony charge pending in Mohave  
24 County Superior Court and a misdemeanor charge in Kingman Justice Court.  
25

1 16. Mr. Light paid Respondent at least \$3,000 to represent him.

2 17. Sometime in October 2002, Respondent failed to appear for two hearings  
3 in the misdemeanor matter in which Mr. Light was the defendant. The  
4 prosecutor agreed to a continuance after Respondent failed to appear the second  
5 time.  
6

7 18. Respondent did not contact Mr. Light until two days after the second  
8 missed appearance. Mr. Light fired Respondent on November 4, 2003.  
9 However, Respondent failed to return the unearned portion of the advance fee  
10 to Mr. Light.  
11

12 19. Respondent claims that he was only paid a \$3,000 flat fee and performed  
13 \$500 worth of work on the case. Respondent states that he is willing to submit  
14 to fee arbitration.  
15

16 20. Respondent claims that he apologized to Mr. Light, and promised to  
17 refund the unearned portion of the fee, but stated that because he closed his  
18 practice and was unemployed and unable to do so.  
19

20 **Count Three (03-0979)**

21 21. In April 2003, Respondent was a contract public defender for Yavapai  
22 County.  
23

24 22. On or about April 16, 2003, Respondent disappeared after having  
25 accepted approximately \$10,000 in contract legal fees to handle 20 criminal

1 cases.

2 23. Between April 16 and May 16, 2003, Respondent engaged in a pattern of  
3 failure to appear for hearings and trials without attempting to contact the court,  
4 failed to follow up with clients, and mismanaged files.

6 24. Respondent returned the 20 files to the Public Defender's Office.  
7 Respondent did not perform services for which the legal fees were paid.  
8 Respondent did not refund any of the fees paid to him by the Public Defender's  
9 Office.

11 25. After Respondent returned the 20 files to the Public Defender's Office,  
12 he requested referral of new cases, claiming that he had overcome his addiction  
13 when in actuality Respondent was still addicted to methamphetamine.  
14

15 **Count Four (03-1672)**

16 26. On August 1, 2003, the Superior Court for Mohave County entered a  
17 judgment and sentence against Respondent for the crime of theft, a Class 6  
18 Undesignated Offense, in *State v. Michael R. Grondin*, Mohave County  
19 Superior Court, File No. CR-2003-0716. See Exhibit A to Tender, Judgment  
20 Order and Sentence.  
21

22 27. Respondent pleaded guilty to theft for allowing drug-dealer  
23 acquaintances access to his ex-girlfriend's garage for the purpose of removal of  
24 personal items belonging to her for sale to pawnshops in exchange for drugs.  
25

1 Approximately \$10,000 of stereo equipment was removed and sold to local  
2 pawnshops in Kingman.

3  
4 28. Respondent was sentenced to a three-year term of probation,  
5 commencing August 1, 2003. Respondent also was ordered to pay restitution of  
6 \$2,721.90, the value of the stolen goods that could not be recovered.

7  
8 29. For the purposes of discipline, an undesignated offense is considered to  
9 be a misdemeanor until it is designated otherwise. *See Matter of Beren*, 178  
10 Ariz. 400, 403, 874 P.2d 320, 323 (1994). Rule 57(a)(1) Ariz.R.S.Ct., defines  
11 theft as a "serious crime."

### 12 CONDITIONAL ADMISSIONS

13 Respondent, in exchange for the stated form of discipline, conditionally  
14 admits that the conduct as described in Counts One, Two, and Three violates  
15 Rule 42, Ariz.R.S.Ct., specifically, ER 1.2, 1.3, 1.4, 1.16(d), 3.2, and 8.4(d);  
16 that the conduct described in Count Four violates Rule 42, ER 8.4(b) and Rule  
17 53(h).  
18

### 19 DISMISSED ALLEGATIONS

20  
21 In File No. 03-0991, the spouse of one of Respondent's incarcerated  
22 criminal clients accused Respondent of inviting her to his home ostensibly for  
23 the purpose of discussing her husband's case, and then making sexual advances.  
24  
25 This file is being dismissed because the State Bar conditionally admits that a

1 finding that the misconduct occurred would not result in imposition of a more  
2 severe sanction against Respondent.

### 3 ABA STANDARDS

4  
5 In determining the appropriate sanction in a disciplinary matter, the  
6 analysis should be guided by the principle that the ultimate purpose of discipline  
7 is not to punish the lawyer, but to set a standard by which other lawyers may be  
8 deterred from such conduct while protecting the interests of the public and the  
9 profession. *In re Kersting*, 151 Ariz. 171, 726 P. 2d 587 (1986).

10  
11 In determining the appropriate sanction, the parties considered both the  
12 American Bar Association's *Standards for Imposing Lawyer Sanctions*, ABA  
13 (1991) ("*Standards*") and Arizona case law. The *Standards* provide guidance  
14 with respect to an appropriate sanction in this matter. The Court and Commission  
15 consider the *Standards* a suitable guideline. *In re Rivkind*, 164 Ariz. 154, 157,  
16 791 P.2d 1037, 1040 (1999); *In re Kaplan*, 179 Ariz. 175, 177, 877 P.2d 274  
17 (1994).  
18  
19

20 ABA *Standard* 3.0 provides that four criteria should be considered: (1) the  
21 duty violated; (2) the lawyer's mental state and (3) the actual or potential injury  
22 caused by the lawyer's misconduct; and (4) the existence of aggravating or  
23 mitigating factors.  
24

25 Given the conduct in this matter it was appropriate to consider *Standards*

1 4.4 and 5.1. Disbarment is generally appropriate when a lawyer engages in a  
2 pattern of neglect with respect to client matters and causes serious or potentially  
3 serious injury to a client. *Standard 4.4*. Also, disbarment is generally appropriate  
4 when a lawyer engages in serious criminal conduct, a necessary element of which  
5 includes theft. *Standard 5.11(a)*.  
6

7 In the present case, Respondent engaged in a pattern of neglect or  
8 abandonment of approximately 26 several criminal cases. Respondent's neglect  
9 necessitated granting of continuances in at least nine criminal prosecutions.  
10 Respondent accepted \$10,000 from the Yavapai County Public Defender's Office  
11 pursuant to a contract to represent indigent defendants in 20 cases. Respondent  
12 returned the 20 cases to the Public Defender's Office but kept the \$10,000 fee.  
13 Respondent was also convicted of theft after he allowed drug dealers access to  
14 items belonging to his ex-girlfriend in exchange for drugs.  
15  
16

17 As the *Standards* do not account for multiple charges of misconduct, the  
18 sanction imposed should be consistent with the sanction for the most serious  
19 instance of misconduct among a number of violations. *Standards, Theoretical*  
20 *Framework* at pg. 6; *Matter of Redeker*, 177 Ariz. 305, 868 P.2d. 318 (1994).  
21  
22

23 Based on the foregoing, the presumptive sanction for the admitted conduct  
24 is disbarment. After determining the presumptive sanction, it is appropriate to  
25 evaluate factors enumerated in the *Standards* that justify an increase or decrease

1 in the presumptive sanction.

2 **AGGRAVATING AND MITIGATING FACTORS**

3 This Hearing Officer then considered aggravating and mitigating  
4 factors in this case, pursuant to *Standards* 9.22 and 9.32, respectively. The parties  
5 agree that there are two factors are present in aggravation:  
6

7 1. (d) multiple offenses - Although Respondent's conduct may be regarded  
8 as multiple offenses or as a pattern of conduct, all the conduct arises from his  
9 addiction to methamphetamine. See, Standard 9.32(b),(c), *infra* text at p. 5; and,  
10

11 2. (k) illegal conduct, including that involving the use of controlled  
12 substances - Respondent's addiction to a controlled substance is also an  
13 aggravating factor be considered in this matter. See, *Matter of Horwitz*, 180 Ariz.  
14 20, 28, 881 P.2d 352 (1994)(the use of a controlled substance is an aggravating  
15 factor because it involves the commission of a crime and where the use was part  
16 of a lengthy pattern of addiction that had degenerated into grossly unprofessional  
17 behavior). There is no evidence that Respondent engaged in sales or trafficking  
18 of a controlled substance. The parties agree that there are six factors present in  
19 mitigation:  
20  
21

22 1. (a) absence of a prior disciplinary record;  
23  
24  
25

1           2. (b) absence of a dishonest or selfish motive - The conduct giving rise to  
2 the instant matter resulted from Respondent's drug addiction rather than a selfish  
3 or dishonest motive;  
4

5           3. (c) personal or emotional problems - Respondent admits that his conduct  
6 is a consequence of his addiction to methamphetamine. Respondent has initiated  
7 counseling with Mark Fineman in Kingman, Arizona. Respondent's efforts in  
8 obtaining in-patient treatment have been frustrated by Respondent's limited  
9 financial resources (he is indigent) and restrictions on out-of-state travel arising  
10 from his criminal conviction. See Exhibit 2 Joint Memo, Submittals in Support of  
11 Personal and Emotional Problems;  
12

13           4. (e) full and free disclosure to disciplinary board or cooperative attitude  
14 toward proceedings - Respondent has been cooperative with the State Bar and has  
15 fully and freely disclosed his addiction and the consequences of his addiction on  
16 his behavior;  
17

18           5. (f) inexperience in the practice of law - Respondent was admitted to  
19 practice law in the State of Arizona in 2001 and he is inexperienced in the  
20 practice of law. His inexperience as a criminal defense attorney may be factor  
21 contributing to his failure to resist the vices of his clients; and,  
22

23           6. (l) remorse - Although Respondent has not attempted to repay legal fees  
24 and compensation received for which he performed little or no work, Respondent  
25

1 is unemployed and indigent. Respondent's submittals to the State Bar indicate  
2 humiliation and remorse. The author of the Pre-sentencing Investigation Report  
3 concluded that Respondent shows genuine remorse for his conduct. See Exhibit 1  
4 Joint Memo, at p. 2.  
5

6 Substantial mitigation, as is present in this case, can justify a decrease in  
7 the presumptive sanction. Respondent admits that he is addicted to  
8 methamphetamine. The influence of methamphetamine is the reason that he  
9 neglected and abandoned his clients. His addiction to methamphetamine is the  
10 reason for his theft conviction. See Exhibit 1, Pre-sentence Investigation Report,  
11 at p. 2; Tender, Exhibit A, Judgment Order and Sentence, dated August 1, 2003.  
12  
13

#### 14 PROPORTIONALITY REVIEW

15 To have an effective system of professional sanctions, there must be  
16 internal consistency, and it is appropriate to examine sanctions imposed in cases  
17 that are factually similar. *In re Struthers*, 179 Ariz. 216, 226, 877 P.2d 789, 799  
18 (1994); *In re Levine*, 174 Ariz. 146, 174-75, 847 P.2d 1093, 1121-22 (1993). To  
19 achieve proportionality, discipline must be tailored to the facts of each case. *In re*  
20 *Wolfram*, 174 Ariz. 49, 59, 847 P.2d 94, 104 (1993).  
21  
22

#### 23 **Crimes Involving Substance Abuse**

24 The Supreme Court has not had opportunity to determine the appropriate  
25 discipline for a lawyer who was convicted of theft and prejudiced his clients

1 because of an addiction to a controlled substance. However, there are two cases  
2 that are instructive with respect to this type of misconduct. In *Matter of Horwitz*,  
3 180 Ariz. 20, 881 P.2d 352 (1994), an attorney who was a chronic abuser of drugs  
4 including cocaine and alcohol was disbarred after he was convicted of two counts  
5 of negligent homicide and sentenced to two concurrent eight-year terms on the  
6 basis of an automobile accident in which two people were killed. In *Horwitz* the  
7 Court concluded that "the actual harm could not have been more severe [and]  
8 [a]ny sanction less than disbarment would be an inappropriate statement of what  
9 the bar and this court should and would tolerate." *Id.* at 29, 881 P.2d at 361.

12 In *Matter of Rivkind*, 164 Ariz. 154, 791 P.2d 1037 (1990), the Court  
13 considered at length the appropriate sanction for an attorney that was convicted of  
14 possession of a controlled substance. Rivkind was convicted of possession of  
15 cocaine. The Court held that ABA Standard 5.12 "recommends suspension, not  
16 disbarment, from the practice of law when an attorney knowingly engages in  
17 illegal use of drugs and the conduct does not involve the sale, distribution, or  
18 importation of drugs." *Id.* at 159, 791 P.2d at 1043. The Court noted that  
19 Rivkind's "drug use did not progress to the point of impacting or affecting his  
20 work." *Id.* at 160, 791 P.2d at 1044. The Court suspended Rivkind from the  
21 practice of law for two years with two years of probation.

25 In concluding that Rivkind's conduct did not warrant disbarment, the Court

1 found substantial mitigation. Rivkind complied with Court orders to suspend his  
2 law practice. *Id.* Rivkind provided compelling evidence of rehabilitation. *Id.*  
3 Rivkind also demonstrated compliance with all the terms of his criminal  
4 probation.  
5

6 The facts in case at bar is distinguishable from *Matter of Horwitz*.  
7 Horwitz' misconduct resulted in the death of two persons. Horwitz demonstrated  
8 a "habitual disrespect for the law." Respondent's criminal misconduct resulted in  
9 a financial loss of \$2,721.90 to Respondent ex-girlfriend, and no physical injury  
10 or loss of life. Unlike Howitz, Respondent does not have a lengthy history of  
11 degenerative conduct because of drug use.  
12

13 As in *Matter of Rivkind*, 164 Ariz. 154, 791 P.2d 1037 (1990),  
14 Respondent voluntarily suspended his law practice. Respondent did not oppose  
15 the State Bar's Motion for Interim Suspension. Respondent has fully and freely  
16 cooperated with the State Bar's investigation. Respondent demonstrated remorse  
17 to the probation officer. Respondent readily admitted his addiction and there is  
18 no evidence that Respondent sold or engaged in trafficking of a controlled  
19 substance. Respondent is indigent and unemployed and his ability to demonstrate  
20 substantial rehabilitation is limited by his lack of financial resources. However,  
21 unlike Rivkind, Respondent's conduct prejudiced the interests of numerous  
22 clients and Respondent has not provided evidence of continued sobriety or  
23  
24  
25

1 successful completion of a rehabilitation program.

2       The Joint Memo stated that it has come to the attention of the State Bar that  
3 Respondent was recently ordered to serve a 55-day jail term for leaving the state  
4 for a short time without the permission of his probation officer. It appears that  
5 Respondent notified his probation officer of the violation and voluntarily  
6 surrendered himself to authorities upon his return to Kingman. Although  
7 Respondent's probation violation is cause for concern it does not appear to be  
8 grounds for increasing the sanction to disbarment.  
9  
10

#### 11       **Discipline Based on Multiple Counts of Neglect or Abandonment**

12       The proposed sanction is consistent with discipline of attorneys for neglect  
13 of multiple cases with mitigation. In *Matter of McGuire*, SB-99-0029-D (1999),  
14 the lawyer was the subject of a four-count complaint alleging that he did not  
15 adequately communicate with his clients, failed to prepare necessary documents,  
16 abandoned the clients, and in at least two instances failed to return unearned  
17 retainers and personal property belonging to the clients. In the investigation of  
18 these matters, McGuire failed to cooperate with the State Bar. In aggravation, the  
19 Disciplinary Commission agreed that the matter involved multiple offenses and  
20 the lawyer engaged in the bad faith obstruction of the disciplinary process by  
21 failing to respond to the State Bar in its investigation. McGuire's lack of a prior  
22 disciplinary history was considered in mitigation of the misconduct. The lawyer  
23  
24  
25

1 was suspended for two years.

2       In *Matter of McFadden*, SB00-0072-D (2000), the lawyer was suspended  
3 for a period of two years for his failure to perform services for which he was  
4 retained. McFadden failed to communicate with his clients and failed to respond  
5 to their repeated inquiries. McFadden also failed to return unearned retainers and  
6 respond to the State Bar. There were three factors considered in aggravation of  
7 the misconduct; multiple offenses, bad faith obstruction of the disciplinary  
8 process and substantial experience in the practice of law. McFadden had no prior  
9 disciplinary record, which was considered in mitigation.  
10

11  
12       In *Matter of McCarthy*, SB-01-0121-D (2001), the lawyer was the subject  
13 of a three-count complaint alleging his failure to communicate with his clients, a  
14 failure to act with reasonable diligence and the failure to respond to the State Bar  
15 in its investigation of the matter. McCarthy was suspended for two years for his  
16 misconduct. Three factors were considered in aggravation; a pattern of  
17 misconduct, multiple offenses and bad faith obstruction of the disciplinary  
18 process. McCarthy's lack of a disciplinary history was a mitigating factor.  
19  
20

21       In *Matter of Hirschfeld*, 192 Ariz. 40, 960 P.2d 640 (1998) the lawyer was  
22 disbarred after he abandoned or neglected cases of numerous clients, failed to  
23 return unearned fees, disregarded court orders, and refused to appear at  
24 disciplinary proceedings.  
25

1 Unlike McGuire, McFadden, and McCarthy, Respondent fully and freely  
2 cooperated with the State Bar. Like the lawyers in these three cases, Respondent  
3 does not have a disciplinary history. Respondent's neglect of his clients is  
4 aggravated, however, by his use of a controlled substance.  
5

6 Based on the foregoing, it appears that the recommended sanction is within  
7 the range of appropriate sanctions for the admitted conduct. The proposed  
8 sanction of suspension for three years, with reinstatement conditioned on  
9 demonstration of sobriety and restitution to the victims, followed by a two-year  
10 term of probation upon reinstatement, protects the public, the legal profession,  
11 and the administration of justice is sufficient to deter others from engaging in  
12 similar misconduct.  
13  
14

#### 15 RECOMMENDATION

16 The purpose of lawyer discipline is not to punish the lawyer, but to protect  
17 the public and deter future misconduct. *In re Fioramonti*, 176 Ariz. 182, 187, 859  
18 P.2d 1315, 1320 (1993). It is also the objective of lawyer discipline to protect the  
19 public, the profession and the administration of justice. *In re Neville*, 147 Ariz.  
20 106, 708 P.2d 1297 (1985). Yet another purpose is to instill public confidence in  
21 the bar's integrity. *Matter of Horwitz*, 180 Ariz. 20, 29, 881 P.2d 352, 361  
22 (1994).  
23  
24  
25

1 In imposing discipline, it is appropriate to consider the facts of the case, the  
2 American Bar Association's *Standards for Imposing Lawyer Sanctions*  
3 (*"Standards"*) and the proportionality of discipline imposed in analogous cases.  
4 *Matter of Bowen*, 178 Ariz. 283, 286, 872 P.2d 1235, 1238 (1994).  
5

6 Upon consideration of the facts, application of the *Standards*, including  
7 aggravating and mitigation factors, and a proportionally analysis, this Hearing  
8 Officer recommends the following:  
9

- 10 1. Respondent shall be suspended from the practice of law for a period of  
11 three years.
- 12 2. As a condition of reinstatement, Respondent shall:
  - 13 a. Demonstrate that he has been sober and has abstained from the  
14 consumption of alcohol, any controlled substance, or any prescription medicine  
15 without proper medical authorization, for no less than one calendar year before  
16 the date of any application for reinstatement.
  - 17 b. Demonstrate that he has made restitution of the \$10,000 in fees paid  
18 to him by the Yavapai Public Defender's Office for the cases that he returned to  
19 that office.
  - 20 c. Demonstrate that he has complied with all terms of his criminal  
21 probation, including paying restitution of \$2,721.90, pursuant to the Sentence of  
22 Probation in *State v. Michael R. Grondin*, Mohave County Superior Court, File  
23  
24  
25

1 No. CR-2003-0716, August 1, 2003.

2 d. In File No. 02-2336, submit to fee arbitration and demonstrate  
3 compliance with the arbitration award.  
4

5 e. Provide evidence of successful completion of the State Bar's  
6 Member Assistance Program, including an evaluation by a licensed medical  
7 professional that Respondent is mentally and emotionally fit to resume the  
8 practice of law.  
9

10 f. Demonstrate remorse by providing proof of substantial involvement  
11 with organized community service activities satisfactory to the ordering entity for  
12 a period of one year prior to filing his petition for reinstatement.  
13

14 g. Demonstrate responsibility by providing evidence of a continuous  
15 term of supervised employment by working at least twenty hours per week for a  
16 period of one year, without unexplained absences, prior to filing his petition for  
17 reinstatement, or similar evidence of continuous supervised participation in  
18 organized community service activities.  
19

20 h. Pay all costs that are or will be due and owing to the State Bar as a  
21 result of these proceedings as provided by Rule 65(a)(1) Ariz. R. S. Ct.  
22

23 3. Upon reinstatement, Respondent shall serve a two-year term of  
24 probation with the following conditions:

25 a. Respondent shall abstain from consuming alcohol, any controlled

1 substance, or any prescription medicine without proper medical authorization.

2           b. Respondent shall submit to body fluid tests in compliance with the  
3 terms and conditions of any order of reinstatement.

4           c. Respondent shall have as a practice monitor an attorney who will  
5 agree in writing to supervise his law practice and monitor his case load, the  
6 quality of services rendered, and management of his trust account in compliance  
7 with the terms and conditions of any order of reinstatement.  
8

9           d. Respondent shall also enter into a mutually agreeable contract with  
10 the Director of the Member Assistance Program to monitor Respondent's sobriety  
11 in compliance with the terms and conditions of any order of reinstatement.  
12

13           e. Respondent shall pay all costs that are or will be due and owing to  
14 the State Bar as a result Respondent's probation prior to termination of probation.  
15

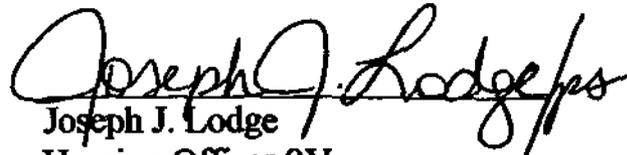
16           f. Respondent shall keep his books of account, ledger, trust account,  
17 books or files open for inspection by the State Bar of Arizona or its designated  
18 probation supervisor. Client files shall remain confidential to the extent provided  
19 by the Arizona Rules of Professional Conduct.  
20

21           In the event that Respondent fails to comply with any of the foregoing  
22 conditions, and the State Bar receives information, bar counsel shall file with the  
23 Hearing Officer a Notice of Non-Compliance, pursuant to Rule 60(a)5, Ariz. R.  
24 S. Ct. The Hearing Officer shall conduct a hearing within thirty days after receipt  
25

1 of said notice, to determine whether the terms of probation have been violated  
2 and if an additional sanction should be imposed. In the event there is an allegation  
3 that any of these terms have been violated, the burden of proof shall be on the State  
4 Bar of Arizona to prove non-compliance by clear and convincing evidence.  
5

6 Although the State Bar included a Statement of Costs and Expenses with the  
7 Agreement, it is not appropriate to consider costs at this time pursuant to Rule  
8 60(b), Ariz. R. S. Ct.  
9

10 DATED this 7<sup>th</sup> day of April, 2004.

11   
12 Joseph J. Lodge  
13 Hearing Officer 9V  
14

15  
16 Original filed with the Disciplinary Clerk  
17 this 7<sup>th</sup> day of April, 2004.

18 Copy of the foregoing was mailed  
19 this 7<sup>th</sup> day of April, 2004, to:

20 Michael R. Grondin  
21 Respondent  
22 2507 Ashfork  
23 Kingman, AZ 86401

24 Michael R. Grondin  
25 Respondent  
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by: K. Weigand