

**FILED**

OCT 19 2006

DISCIPLINARY COMMISSION OF THE  
SUPREME COURT OF ARIZONA

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

IN THE MATTER OF A SUSPENDED MEMBER ) Nos. 04-0681, 04-2059, 05-0142  
OF THE STATE BAR OF ARIZONA, ) 05-0209, 05-0389, 05-0475  
) 05-0806, 05-0980  
)

**JAMES F. MILLER,**  
**Bar No. 017381**

) **DISCIPLINARY COMMISSION**  
) **REPORT**  
)

RESPONDENT. )  
\_\_\_\_\_)

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on September 9, 2006, pursuant to Rule 58, Ariz. R. Sup. Ct., for consideration of the Hearing Officer's Report filed May 19, 2006, recommending a three-year suspension, two years of probation upon reinstatement with the State Bar's Member Assistance Program (MAP), restitution and costs.

**Decision**

The eight members<sup>1</sup> of the Disciplinary Commission unanimously recommend accepting and adopting the majority of Hearing Officer's findings of fact and conclusions of law, and recommendation for a three year suspension, two years of probation upon reinstatement (MAP), restitution, and costs of these disciplinary proceedings.<sup>2</sup> The terms of probation and amounts of restitution are as follows:

<sup>1</sup> One public member seat remains vacant.

<sup>2</sup> A copy of the Hearing Officer's Report is attached as Exhibit A. The Commission finds that the record does not support application of mitigating factors 9.32(h) physical disability and 9.32(i) mental disability or chemical dependency, as no direct causation was established between the disability and the misconduct and a sustained period of successful rehabilitation was not demonstrated. The Commission determined that the overall outcome is not affected by the absence of these factors.

**Terms of Probation**

1           1.       No later than six months prior to the submission of an application for  
2 Reinstatement, Respondent shall contact the Director of MAP and schedule a MAP  
3 assessment. In addition to any other areas of investigation identified by the Director of  
4 MAP, Respondent shall provide evidence, satisfactory to the Director of MAP, of  
5 successful treatment of any psychiatric or emotional disorders that Respondent may have  
6 suffered and successful rehabilitation from abuse of controlled substances, including  
7 methamphetamine.  
8

9           2.       As a condition of reinstatement Respondent shall pay a total of \$7,237.85 in  
10 restitution to the complainants listed below.

11           3.       In the event that Respondent fails to comply with any of the foregoing  
12 conditions, and the State Bar receives information, bar counsel shall file with the Hearing  
13 Officer a Notice of Non-Compliance, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The  
14 Hearing Officer shall conduct a hearing within thirty days after receipt of said notice, to  
15 determine whether the terms of probation have been violated and if an additional sanction  
16 should be imposed. In the event there is an allegation that any of these terms have been  
17 violated, the burden of proof shall be on the State Bar of Arizona to prove non-compliance by  
18 clear and convincing evidence.  
19  
20

**Restitution**

Edward Hoover	\$1,500.00
Johnny Campbell	\$3,837.85
Tony Burrescia	\$ 400.00
Matt and Barbara Marlow	\$ 900.00
Karla Andrade	<u>\$ 600.00</u>
<b>Total</b>	<b>\$7,237.85</b>

RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of October, 2006.

*Barbara A. Atwood*

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Barbara A. Atwood, Chair  
Disciplinary Commission

Original filed with the Disciplinary Clerk  
this 19<sup>th</sup> day of October, 2006.

Copy of the foregoing mailed  
this 19<sup>th</sup> day of October, 2006, to:

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Hearing Officer 7T  
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Tucson, AZ 85701-1131

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Respondent 4314 East Allison Road  
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and

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/mps