

**FILED**

MAR 30 2006

DISCIPLINARY COMMISSION OF THE  
SUPREME COURT OF ARIZONA

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

1  
2  
3 IN THE MATTER OF A MEMBER )  
OF THE STATE BAR OF ARIZONA, )

No. 05-0597

4 **RICHARD T. BALL,** )  
5 **Bar No. 002029** )

6 **RESPONDENT.** )

**DISCIPLINARY COMMISSION  
REPORT**

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8 This matter came before the Disciplinary Commission of the Supreme Court of  
9 Arizona on March 11, 2006, pursuant to Rule 58, Ariz. R. S. Ct., for consideration of the  
10 Hearing Officer's Report filed January 9, 2006, recommending an informal reprimand, one  
11 year of probation including participation in the State Bar's Law Office Assistance Program  
12 (LOMAP)<sup>1</sup> and the Trust Account Ethics Enhancement Program (TAEEP), and costs of these  
13 disciplinary proceedings. The State Bar filed an objection but did not request oral argument.

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15 The State Bar contends that the Hearing Officer erred in recommending an informal  
16 reprimand, which is inadequate under the facts and inconsistent with the *ABA Standards* and  
17 prior case law. The State Bar asserts that *Standard* 4.12 is applicable and censure is the  
18 appropriate sanction for intentional conduct involving trust accounts. In addition, the State  
19 Bar asserts that the Hearing Officer erred in finding mitigating factor 9.32(d), timely good  
20 faith effort to make restitution or to rectify consequences of misconduct. Respondent's  
21 intentional decision to disregard the Supreme Court's trust account rules should not be  
22 rewarded with a lesser sanction and the Hearing Officer's recommendation for an informal  
23 reprimand should be rejected.  
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26 <sup>1</sup> The Hearing Officer inadvertently stated MAP instead of LOMAP. See Hearing Officer's Report, p. 8.

1 Respondent asserts that his misconduct was unintentional and that no harm occurred to  
2 any client or third party. Respondent further asserts that the State Bar's position is  
3 overreaching based on a single overdraft of \$41.89. ABA *Standard* 4.41 is the applicable  
4 *Standard* and the sanction recommended by the Hearing Officer is appropriate and  
5 proportional to other cases involving similar misconduct.

6 **Decision**

7 The nine members of the Disciplinary Commission unanimously recommend  
8 accepting and adopting the Hearing Officer's findings of fact, conclusions of law, and  
9 recommendation of an informal reprimand, one year of probation effective upon the signing  
10 of the probation contract (LOMAP and TAEEP), and costs of these disciplinary  
11 proceedings.<sup>2</sup>

12 RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of March, 2006.

13  
14 

15 Barbara A. Atwood, Chair  
16 Disciplinary Commission

17  
18 Original filed with the Disciplinary Clerk  
19 this 30<sup>th</sup> day of March, 2006.

20 Copy of the foregoing mailed  
21 this 30<sup>th</sup> day of March, 2006, to:

22 John Pressley Todd  
23 Hearing Officer 7X  
24 *Office of the Attorney General*  
25 1275 West Washington  
26 Phoenix, AZ 85007-2997

<sup>2</sup> The Hearing Officer's Report is attached as Exhibit A.

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/mps