

FILED

DEC - 9 2005

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

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

IN THE MATTER OF A MEMBER)
OF THE STATE BAR OF ARIZONA,)
)
DEBORAH L. ABERNATHY,)
Bar No. 014112)
)
)
RESPONDENT.)
_____)

No. 04-1252

**DISCIPLINARY COMMISSION
REPORT**

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on November 19, 2005, pursuant to Rule 58, Ariz. R. S. Ct., for consideration of the Hearing Officer's Report filed October 3, 2005 recommending acceptance of the Tender of Admissions and Agreement for Discipline by Consent (Tender) and Joint Memorandum in Support of Agreement for Discipline by Consent (Joint Memorandum) providing for a censure, one year of probation effective upon the signing of the probation contract with the State Bar's Law Office Management Assistance Program (LOMAP), and the State Bar's Member Assistance Program (MAP), and costs of these disciplinary proceedings.

Decision

The eight members¹ of the Disciplinary Commission by a majority of seven,² recommend accepting and adopting the Hearing Officer's findings of fact and conclusions of

¹ Commissioner Nelson did not participate in these proceedings.

² Commissioner Gutierrez was opposed and concluded that a transfer to disability inactive status was more appropriate.

1 law,³ and recommendation for a censure, one year of probation effective upon the signing of
2 the probation contract LOMAP and MAP, and costs of these disciplinary proceedings.⁴ The
3 State Bar shall notify the Disciplinary Clerk of the date of commencement of probation.
4 The terms of probation are as follows:

5 **Terms of Probation**

6 1. Respondent shall, within 30 days of the Supreme Court's final judgment and
7 order, contact the director of LOMAP to schedule a limited review of the procedures utilized
8 in her law office. The LOMAP director or his/her designee will consult with Respondent no
9 later than 60 days thereafter. Following the consultation, if additional changes are
10 recommended, Respondent shall enter into a probation contract that will be effective for a
11 period of one year from the date upon which all parties have signed the contract.
12 Respondent shall comply with all recommendations of the LOMAP director or his/her
13 designee.

14 2. Respondent will follow all the Rules of Professional Conduct and all Trust
15 account Guidelines.

16 3. Respondent shall contact the Director of MAP within 30 days of the final
17 Judgment and Order. A probation contract shall be drafted by the Director of MAP, in
18 consultation with the Medical Director of MAP, which will include all applicable terms and
19 reporting requirements. Respondent will participate in the MAP program for the entire
20
21
22

23 ³ The Hearing Officer considered ABA *Standards* 4.42, 4.43, 4.53, 6.22 and 6.23 and concluded that
24 the presumptive sanction fell between suspension and censure. See Hearing Officer's Report, pp. 11-
25 13. The Disciplinary Commission notes that ABA *Standard* 4.42(b) (suspension) is the presumptive
26 sanction for misconduct involving a pattern of neglect. Respondent conditionally admitted that her
conduct as a whole constituted a pattern of neglect. See Joint Memorandum, p. 6:10. However,
given the significant mitigation present in the record, the overall outcome is not affected.

⁴ The Hearing Officer's Report is attached as Exhibit A.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Roberta L. Tepper
Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, AZ 85016-6288

by: *Ke Weizand*

/mps